

MINUTES OF A REGULAR POSTPONED MEETING OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, HELD IN THE CITY HALL COMMISSION CHAMBERS, 100 NORTH U.S. #1, FORT PIERCE, FLORIDA, AT 7:00 P.M. ON TUESDAY, JANUARY 18, 2005.

Mayor Benton called the meeting to order.

Commissioner Nelson gave the invocation.

The Pledge of Allegiance was recited.

Upon Roll Call, those present were: Mayor Robert J. Benton; Commissioners Rufus Alexander, Edward Becht, Christine Coke, and R. Duke Nelson; City Manager Dennis Beach; City Attorney Robert Schwerer; and City Clerk Cassandra Steele. Those absent: None.

Mayor Benton proclaimed February 5-12, 2005 as "JAZZ WEEK 2005". Mr. Darryl Bey was present to receive the proclamation.

Mr. Darryl Bey said he would like to thank the Commission for their continued support of the Jazz Week event. This is their fifth year and the City has been solidly behind them from the very beginning. Jazz Week will be seven days of lectures, concerts, workshops, educational venues concerning jazz. They will kick Jazz Week off on February 5th with the Mardi Gras style parade through Downtown Fort Pierce of which Mayor Benton is going to be the Grand Marshall of the parade and they invite them all to come and participate. They hope that the parade will also be a financial stimulus for the business community in Downtown Fort Pierce. They hope in years to come the parade and Jazz Week will become a larger event which will bring much welcome positive support into the City of Fort Pierce.

Mayor Benton said the Jazz Society plays a big role in the City.

The following letter will be kept on file in the City Clerk's Office:

Letter from Elie Boudreaux, Fort Pierce Utilities Authority, in recognition of the cooperation and service by Gary Ferch, Public Works Director, and the Public Works Staff.

The next item was the Consent Agenda. Mayor Benton asked does any Commissioner wish to remove an item?

Commissioner Nelson said he would like Item 7b (Contract with Dickerson Florida, Inc. for North 2nd Street Project) removed for discussion.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, and unanimously carried, that the following items on the Consent Agenda be approved:

- a. Approve the Minutes of the Regular Meeting on January 3, 2005.
- c. Authorize piggyback Orange County Schools Contract for the purchase of a John Deere Pro Gator **Utility Vehicle** for the **Indian Hills Golf Course** from NuCrane Machinery in the amount of \$14,545.60. Bid No. 5442
- d. Approve ranking of firms for **Architectural & Engineering Services** for **Indian Hills Golf Course** Support Structures; and authorize negotiations to begin with WCG/Neel-Schaffer, Inc. RFP No. 5482

The next item considered was Item 7b, which had previously been removed from the Consent Agenda: Approve Change Order #1 to contract with Dickerson Florida, Inc. for **North 2nd Street Project** (Backus Avenue to Seaway Drive) in the amount of \$65,854.56 for removal of muck, replacement material, and additional base and surface asphalt.

Commissioner Nelson said he had difficulty trying to decipher what they have here. He looked at trying to see what their total contract was and what their total contractors were and the final cost of the project. In the chart he sees a total of final cost of \$401,681.44. On the Change Order Form, Page 1 of 3, he sees a total of original contract for \$512,446.82. The question is, what is the total Dickerson contract less the over-run cost, or does that include the over-run cost?

Mr. Jack Andrews, Assistant City Engineer, said he thinks the confusion is, Dickerson's contract is both a combination of the City contract as well as the FPUA contract. They have water and sewer elements in this as well as the paving and drainage. So if they look on the chart at Dickerson, the \$401,681.44 was the City's cost.

Commissioner Nelson asked does that include the cost-overrun, the Change Order he is talking about now?

Mr. Andrews said right. The balance of it to bring up the total contract to the \$578,301.38, which is on the Change Order Form, that is the amount that the Utilities Authority paid. If they go to the Change Order Form itself, go down to the Current Contract amount which is \$578,301.38. That is the total contract with Dickerson which includes the City's portion as well as the Utilities Authority portion. On the chart he just kind of broke it out so they could see.

Commissioner Nelson asked so the total amount that the City is obligated to pay, including the change order, including the U.A. portion, is \$578,301.38?

Mr. Andrews said correct.

Commissioner Nelson asked does that cost include the other three contractors - Mastec, Burkhardt Construction, and Sunshine Land Design?

Mr. Andrews said no, it doesn't. This is just strictly Dickerson's contract.

Commissioner Nelson asked including those, they have \$648,659.17 total?

Mr. Andrews said that was the original amount; and the total project came in under that. So all the contracts together, they were \$94,000 ahead.

Commissioner Nelson said reading the chart, it is showing a deficit of \$38,489.50 for Dickerson. That is what they owe?

Mr. Andrews said that is the City's part of the change order.

Commissioner Nelson asked those other guys are plus amounts they

saved?

Mr. Andrews said yes.

Commissioner Nelson said that is good. So they saved a total amount of \$94,423.74.

Mr. Andrews said correct.

Commissioner Nelson said they need to commend Mr. Andrews for that, but he confused him. Do they still practice putting signs out what the cost is for these various projects and the dates they are going to be completed?

Mr. Andrews said yes, they have the project signs. They have one on 2nd Street right now. They have the sign on the sidewalk programs that they put out.

Commissioner Nelson asked they completed Georgia Avenue?

Mr. Andrews said Georgia Avenue is complete.

Commissioner Nelson asked no change orders?

Mr. Andrews said they had one change order that was approved. It has been two or three Commission meetings ago.

Commissioner Nelson said okay. Think about these old fellas trying to decipher what they are all saying. Maybe he will do better next time.

Commissioner Alexander said he may not be as astute as Commissioner Nelson. But the original contract for this was \$363,000 and the final project was \$401,000?

Mr. Andrews said yes.

Commissioner Alexander said on the Change Order Form they have the original contract being \$512,000.

Mr. Andrews said there again the \$363,000 was just the City's portion. When they add the Utilities Authority portion it is the \$512,000. He tried to keep them separate.

Commissioner Alexander said he doesn't see anything that says FPUA except for the amount of \$65,000. That includes the \$27,000 by the Fort Pierce Utilities Authority and there is some more added to that?

Mr. Andrews said yes. If they go to the last page of the document, it gives the grand total of the water and sewer which was the \$176,000.

Commissioner Alexander said okay.

Commissioner Nelson asked finally, is Mr. Andrews suggesting by this memo here that the City has \$94,423.74 surplus to be used for something else?

Mayor Benton said they are not finished yet.

Commissioner Nelson said yes, they are. How about it?

City Manager Beach said he doesn't believe that is what the memo is suggesting. What Mr. Andrews is describing to them is the difference between what they had originally agreed to and allocated to this project and what the final project cost came in at. He doesn't know that there is a fund sitting there holding those extra resources.

Motion was made by Commissioner Nelson, seconded by Commissioner Alexander, to approve Change Order #1 to contract with Dickerson Florida, Inc. for North 2nd Street Project (Backus Avenue to Seaway Drive) in the amount of \$65,854.56 for removal of muck, replacement material, and additional base and surface asphalt.

Those voting in favor of the motion were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

The next item on the Agenda was Application for **Conditional Use & Site Plan** Review submitted by Lisa Williams & Richard Dallett for construction of a third floor to an existing duplex located eastward of the Coastal Construction Control Line at **316 South Ocean Drive**; said property zoned R-4A, Hutchinson Island Medium Density Residential Zone. (Public Hearing held December 6, 2004. Motion to postpone to January 3, 2005. Motion to postpone to January 18, 2005.)

City Clerk Steele said the Public Hearing was actually held on December 6, 2004 and it has been postponed twice since then.

Mayor Benton said they don't have to worry about the Public Hearing. He thinks there were some questions about the dune line.

Commissioner Becht said what he had requested was that they do what he had been advised is their job, is to find out where the coastal construction setback line is and where the dune line is. The dune line was not located on the earlier plans. But one issue, and he doesn't know if it was this particular project or another project where staff was going to report back to the Commission and let them know what happened, because of plans that the applicant said were submitted and then staff said they were not submitted. Do they have a report back on that?

City Manager Beach said they do not have a formal report. Their preliminary look at this indicated that the information had not been submitted or certainly not submitted to the right sources.

Commissioner Becht said okay.

Commissioner Nelson said he is not sure he understands what is expected of them here now. Staff has recommended approval; but there were some questions asked, the dune line and the setback. It was indicated there was some data not submitted or was submitted. Is staff asking the Commission by this action here tonight to review these plans? This is a very non-descriptive memos saying, "The information includes the supporting building elevations and floor plans..." and "Staff recommends approval." Are they asking the Commission to detail and review this?

Mr. Trias said no.

Commissioner Nelson asked are they asserting the plans as submitted

are representative of the questions posed by this Commission?

Mr. Trias said yes. The applicant submitted a revised package which is the package they talked about the last time they were here and that is the package they got this time around. That package includes the site plan, floor plans, elevations, and all the information they requested. It is consistent with the review that happened before and that staff had looked at. This goes through the review of the different departments and also to the Planning Board; and through that whole process all of this information was gathered and so on. If they have any specific questions or if they believe some information is missing, this is their opportunity to ask the applicant if they believe they need more information. But this is the package they submitted.

City Manager Beach said this information was a result of inquiries from Commissioner Becht about very specific issues related to this project as it related to whether or not to allow this construction beyond a certain point of the Coastal Construction Control Line. Now the question is, have those questions been answered? Do they now have the information that they asked for to answer the questions that delayed this project for whatever time period that it has been delayed? If they do, staff is recommending approval of it. But if they have additional questions, now is the time to ask them.

Commissioner Becht said if he could respond to that. Since he has been on the Commission, he has asked for clarification of what they are supposed to review when they review construction eastward of the coastal construction setback line. They were all here when the City Attorney told them they are charged with - he believes the summary of that or the short version is - locating existing vegetation and locating the dune line. When the package was submitted to them, it was pretty skimpy on where the vegetation was and the dune line had been located as of 2002. The new documents that are submitted to the Commission include, for his benefit anyway, sufficient information on where the vegetation is, where it will be, and where the dune line is because it has been resurveyed to reflect where it is. He is comfortable with it at this time.

Commissioner Coke said she would like to echo Commissioner Becht's comfort level here, but she thinks Commissioner Nelson - if she is not speaking out of turn - is concerned that the original information that they received with the package that gave them the Planning Board's take on everything that they normally get with a package was not included with this package. They certainly have enough information from the applicant this time; but what they didn't receive this time was their initial information back from staff so they could see what staff's evaluation was over the weekend.

Mr. Trias said they did get a new memo that recommended approval from staff.

Commissioner Coke said yes.

Mr. Trias said in his view, that was what they were asking for. Maybe he misunderstood. But he tried to provide the information they requested.

Mayor Benton said he thinks the only thing that held this up was questions Commissioner Becht had and he thinks those have been

answered now. He thinks all the rest of it they dealt with during the first Public Hearing.

Mr. Trias said that is what his memo was meant to address, the fact that additional information was provided and was reviewed. If it is not clear, he apologizes.

Commissioner Nelson said he is very pleased that Commissioner Becht is satisfied and Commissioner Coke did in fact echo some of his sentiments. He has two or three years of staffing and he doesn't think it is appropriate for the Commission to sit here and review detailed plans in the absence of data that was previously reviewed by the Commission either by way of the Planning Board or by submittal by executive staff. They should be assured that the questions posed have in fact been answered. Commissioner Becht said this and the vegetation was that and the lack of a dune line was this and that data is reflected correctly on the attached set of plans that indicated 1, 2, 3 or whatever the case may be and it is simple. Maybe he is from the old school and probably too old. He will acquiesce to whatever they want to do.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve the Conditional Use & Site Plan submitted by Lisa Williams & Richard Dallett for construction of a third floor to an existing duplex located eastward of the Coastal Construction Control Line at 316 South Ocean Drive. (Condition of approval from the December 6, 2004 meeting include: All vegetation per the previous approved site plan shall be alive and in good health; the irrigation system shall remain in operation to properly maintain plants; and there shall be two units total.)

Those voting in favor of the motion were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

The next item on the Agenda was Ordinance Nos. K-313 through K-320 and Ordinance Nos. K-322 through K-324, Annexing property into the City Limits.

City Clerk Steele said there is a series of annexation ordinances. She will read them all and they can act on them.

Ordinance No. K-313 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED ON THE NORTHWEST CORNER OF WEST WEATHERBEE ROAD & SOUTH U.S. HIGHWAY #1, KNOWN AS **4429 SOUTH U.S. HIGHWAY #1, 4417 SOUTH U.S. HIGHWAY #1, AND 414 WEST WEATHERBEE ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Car AAG FL FT PIE LLC - Coggin BMW Automotive)

Ordinance No. K-314 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY GENERALLY LOCATED ON THE WEST SIDE OF SOUTH OCEAN RIVE, NORTH OF BLUE HERON BOULEVARD KNOWN AS **SURFSIDE PLAZA UNIT 1, BLOCK**

17, LOT 6; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Karen Swinson)

Ordinance No. K-315 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY GENERALLY LOCATED ON THE WEST SIDE OF SOUTH OCEAN DRIVE, SOUTH OF JESSAMINE STREET AND EAST OF CHARLES STREET KNOWN AS **SURFSIDE HARBOR, BLOCK 10 LOTS 1-7;** DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Marlene Veltre and Josephine & Samuel Alimo)

Ordinance No. K-316 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **4720 KIRBY LOOP ROAD;** DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Donnie & Linda Minor)

Ordinance No. K-317 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **2306 KINGS HIGHWAY;** DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Florida Masters Packing, Inc.)

Ordinance No. K-318 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **6740-6780 ANDREWS AVENUE;** DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF."

was placed on second and final reading and read by title only.
(Owned by: Heriberto & Maria Luna)

Ordinance No. K-319 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **5245 EDWARDS ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only.
(Owned by: Herman Goins)

Ordinance No. K-320 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **5234 EDWARDS ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only.
(Owned by: Donnie & Elizabeth Hamrick)

Ordinance No. K-322 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **3195 MCNEIL ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only.
(Owned by: Mildred Lindsey)

Ordinance No. K-323 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **3163 MCNEIL ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only.
(Owned by: Christopher Quigley)

Ordinance No. K-324 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **4601 & 4603 OKEECHOBEE ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE

IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Robert Steiner)

Mayor Benton declared a Public Hearing on Ordinance Nos. K-313, K-314, K-315, K-316, K-317, K-318, K-319, K-320, K-322, K-323, and K-324 in session and asked if anyone in the audience wished to be heard.

Seeing no one and hearing no one wishing to be heard, Mayor Benton declared the Public Hearing closed.

Commissioner Becht said one of the annexations tonight is coming in from a County zoning of light industrial.

Mr. Ramon Trias, Director of Development, asked which number is that?

Commissioner Becht said it is Ordinance No. K-317. Do they not have a counterpart light industrial zoning?

Mr. Trias said they do.

Commissioner Becht asked was the decision made, he is not saying he disagrees with bringing it in as commercial, but could they walk him through the thought process? This is out near Kings Highway. It is across the street, he thinks, from the Kings Highway Industrial Park. What was his thinking there?

Mr. Trias said typically this would be a result of discussions with the applicant. He did not have those discussions with the applicant, maybe Ms. Satterlee did. But usually Commercial is a lower impact designation than Industrial; and he wouldn't see a major difficulty with that decision.

Commissioner Becht asked does the City have a mixed-use designation?

Mr. Trias said no, they do not have a mixed use designation. They do allow for mixed uses in a sense that, for example, in commercial they allow for residential also. But they don't have mixed use per se designation.

Commissioner Becht said the other question that popped up while he was reviewing these materials. Did anybody get a chance to look at Blue Heron, why there is a gate or bar across that road?

City Manager Beach said no, they have not.

Mayor Benton said he has a question when it comes to Ordinance No. K-314. It is where they are going with the zoning to R-1. Is that what it is, they are looking to zone that as R-1?

Mr. Trias said yes.

Mayor Benton asked if they only have .35 acres, how can they put anything on it under one unit per acre?

Mr. Trias said they may want to combine that with some other property. That is possible.

Mayor Benton asked or the owners can come and ask for a rezoning?

Mr. Trias said yes, that would be the other option.

Commissioner Alexander said he just has a request. Can he get a copy of the map of the City of Fort Pierce. They have a lot of volunteer annexations and so they are going to be getting a lot of annexations coming into it. Can he get some type of overlay of that showing how the City is growing and maybe a color code or something for new annexations?

City Manager Beach said yes, they do have that map available.

Commissioner Alexander asked can he get one in his office so when he walks in he can sit back and look at it?

City Manager Beach said Ms. Satterlee will see that he gets one of those.

Commissioner Nelson said recently they talked about their service area and had a Joint Participation Agreement discussion, joint meeting with the County the other day, and a question of sewage services came up. Most of these annexations they are providing are voluntary to the extent that they have water. Is there any way they can annotate whether or not sewage is also in that area and how close sewage services are to the areas they are annexing? He is looking forward down the road for creating or revising their policy relative to the connection and laying of sewage to their City. Having dwellings in their City that are not on the sewage system probably in the long run will cause them some problems from the health and safety standpoint.

City Manager Beach said the Fort Pierce Utilities Authority has very detailed location maps of where all of their wastewater collection lines exist and those can be provided for any area.

Commissioner Nelson said he is talking about as a matter of staffing, they can say for example, if there is water available which they know there is in most cases, that sewage line is in the area of approximately so many feet or so many miles.

City Manager Beach said they can do that. It would probably be more appropriate to do that on an as requested basis.

Commissioner Nelson asked does he mean as requested just from talking about it?

City Manager Beach they are dealing with eleven annexation agreements tonight. Does he want a statement in each one of those annexation agreements that says that the nearest wastewater is a mile away or six blocks away or something like that?

Commissioner Nelson asked is that too much?

City Manager Beach said it can be done.

Commissioner Nelson said they know the water is there because they have in fact got a voluntary annexation agreement. Now they are dealing with the potential for sewage problems. They are going to

have to deal with it one way or the other. And if they know that and they see how much it costs, how much the value is, the land value, the exemption value, taxable value, and total tax they get from it.

City Manager Beach said yes, they could describe where the nearest wastewater collection line is.

Commissioner Nelson said if it is too much to ask, he doesn't want to ask it. But eventually they are going to have to paint the picture of where their sewage lines are and whether or not they are going to connect to it.

City Manager Beach said that is what he was suggesting earlier. They have those in great detail. Every line that is in the ground is on a map available for review. The information Commissioner Nelson is asking for, they could determine that in ten minutes by looking at a wastewater collection line map from the Utilities Authority.

Commissioner Nelson said okay.

Commissioner Becht said when he first came on board he met with Mr. Boudreaux, that was probably February of last year; and at that time he indicated that the FPUA was going to put that information, the same information he is asking, on line. With the water lines there is a homeland security issue about locating them precisely so a terrorist could access them, so they are not located precisely on the maps. But if the property has access to water, it is on a map somewhere so they know the property has water. The wastewater lines are also on there and it is color coded. It is easy to follow. It may be on line right now.

Commissioner Nelson said they can get it and put it on the map.

Mayor Benton said they have maps they can get a copy of.

Motion was made by Commissioner Coke, seconded by Commissioner Nelson, that Ordinance Nos. K-313, K-314, K-315, K-316, K-317, K-318, K-319, K-320, K-322, K-323, and K-324 be passed on second and final reading.

Those voting in favor of the passage of Ordinance Nos. K-313, K-314, K-315, K-316, K-317, K-318, K-319, K-320, K-322, K-323, and K-324 were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

The next item on the Agenda was Public Hearing on Application for Site Plan Review submitted for Coggin BMW Automotive to construct an automobile dealership at the northwest corner of Weatherbee Road and South U.S. #1; said property concurrently to be annexed into the City as C-3, General Commercial Zone.

Mayor Benton declared a Public Hearing in session and asked if anyone in the audience wished to be heard.

Mr. Al Brodeur, Thomas Lucido & Associates, said he will begin with the site plan. He is here with a Civil Engineer, the Velcon Group, Inc., and also with the Traffic Engineer, Pinder Troutman Consulting, Inc. and a representative of Coggin also. (Mr. Brodeur displayed a drawing.) This is the proposed site plan. It is basically on the northwest corner of Weatherbee Road and U.S. #1.

It is a 32,000 square foot BMW dealership that will be a part of the Coggin campus with an entrance on U.S. #1 and also an entrance on Weatherbee Road. They have located the stormwater area back here to keep it away from the road and also to provide a natural buffer for the residents there. They have also left this as a possible outparcel in the future, although they are not approving any development plan on that right now, they would have to come back before the Commission for any future development there; but it is set up so that it may be a future expansion at a later date. They will also be providing sidewalks on both Weatherbee Road and U.S. #1 and also allowed room for future right-of-way expansion. He would be happy to answer any questions they may have.

Commissioner Alexander said the question came up the last time concerning the traffic study on Weatherbee Road. Have they found out anything concerning that?

Mr. Brodeur said he will briefly discuss it; but the traffic engineer is more of an expert than he is and they could probably get more detail on it. But this is going to be improved by the FDOT in the next five year plan with medians and widening of the road, signalization, sidewalks, and get rid of the suicide lane. That actually is on the books right now with FDOT. They are not exactly sure when that is going to happen.

Mr. Kahart Pinder said he is a Traffic Consultant with Pinder Troutman Consulting, Inc. in West Palm Beach. The Florida Department of Transportation has a series of widenings scheduled for U.S. #1 beginning at just down by Rio Mar Drive and going all the way to Virginia Avenue. The first segment is Rio Mar Drive to north of Midway Road. The construction on that is programmed for letting of a contract in August of this year. That would be followed up then with contracts for design of the segment from just north of Midway Road to Edward Roads. As far as the intersection of Weatherbee Road and U.S. #1, the Department of Transportation and the County have had some discussions for some time now regarding signalization of that. The Department said that they will not signalize that intersection until Weatherbee Road is widened on either side. The reason for that is because of the current geometry. If they put a signal there, they would have to let the west side go and then the east side go because there is only one approach lane. What that does then, it takes away the green time for the movement of traffic along U.S. #1. They told the County they need to improve Weatherbee Road. The County has finalized plans. The plans have been completed for the improvement at that intersection. To his knowledge they have not been advertized for construction, yet that should be happening soon. When that happens and that construction is complete or underway, the Florida Department of Transportation will come in and they will do a signal warrant study. They will analyze the intersection to determine whether it does meet warrants. There are specific standards. There are warrants as far as volume or delay of traffic or accidents that occur that have to be met before they can install a signal. Once the improvements are done, they will do that study and then a signal will be put at that location. It is in the process. These things take time to mature. But he has talked to representatives of the Department of Transportation as well as the County in the past week and this is where it is at this point in time. He doesn't have the exact information as to when the County will let their contract. He was unable to talk to the County Engineer who has been out this past week with the flu, like a lot of people. So as soon as he gets that, he will pass that on to

staff so they have the exact information.

Mayor Benton said he is glad to hear that. Because he knows when he sat on the MPO that this Commission and the County has been pushing for signalization there. He never received that type of information from FDOT. Whether the County did or not... He is now wondering if that is why the County wants the City to make road improvements once they annex now.

Commissioner Coke asked knowing that Weatherbee Road is going to be improved and they are going to be widening U.S. #1, have they made allowances for easements for that?

Mr. Brodeur said yes, they have. Both along Weatherbee Road and U.S. #1.

Commissioner Nelson said he sits on the MPO as Chairman. Mr. Pinder indicated he dealt with FDOT on this issue with respect to improvements they are going to make on that road. Are they contemplating making the improvements in the very near future?

Mr. Pinder said the segment of U.S. #1 from Rio Mar to north of Midway Road is supposed to go to construction next year, 2006. They intend to let the contract in August of this year. August 2005 they will give the contract to a contractor to start; but it probably won't start until after the season, so the beginning of 2006.

Commissioner Nelson said the MPO at the request of Fort Pierce diverted the construction funds for that portion of the road, some \$12.5 million, to A-1-A. And hopefully they were contemplating at the time four laning and widening that road to some extent. He would that they make double sure that they coordinate further with the Engineering Department, who sits on the Technical Advisory Committee and who was instrumental in getting those funds diverted, to ensure that their time schedule with the planning, engineering studies, the construction contracts, and all that stuff are in fact in sync with what they propose to do. He thinks they have a very fine project here and he would like to see it go forward. But he doesn't want the applicant to be under-represented or misled with respect to what FDOT is going to do and what the City is trying to do in concert with that. Unfortunately, he doesn't have the data and was unable to check it out today; but he knows some of those funds are diverted. But he repeatedly asked the question, has the funding for the remaining portion of U.S. #1 south of Virginia Avenue been set aside in their planning? Everybody assures him yes. But pardon him for tonight, he doesn't have it locked in his memory as to when it is going to happen. They are planning when to start their construction?

Mr. Brodeur said this summer they would be starting.

Commissioner Becht asked can either one of them tell him what the current width of Weatherbee Road is all along the southern border?

Mr. Brodeur said he would like to refer this to the Civil Engineer, Ernesto Velasco, if he could come up.

Commissioner Becht said if he doesn't know, they will just put it in the record that he doesn't know.

Mr. Brodeur said he is not sure at the moment. He would have to

look at the civil plans, if they give him one moment.

Commissioner Becht said he is going to ask City staff if they concur when Mr. Brodeur does tell him what he thinks the width is. The traffic engineer, Mr. Pinder. What is, in his opinion, the necessary width for a turn lane coming off Weatherbee Road to access U.S. #1?

Mr. Pinder said the width of a turn lane is typically 12 feet.

Commissioner Becht said he is sorry. What he needs is the combined width of the road right-of-way for three lanes so he has eastbound, westbound, and a turn lane at Weatherbee Road. The next question is going to be, does he have sufficient width from his client's property to the southern edge of the right-of-way for Weatherbee Road?

Mr. Pinder said he would suggest that a minimal would be 60 feet.

Commissioner Becht asked 60 foot would also include a turn lane?

Mr. Pinder said yes. Two 12 foot through lanes and a 12 foot lane in the middle is 36 feet and then they have sidewalks and other things on the side. That would be a minimum with that type of road.

Commissioner Becht asked is he planning on sidewalking Weatherbee Road? Is his client is going to put the curb and gutter in?

Mr. Brodeur said yes, a five foot sidewalk on Weatherbee Road and U.S. #1.

Commissioner Becht said he is sorry, but sidewalk and curb and gutter don't mean the same thing to him. Do they mean the same thing to him?

Mr. Brodeur asked what was the question?

Commissioner Becht said curb and gutter. He doesn't think they can put a curb and gutter on U.S. #1.

Mr. Brodeur said let him go back to his previous question, if he doesn't mind. The public right-of-way according to the survey is 20 foot of asphalt pavement and it varies.

Commissioner Becht asked that is the total right-of-way for Weatherbee Road on the southern edge of this property?

Mr. Brodeur said that is the actual asphalt. If they are asking questions about curb and gutter, he would prefer if they asked the Civil Engineer.

Commissioner Becht said now he is going to his staff. This Commission has repeatedly asked that staff try to ensure that they are getting sufficient right-of-way for whatever reasonable road improvements might be contemplated. If Mr. Brodeur's comments are correct, he has a 20 foot right-of-way. And minimally they have heard Mr. Arias say before that he needs 60 foot. He thinks 60 foot contemplated a two lane road. And they know they are going to need a three lane road. Can anybody give him any guidance on how much right-of-way he needs to get on Weatherbee Road here so they don't have to go back and buy it when it is time to signalize it?

Mr. Trias said he agrees with Mr. Pinder about the 60 feet. He wants to correct what Mr. Brodeur said. The way he heard it, Mr. Brodeur said there is 20 feet of pavement. That is not just right of way. Is that correct?

Mr. Brodeur said correct.

Mr. Trias said he wants to also say that this is a County Road. Their City Engineer, he was checking with him and he was not up to speed on the details. Those are the types of questions they are trying to address through the coordination that they spoke about in the last workshop between the County and the City. To this point, that has been a gap in the process. They clearly need to fix it. The coordination with the County he thinks is going to happen much better now. But it is a County road and they are the ones who give the permits for driveways and require certain things like the curb and gutter. The sidewalk is separate from the curb and gutter. The sidewalk is something the City requires in any of these projects. It can be built without building a curb and gutter. They can have a swale drainage system. Once they include curb and gutter in any kind of street, they do need to design the drainage system for the whole street. So it is usually a separate decision, making the sidewalk and making the curb and gutter.

Commissioner Becht said okay. He is not trying to be brutal here tonight, but he doesn't care if it is a County road or not because it is in his City. The traffic congestion is going to be in his City. His citizens aren't going to be served because they can't get out on Weatherbee Road. Either FDOT, the County, or the City is going to have to come back and buy the land. The City Commission has the ability tonight to ask the applicant or the owner to give sufficient... If they need additional right-of-way, they have the ability to get it tonight. And they need additional right-of-way.

Mr. Trias said yes. In his view, that is what they have expressed here. They have described to them the additional right-of-way in their design and that has been incorporated in their site plan. That is the way he understands it, that is the way he sees it, and that is the way they represented it.

Commissioner Becht said that is what he heard.

City Manager Beach said let's try to get that information. Does Mr. Velasco know what the right-of-way is on Weatherbee Road after his project donates to that?

Mr. Ernesto Velasco said there is a width for the right-of-way on Weatherbee Road that is not well established in the research they have done. It is varying from relatively close to 60 feet through the project, but there is not a perpendicular disposition between Weatherbee Road and U.S. #1 so there is a widening right-of-way there. They do not have specific distances in their drawings.

City Manager Beach asked what is this project donating to the right-of-way of Weatherbee Road.

Mr. Velasco said they have 15 feet anticipated for that.

City Manager Beach said that is in addition to whatever is there existing. And the existing, they simply don't know. It could be 35 feet or it could be 40 feet?

Mr. Velasco said no. There is approximately 50 to 60 foot width. It is a varying width in there, but there is a minimum of 40 feet.

City Manager Beach said their 15 feet is in addition to that.

Mr. Velasco said that is correct.

City Manager Beach asked does that answer Commissioner Becht's question?

Commissioner Becht said yes. Thank you very much, because he wasn't getting his information. The final hard question is, that 15 feet is going to be donated to the County at the time they do their improvements; or is it going to be done now as they go through the site plan process?

Mr. Velasco said they are doing it now. In fact they have anticipated that by doing all of their setbacks in their project from that additional donated right-of-way.

Commissioner Becht said he is sorry; but the way he looks at it, just because the setbacks are set off doesn't mean they are going to donate the property. So they are going to have it in the Minutes that they are donating the property to the County and to FDOT.

Mr. Velasco said that is correct. That will be to the County on Weatherbee Road and to FDOT along U.S. #1.

Commissioner Becht said help him here, because it sounds like they are trying to do what he is also trying to do. How do they define how much they are going to donate when they don't know what the existing right-of-way is and they don't know what the County is going to need?

Mr. Velasco said they are assuming a fair share on their side.

Commissioner Becht asked 15 feet off the east and then they would project 15 feet off the south side?

Mr. Velasco said he would think so. That would be more than enough for any improvements along Weatherbee Road.

Commissioner Becht said if the minimum width is 40 feet. Is he prepared to represent the minimum width is 40 feet on the southern edge of their property?

Mr. Velasco asked on the right-of-way? Yes.

Commissioner Becht said so 15 feet will get them up to 55 feet. If they have to do condemnation, they can do it on the south side of Weatherbee Road. Thank you very much. It is a nicely designed project.

Commissioner Nelson asked to what extent have they coordinated this with the County?

Mr. Brodeur said they will be required to get a driveway permit through St. Lucie County for these entrances on Weatherbee Road. During that time the County will tell them what they need. So they are anticipating that. That is why they set back the sidewalk 15 feet into the property to allow for that right-of-way allocation

when the time comes. They are looking ahead. He doesn't want to make it look like they are not looking ahead.

Commissioner Becht said it sounds like it.

Mr. Brodeur said that is why the site plan is designed like that is to allow for that flexibility. But this will have to be approved by Scott Herring and approved by Ron Harris over at St. Lucie County; and they will tell them at that time exactly that number they need.

Commissioner Nelson said they are waiting until they get the driveway permits. And as a matter of protocol he thinks they have set staff in the direction to try to coordinate as much as they can with the County on these type projects. His question was, to what extent have they coordinated with the County?

Mr. Trias said as well as they have been able to. It is shown in the site plan and by the description of the engineers and so on, all of the needs of the County as the City sees them in the future, which is around 60 feet, have been incorporated into the design. Now based on comments during the last workshop, the coordination the next time is going to be even better. They will have the County Engineer or somebody from Public Works or the right staff person at the meeting talking directly to the applicant. Right now that coordination is done by the applicant as a separate meeting. He believes that has taken place. Like he said, they have done the best they can so far and they plan to do better in the future.

Commissioner Coke asked is it not, since this is a site plan approval, could they not approve it conditioned upon the donation of the 15 feet to the County for widening of the road?

Mr. Trias said yes.

Commissioner Becht said he won't beat this to death. Is Mr. Schwerer comfortable they have what they need in their site plan to get the conveyance of this land, the appropriate amount to the County?

City Attorney Schwerer said he is not comfortable that it is shown in the site plan. But he is comfortable if this Commission makes it a matter of record that the developer be required to convey the 15 foot additional right-of-way to the County or the appropriate jurisdiction that it will be sufficient.

Commissioner Becht said he was not comfortable with the site plan.

City Attorney Schwerer said he too was looking for that information. He saw the reserved area. But if that is a condition of the approval, then it will be made a condition of the approval which the developer would abide by.

Mr. Brodeur said they would agree to that.

Mayor Benton said he would be more than happy to hand-deliver the Minutes to the County on this meeting because this is wonderful. He has never seen so much concern for a County road. They are getting somewhere here.

Commissioner Nelson said he just thinks they ought to be pro-active and ask these people to touch base with the County and get their

blessing on what the City is dictating that this applicant provide them. They might need 16-1/2 feet. He doesn't know.

Mr. Trias said as an example, here they have an applicant that has the consultants - the civil engineer, the traffic expert, the land planner - and they are very well qualified to address these questions, and they are fortunate that is the case. Sometimes that is not the case and that is where a lot of the frustration comes about. He thinks in this case as they can see, they have the professionals working on it and they provided an adequate site plan.

Commissioner Nelson said okay.

Commissioner Coke said maybe they could condition it based on a minimum of 15 feet depending upon what the County's needs are.

Commissioner Nelson said that is more reasonable.

Commissioner Coke said that resolves the problem and that allows these people to move forward and doesn't delay things yet again.

Seeing no one further and hearing no one wishing to be heard, Mayor Benton declared the Public Hearing closed.

Mayor Benton asked what was Staff and Planning Board's recommendation?

Mr. Trias said Staff and Planning Board recommend approval with the condition as recommended by the Commission.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve the Site Plan submitted for Coggin BMW Automotive to construct an automobile dealership at the northwest corner of Weatherbee Road and South U.S. #1 with the condition that a minimum of 15 feet of property be donated to the County for road improvements on Weatherbee Road and to FDOT for road improvements on U.S. #1.

Those voting in favor of the motion were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

The next item on the Agenda was Application for **Site Plan Review** submitted by the City of Fort Pierce to construct the **Downtown Public Parking Garage**, to include retail and offices uses, generally located on Indian River Drive between Avenue A and Orange Avenue; said property zoned C-4, Central Business Zone. (Public Hearing held on January 3, 2005.)

City Clerk Steele said the Public Hearing was held on January 3rd and it was postponed for staff to get some information and to get together with the Fire Department.

Mayor Benton said he thinks that is the question. Is the Fire District happy with this?

Mr. Ramon Trias, Director of Development, said he had the opportunity to meet with the Fire Chief and also Captain Buddy Emerson about their concerns and they provided a condition of approval that would resolve all of their concerns. It is included in the letter from the Fire Chief; and basically the condition is

as soon as they finish the building, the buildings to the east of their parking garage, the existing buildings would need to be sprinkled. From staff's point of view, that is clearly a very superior way of dealing with the fire safety issues. And his memorandum recommends approval of the site plan with the inclusion of the condition as recommended by the Fire District. He believes that makes a lot of sense in terms of public safety. However, upon further discussion, there is some concern from the City Attorney and the City Manager and other staff people that is very difficult to implement; and they would like to figure out how to do it in a sense that they are being requested to make improvements on private buildings that are not City buildings, these are next to the City's building. Clearly the overall solution makes a lot of sense; however, how do they get there is not very clear in his mind at this point.

Mayor Benton asked is that something that if they were to take a permit out to make any improvements to those buildings, they could require...?

Mr. Trias said that would be one method to do it, yes.

Mayor Benton said he would think it would be of benefit later on. He thinks they would add on a couple of stories on those buildings.

Mr. Trias said he thinks there are several options that they may consider. In his view, they can resolve the issues as they go along. He thinks they have an understanding of where the concerns are clearly at this point. And it is up to the Commission to approve it tonight or to look at other options.

Commissioner Coke asked could they not approve this with the inclusion of the condition from the Fire District and work on resolving the issue from this point forward? Let's contact those people and let's find a solution to it so they will be in compliance with that. But rather than hold up this project, she thinks they need to move forward. October 27th is coming rapidly.

Mr. Trias said if the City Attorney agrees with that, it will be one option they have.

Commissioner Nelson said he would like to hear the City Attorney's and the City Manager's comments on this and the conditions they propose.

City Manager Beach said the concern he has is that he doesn't think the City has the ability to dictate or require that these privately owned buildings be sprinkled. He agrees with Mr. Trias and with the Fire Department in regards to the desirability of it. But he certainly doesn't understand how it would be implemented by an act of either this City Commission or even the Fire District. He is reasonably sure the Commission doesn't have that authority to make that requirement. He is reasonably sure that the Fire District doesn't have that authority to make that requirement. From that perspective he doesn't know how, as Mr. Trias indicated, are they going to implement this solution. And if they are unable to implement this solution, then what does that do to the Fire District's approval process for whatever involvement they have in the garage itself. They have had several discussions about where the authority lies to make this determination and he is not entirely clear on that. The City Attorney's office may be more clear. But that is one of the subjects they have been trying to

work through is whether or not this condition is a legitimate condition in terms of the Fire District exercising its authority over building codes and how those building codes are administered.

City Attorney Schwerer said he struggled with the idea legally of adding a condition to the approval of their garage that the adjoining buildings be sprinkled. He does not see where that could happen as a matter of law. Should any property owner not want that or should any property owner feel his enjoyment and use of the property is disrupted by that additional construction, there are all sorts of variables. The end result would be, he cannot assure them from a legal standpoint that the Commission has the ability to perform that condition. Therefore, adding that condition to the site plan approval is meaningless from a legal standpoint. They may have an impossibility of performance. He has discussed this issue with staff and there appears to be other alternatives. The issue dealing with what is being required by the Fire District boils down to some interpretations of the codes as he understands. Their Building Official has one interpretation of the codes, Mr. Trias has an interpretation which he thinks he shares with their Building Official, the architect obviously had input into the design of the building and he has his own opinions as to whether the building meets code and would be able to be built. He doesn't have an answer for them tonight. There are any number of alternatives that can be pursued here. However, unless they want him to discuss this further or have additional questions, he can simply conclude by saying do not place a condition on their site plan approval that requires sprinkling of those privately owned adjacent buildings. Now if they need additional information, he can give them those recommendations. But he would not make that a condition because it is not fulfillable; or if it is, it is going to be extremely problematic and perhaps even jeopardize the progress and final building of this structure.

Commissioner Nelson said he thanks both for their comments. He is forced to respect the Fire Department as being the local authority with respect to interpreting the various codes for fire prevention. He can't see where they can require legally to have others in close proximity to the City's project install those sprinkling systems in their buildings after the fact. The question might be in the area of they are somewhat grandfathered in and being imposed upon by a public entity which causes them to have some undue hardship. It makes him wonder whether or not the City and the Fire Department can come to some other conclusion about this and perhaps set a different course or direction. Should they allow the Fire Department and the Building Official to give comments on their thoughts on this issue?

Mayor Benton said he was planning on calling the Fire Chief up at least. They have heard one side. He is wondering if they have had any discussion with the property owners that this would affect?

Mr. Trias said he did today with Mr. Albert Fort, representing Harbor Federal, which owns all of the buildings except one. The Governor's Grill is not owned by Harbor Federal, but the other ones are.

Commissioner Nelson asked are they willing to do it or not?

Mr. Trias said he didn't get to that point yet. What Mr. Fort said was that he believes it was going to be about \$100,000 to do and that he did not object to doing it but he did not want to pay for

it. That is the input he got from him.

Mayor Benton said also they have to recognize the fact that the Parking Garage is going to benefit these folks too. How many people work for Harbor Federal who would be using this parking garage. So this is something that affects them.

Mr. Trias said the issue is, they do believe this is a good solution in terms of safety. How to get there, he doesn't think they have the ability to force anyone to do it. So unless there is some kind of voluntary process or something like that, it is going to be very difficult to enforce it.

St. Lucie County Fire Chief Jay Sizemore said he too wants to see this parking garage succeed. He thinks it is a worthwhile project. He thinks it is needed. He comes downtown quite often, especially for Friday Fest. Finding a place to park is very difficult. He too doesn't believe they can go back and mandate that those buildings be sprinkled. That was an option. Because the site plan for the parking garage as it is situated right now, in their interpretation, does not meet the requirements for the fire lanes. Sprinkling the buildings was an alternative, because he has been told changing the design of the parking garage or moving it because of the property it is situated on, was not an option. If there are other options out there that they can come to an agreement on, he is certainly all for it, but they haven't found that yet. He thinks as far as who has the jurisdiction to interpret the fire codes, he thinks that is very clear in the State Statutes and from the State Fire Marshall's office. They are the only fire jurisdiction in this County and the two cities and he thinks that is very clear. With that being said, they are willing to work with staff. They did sit down with Mr. Trias the other day and he thanks him very much for his support on the sprinkler system. How they get around that, he doesn't know. They are willing to go back. But clearly unless this issue is resolved one way or the other, they are not going to approve the site plan. They can't. He thinks they have a problem down there. He wants to see it go forth. He truly does.

City Manager Beach said this may be a good opportunity to talk about what the Fire Department's role is in site planning. The City does not get approvals or permits from the Fire District to do these things. These building permits are issued by the Building Official and the Building Official is the final authority on what complies with code and what doesn't comply with code. That is just a fact. It is a debatable fact, but it is a fact. What Mr. Trias is saying and what the Building Official is saying and what their architect is saying is, this building does meet code. They have a disagreement with the Fire District over whether it does or doesn't. But the City's people who are working on this says that it does. The interpretation of the Fire District is simply that. It is their interpretation of technical codes that do not apply to this case. And there are several issues that relates to this. The first has to do with the fire lane and whether or not a fire lane is even required. That property back there is owned by the City of Fort Pierce. There has never been a designated fire lane behind the buildings and there is no statutory provision that staff is aware of that dictates the creation of a fire lane where one doesn't exist. But that is only one argument. There are several other arguments that can be presented on behalf of the City going forward with the construction of this garage as it is designed. Whether or not they want to do that is entirely up to the

Commission. They are getting one set of advice from staff and they are getting another set of advice from the Fire District. The Commission needs to make a decision and that is where they will go.

Mayor Benton asked is the architect here tonight?

Mr. Trias said no, he is not here tonight.

Mayor Benton said he was just wondering, if they are only talking about losing a couple of parking spaces, that is what he is trying to find out. For what the architect is being paid, he would think he could be here to answer some questions.

Mr. Trias said let him clarify that. Parking garages are very inflexible in the dimensions. And the dimensions that dictate the ground floor are the parking spaces on the second floor. So there is absolutely no way to, for example, move the parking garage 20 feet east, which would be what he believes is what would be required to have an appropriate fire lane. That is why the ground floor was designed to have that access on the ground floor. Remember, the ground floor doesn't have parking. They removed a couple of parking spaces already. They already provided that 20 feet or more, he believes it is 25 feet if memory serves him right, and over about 14 feet height, which in the view of the architect and in his view address many of the issues. What the Fire Department was concerned with is that it wasn't the best possible and the safest design. And that is a very good point. There are other ways to design things and that is why they suggested this additional language. There is no disagreement with the concept in the sense this is a superior way of dealing with it, it is just that it may not be required by code and it may not be possible to implement it unless there is a voluntary compliance.

Commissioner Alexander said his question is to staff and he would prefer Mr. Schwerer to answer this. In any project that comes before the Commission with a site plan, when there is a rejection by the Fire District, how do they deal with that in any other projects? He is not talking about City projects. But any developer that comes here, if they don't have the blessings of the Fire District, how do they deal with that?

City Attorney Schwerer said the way they have dealt with that in the past is that they have considered the Fire District's comments as to any site plan; but they haven't reached a point where they have been in direct conflict with their opinions to arrive at the next step which would be, can they approve the project in the absence of the Fire District's concurrence. As the City Manager pointed out, the building codes are tied in with the fire prevention codes and they all work together in harmony. But it is less than clear - and he has not researched this to the nth degree yet - in his opinion, in reviewing the various codes that apply as to what happens if the City and the Fire District are in disagreement. If their City staff says they are going to issue permits for the building of the building and the Fire District says they don't approve it from a technical code compliance standpoint, he can't answer that. He can suggest that he is tending to agree with City staff who have studied these codes, particularly Mr. Alcorn, and the architect who designed the building, that they believe the final say as to the permit being issued lies with the Building Official. Now he would hope they don't reach that point of having to cross that threshold with the Fire District and that they have some level of cooperation to find other alternatives.

Certainly they have this alternative of sprinkling buildings on adjacent private property, which he is advising against. It may be a very good idea from a fire prevention standpoint and a solution, but it is a nightmare from a legal standpoint. There are other options that he understands staff has discussed and maybe they need to pursue those options with the Fire District. Certainly, they don't have the ability to cause a redesign of this building. That will stop the project. But he would encourage that they have some level of cooperation here and maybe some additional discussion. If not, then they will reach that threshold where they will either approve the project or they won't approve the project from the Commission level.

Commissioner Becht said as a follow-up with what Commissioner Alexander asked, the answer he was looking for was, has the City ever issued a permit where they were at odds with the Fire District? And in Mr. Schwerer's explanation, he is gathering they have not.

City Attorney Schwerer said he is not aware of any. Maybe Mr. Trias or Mr. Alcorn can point to an example or maybe Mr. Emerson himself. He doesn't know if they have ever done that.

Mr. Trias said they have always had a very good working relationship with the Fire District and they have always reached adequate solutions. He cannot say that categorically, but he doesn't recall any.

Chief Sizemore said to his knowledge the City has not gone forward with an issuance of a building permit where the Fire District absolutely disagreed with either the site plan or the building plans. Let him clarify. They do have a good working relationship with the City of Fort Pierce and the City of Port St. Lucie and St. Lucie County. The St. Lucie County Fire District covers the entire County regardless of the municipality or the unincorporated areas of the County. As the authority over the Florida Fire Prevention Code, they basically look at all the options before them. And that is what led them to the decision to pursue an alternative to the requirement. As the requirement stands today, from the proposal that is before them, they can't build the building. It is very clear in the code. It is Statute 553. He is not an attorney, but it is in the Florida Statutes that if the Building Official, who is responsible for the enforcement of the Florida Building Code, and the Fire Official do not agree on the code requirements, no permit can be issued. It is very clear in the Statute what happens. They are trying to get around that.

Commissioner Becht said they are trying to work together and he thanks both of them for being here tonight in their efforts of getting them up to this point. He would like to clarify a couple of things. He had a conversation with Mike Brown, Sr. when he first became aware of this issue which he thinks is how Mr. Trias came to meet with Al Fort; but his representation of what Al Fort said to him confuses him. His understanding is that the Fire District wants the building sprinkled from Governor's Grill south to Orange Avenue. Is that correct?

Chief Sizemore said yes.

Commissioner Becht said he doesn't think Harbor Federal owns everything up to Governor's Grill. He thinks Dan Fuller owns half of a building in there and Pete (Arif) Parupa through some kind of

corporation owns the other half of that building and then Harbor Federal owns that. So they are talking about dealing with the Governor's Grill, Pete Parupa, Dan Fuller, and Harbor Federal. That is four different entities. Mike Brown, without meaning any insult to the other three, was the one who he thought would be the most cooperative and that is why he called him. Mr. Brown was not interested at all in absorbing this cost. He asked him point blank. He said Mr. Brown has been a very good public citizen, can they eat this cost? Mr. Brown said they are not interested in that at all, why don't they find some CRA dollars. He doesn't criticize Mike Brown for that position at all. He was just trying to find out if there was a simple quick solution with private citizens, as Mr. Schwerer has pointed out, with their agreeing to do it and then figuring out who is going to pay for it. They do have four different owners, unless he is mistaken, that they have to deal with.

Mr. Trias said yes. His conversation was the same as he had. His intuition is that most people will agree to have somebody else pay for the sprinklers.

Commissioner Becht asked he has only talked to Mr. Fort, right?

Mr. Trias said yes. He only talked to Mr. Fort. He did not check with the other owners.

Commissioner Becht said he and the Chief had some conversations. If they postpone this thing for two weeks - and God forbid they end up doing it - is there something the Chief can reasonably foresee which would allow them to proceed with this design other than the sprinkling? He doesn't know what it is.

Chief Sizemore said he doesn't think they have found that yet. Mr. Schwerer just mentioned there were some other alternatives floating around there he thinks among staff. If that is the case, they haven't heard those. They are certainly willing to go back and sit down with staff and see if those options are out there and if they are viable. They are not opposed to that whatsoever. But whatever those are, he is not aware of. By the way, it is Chief Emerson as of yesterday, Battalion Chief Fred Vaughn is retiring, and he is taking over the Fire Prevention Bureau. Anyhow, he doesn't think those options have been explored with him. At least they haven't been brought to their attention. They are certainly willing to go back and sit down and look into that. He doesn't think it is the design of the building in their trying to interpret the building codes as to how it was designed by the architect. It is the way it is situated on the property and the lack of access to the back of the existing buildings between them. It is not the building itself. He doesn't think anybody has ever said that about the parking garage. It is just the situation and the impact it has on those existing buildings by not allowing for that access.

Commissioner Becht said help him understand something. He doesn't want to become a Fire Marshal, he is not bright enough to become one with his education even tonight. But what he calls Hans Kraaz's building, that is a four story building and it has maybe 10 feet in between his structure and the two adjoining structures. What is the difference with that structure and the parking garage?

Battalion Fire Chief Buddy Emerson said it is fully sprinkled and there is a definite separation between both north/south and east/west. They have a rear parking lot which provides full access

to the Fire District as well as the front. The parking garage would be actually cutting off a segment of access both for the parking structure and the existing buildings.

Commissioner Becht said he is lost on that. The parking garage is going to be sprinkled. Is he saying that the two buildings that adjoin the Hans Kraaz building are sprinkled?

Chief Emerson said no. What he is talking about is the situations are different. For the Hans Kraaz building there is a full rear access way by virtue of a parking lot that is behind the building.

Commissioner Becht said to the Hans Kraaz building. But not to the adjoining buildings.

Chief Emerson said there is a rear access road, Depot Drive, that runs behind those buildings as well.

Chief Sizemore said those have access front and rear. Once they put the parking garage down, they will have a 10 foot space between the two buildings, so it would be access for fire apparatus on one side of the building. What he would like to do is go back and explore the options that they are talking about and let staff get back together with them and see if they can work it out.

Commissioner Becht said he is very hopeful they can be worked out because they are about to make a \$4.5 million or \$5 million investment. And if his interpretation of code is correct, the City is not going to be able to get a permit at the end of the road. He hears his staff very loudly and he has great confidence in his own staff. But he doesn't want there to be a fuss here. He wants there to be a resolution.

Commissioner Nelson said he wants to take a moment to hear from the Building Official on his interpretation of the applicable code in his area. He recognize by the uniform fire code that says that the Fire Department is authorized to render interpretations of the code in order to make determinations and enforce rules and supplemental regulations in order to carry out the applicant's intent of his provisions. So he thinks the assertion that they have the right to make interpretation is good. And perhaps he needs to look further to determine if there is an impasse, where do they go. He is hoping there will not be an impasse. What is Mr. Alcorn's interpretation?

Mr. John Alcorn, Director of Building & Community Response, said it is his understanding they have two issues here. One is the Fire Prevention Code that deals with the existing buildings that are there today. He believes those buildings were probably built in accordance with the building codes at the time they were constructed, but do not meet the current building codes if they were built today. Those are under the fire prevention code to prevent fires from happening within those existing buildings. They have a separate issue on the City property where they are dealing with a vacant piece of land with a new building that will go up. That new building, that new set of plans, has to meet the building code. After the building is up and the Certificate of Occupancy is issued, it would then meet the Fire Prevention Code. He thinks they are two separate things. He believes that the Fire Prevention Code cannot dictate that they take someone else's piece of land for a fire lane after the fact if it met the codes at the time it was built. Yes, it would be nice and he thinks it is a good

recommendation. But to impose that on someone, he doesn't know what legal authority exists, because they have two separate codes, two separate...

Commissioner Nelson said time frames. That perks up a historical thing to him. In around Atlantic City one time, in building up all those casinos and everything, a little old lady had a piece of property in the midst of where they wanted to build and she refused to sell. So they built the building up all around her. And they can look in New York City at some of the smaller churches there, they have high rises all around the little churches. He doesn't think they were required to bring those buildings up to code as a result of putting a new facility on there. He would think it appropriate that they go back and talk among themselves, i.e. the Fire Department and the Building Official and the development people, and let's try to come up with some type of solution to this problem. They are going to be respectful for everybody's authority. But he thinks it is important too that they use common sense in this effort and not try to insert their authority and power over one another. They are all in this business together in trying to move forward. And he would call on their Fire Department to work with the City Staff in trying to come up with a solution to this problem, paralleling the types of instances as well just cited for them and of course the citation that was made by their Building Official. Yesterday's activities certainly should be respected, but they have to look at what they are trying to do today too, to build up better codes and better safety and all that. So his bottom line is they disagree at this juncture, but he thinks they need to go back and come up with a better solution. He thinks they can do it.

Mr. Alcorn said he thinks in that term, a site plan can be approved without conditions and they will continue to work together on the plans of the building to make it work.

Mayor Benton said either that, or what he would suggest maybe if they all could get together like in the next few days - the Fire District, City Staff, and also bring in, if not the property owners, somebody from their organizations there so they understand the issue and get some response from them and if they can educate them. He would feel comfortable if they knew about the health and safety issue out there. But he has a problem with signing off on something until everybody agrees, especially when it comes to public safety. So if it is something they can solve by sitting down at the table and working this out real quickly and promptly. They have a CRA meeting coming up next week. To him, that is what he thinks should be done.

Commissioner Coke said if they are going to talk about fires in downtown, she is going to stick her two cents in. Because she can tell all of them - with the possible exception of some of the gentlemen in the Fire Department - how bad fire downtown can be because there is an access. That being said, she really wants this parking garage built. She has questions of staff. The first one being, she knows that at this present juncture there is space between proposed garage and the existing buildings. Do they know what that space is or how many feet that is?

Mr. Trias said it varies. He thinks the minimum is 5 feet and then there is more space.

Commissioner Coke said it looks pretty straight on the drawing. It

doesn't look like it is varying too much there. While Mr. Trias is looking that up for her, could the Chief please tell her what the required space would be?

Chief Sizemore said they believe the code requires a 20 foot access for the Fire District.

Commissioner Coke said they need 20 feet to get a truck back there?

Chief Sizemore said yes. Again he wants to be clear, they are not trying to go back and retrofit the buildings and make it mandatory. It was an alternative.

Commissioner Coke said let her ask him a question then, because she knows the technology changes on a very regular basis. Is there a new form of technology that would enable them to install, for lack of a better word, fire hydrants in the parking garage that would give the Fire Department access to fight that fire with, rather than bringing a truck down there? So there is actually no way, if one of those buildings were to catch on fire, other than getting a truck there, there is nothing else they could do from that?

Chief Sizemore said if they take a look at that Harbor Federal building from 2nd Street down to the back of the building, that building is about 150 feet deep. They have to have access to the back of that building. And five feet or ten feet is not going to be adequate to put a truck in there and to work a fire of that magnitude. Again, it is not the parking garage and it is not the buildings. It is the placement of it. It is that 20 foot width. They believe that the code gives them the ability to have an alternative and that is what that was, it was an alternative; because it was portrayed to them adamantly that the design of the parking garage is not going to change. So they were just trying to find a way.

Commissioner Coke said the City has five feet. The Fire Department needs 20 feet.

Mr. Trias said look at the floor plan and she will see that the whole ground floor there, which is behind the existing buildings, is clear. There is nothing there. There is 20 feet at a minimum plus the sidewalk there.

Commissioner Coke asked how tall is that from floor to ceiling?

Mr. Trias said 14 feet; and the fire code says that the minimum height should be 13 feet and 6 inches, so it meets code.

Commissioner Coke said now 14 feet high. How many feet high does the Fire Department need to bring a truck in there?

Chief Sizemore said what they are not going to do is put a truck underneath a building. That is clearly not what the fire code wanted in terms of a fire lane. They are not putting the aerial apparatus underneath a building in order to provide protection for both the new building and the existing structures there. The 20 feet has to be from building wall to building wall.

Mr. Trias said the answer to that is, there is a small parking area behind Dan Fuller's building which is access in case they want to have a fire apparatus right in the back.

Commissioner Coke said she knows, but they never know what Dan Fuller might decide to do with that building.

Mr. Trias said the Fire District's opinion was that clearly that wasn't the best solution.

Commissioner Coke said she understands what Mr. Trias is saying. She really doesn't want to beat this until midnight. Her last question for staff is going to be, is there a way so they do not postpone this yet again although they might have to, that they can approve this conditioned upon: (a) Being able to find an acceptable agreement with the owners of the property to sprinkle their buildings, or (b) An alternate solution that will gain the Fire Department's blessing. Can they pass this with those two conditions on it so they don't stop the project for another two weeks?

City Manager Beach said the City Commission can do anything they want to do.

Mayor Benton said he would agree to that because like he said they do have the CRA meeting next week. If they could get together like he asked with everyone and the property owners, he thinks what they could do is condition that on the CRA maybe coming up with...

Commissioner Coke said if they can't do that, they will find another alternate solution.

Mayor Benton said giving the final approval at the CRA meeting.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve the Site Plan submitted by the City of Fort Pierce to construct the Downtown Public Parking Garage, to include retail and offices uses, generally located on Indian River Drive between Avenue A and Orange Avenue, conditioned upon (a) Being able to find an acceptable agreement with the owners of the property to sprinkle their buildings; or (b) An alternate solution that will gain the Fire Department's blessing.

Commissioner Alexander said he is just looking at the review date on this where it was first rejected in November; and he is asking a question as to why is it that they are waiting until today to bring this to the Commission knowing that the Fire District had rejected this? He doesn't expect to get an answer to that, but that is where he went with it. Again, his next question is he needs them to bring some figures to the meeting as to what it will actually cost to have those buildings sprinkled, whether it comes from the CRA funds or whether the City comes up with the funds. What type of monies are they speaking of?

Commissioner Coke said she didn't want to hold up the plan. That is why she wanted to make that motion. She thinks they could have all that information ready.

Commissioner Alexander said he wants to make sure they have it ready when they meet again.

Commissioner Coke said she means for the CRA meeting.

Mayor Benton said what he would like to do is for staff and he would take part in this meeting, if they could get together as soon as possible, maybe Thursday or Friday of this week with the Fire

District and with the property owners or representatives for the property owners so they can discuss this.

Commissioner Coke said this would be a good time to contact Mr. Fuller because his building is gutted and he is redoing it now.

Mayor Benton said maybe now is the time. It can be a partnership or something, but he thinks they can all go into that meeting thinking they are going to come out with a solution.

Commissioner Alexander asked they are going to have to have some codes involved in that, right?

Mayor Benton said they will have everybody at that meeting - their staff, the Fire District, and the City Attorney.

City Attorney Schwerer asked could he just have a clarification of what exactly the motion was because he may want to add something just for legal edification, understanding that what they are doing tonight is a quasi-judicial function of approving this site plan which does carry with it some legal rights to appeal.

Commissioner Coke said her motion was officially to approve this site plan and to move forward with getting voluntary agreements from the property owners for sprinkling systems to meet the Fire District's requirement and that they would research with the CRA joint funding or full funding or something to that effect. That being said, if that could not be achieved that the City would exercise due diligence and find another way to satisfy the Fire District's needs or requirements.

City Attorney Schwerer said as long as that is not intended to preclude the City from taking final action, should it be necessary, without full consent of the Fire District, then that is fine. Just don't preclude their way of taking that action.

Commissioner Alexander said he is not going to agree to that.

Commissioner Coke said that is not what her motion was.

City Attorney Schwerer said he understands. But he is saying to her that if she conditions it on that, then what she is doing is precluding their ability to take action on this project in the future based upon...

Commissioner Coke said until something is done to satisfy the Fire District. That was her intent.

City Attorney Schwerer said that is fine. If that is her intent and that is what the Commission is...

Commissioner Coke said to move the project along but to also be sure they are not creating... Mr. Schwerer should go stand down there and watch one of his buildings burn for nine hours. She will guarantee him, he will be looking for the Fire District to be happy with the way he built it.

City Attorney Schwerer said he is simply trying to preclude the Commission from... They just need to understand that whatever they do, they have certain discretion; and he is just trying to make sure they understand that if they make that motion, then that is fine. They have that ability to do that.

Commissioner Coke said that is the way she made the motion. If it fails, then somebody could make a different motion.

Commissioner Nelson said he has some reservations that leaves him to be somewhat against that motion. Commissioner Coke mentioned something about the possibility of putting up some type of water sprinkler system at certain places that might not require the fire truck to physically be there. When they get these big high rise buildings - 27, 30, 100 stories high - they don't have the fire truck sitting there putting out the water from the truck directly, they have fire connections intermittently scattered throughout the buildings. He has real strong reservations against putting in the sprinkler systems for the private entities. He is not sure they did that for the Arcade building over here. A better solution in his opinion is to get the building people, the development people, and the Fire Department back together again and come up with a solution; and not necessarily have neither the Mayor nor the Commissioners intimately involved with this. He thinks they can do it because they all are trying to do the right thing there and it can be done. This idea of not requiring somebody to do something after he has been grandfathered in for 50 or 60 years, in his opinion, has a whole lot of merit and it should be pursued along those lines. They just don't go out here and try to make everything the way they want it today because of technology. It is impractical to do some of these things; and if there is an impracticality and if there is a disagreement between the Building Official of the City and the Fire Department and they can't come to some agreement, ultimately there is somebody who can make a ruling that would make them all happy one way or the other. That is the way to go. To do things contrary to standard practice and good common decent sense is irresponsible on their part and he thinks this is what they would be doing in this case.

Commissioner Becht said he is respectful of what the City staff is trying to tell them, but he is not hearing with any great confidence the supporting law for the Commission's ability to make final decision on fire safety issues. Even if they had the final authority from Mr. Schwerer on that, he doesn't know what the appeal process is. He has spoken with the Fire Chief and the Fire Chief has no ulterior motive other than fire safety; and his staff's position is, this is what it is going to take for fire safety issues. He is uncomfortable with their first venture in breaking a precedent of always working things out with the Fire District being on a city-constructed building. It just doesn't sit well with him. If it was a privately-owned building, a private citizen going forward and they had a disagreement and they wanted to break company with them, he sees that as a different circumstance, not entirely different, but different than where the City is trying to build their own building and the City is going to interpret fire safety code the way the architect and everybody else has decided. That being said, he is very hopeful that Chief Emerson and his staff will continue to work with the City and they can come up with a resolution that will work with public safety issues in mind and allow them to build the parking garage.

Mayor Benton said his question to the motion maker, in other words, final approval will still come from the Fire District on this?

Commissioner Coke said absolutely. That was her intention.

Mayor Benton said okay. He just wanted to make sure.

Commissioner Coke said if they reach an impasse and they want it brought back and people want to vote differently, that is fine. But she doesn't think that is the responsible thing to do, if the Fire District is sitting here saying that is not a safe building they are putting in there or they are endangering someone else's property. In essence, they are not telling the City they are endangering their parking garage, but they are saying they are endangering Harbor Federal, Dan & Ann Fuller's, and Jim Wetzels' property. She doesn't want to be responsible for doing that.

Mayor Benton said he agrees.

Those voting in favor of the motion were: Commissioners Alexander, Becht, Coke, and Benton. Those opposed: Commissioner Nelson.

The next item on the Agenda was Public Hearing on proposed change to the **Future Land Use** Map of the City Comprehensive Plan to change the Future Land Use designation of approximately 53 acres located on the northeast corner of Jenkins Road and Edwards Road, south of the intersection of Okeechobee Road and Jenkins Road, from County RM (Residential Medium) and County RU (Residential Urban) to City RM (Residential Medium).

(Petitioner: KB Home Treasure Coast LLC - Land Use Amendment Applications for Neill's Farm and Edward's Road Properties, a/k/a Heritage Grande)

Mayor Benton declared a Public Hearing in session and asked if anyone in the audience wished to be heard.

Mr. Johnathan Ferguson said he is with the law firm Ruden, McClosky, Smith, Schuster & Russell, P.A., on behalf of the applicant. With him tonight he has a representative of Thomas Lucido & Associates, the planning firm of EDC, the engineering firm, and of KB Home who is the applicant and ultimately will be the developer of the project. If he may with the Commission's indulgence, what they have before them tonight is what is called a Transmittal Hearing of a proposed land use amendment to the future land use map of the Comprehensive Plan. What they would like also tonight is for the Commission's nod of conceptual approval of the rezoning and of the site plan which isn't officially before them and will be coming back to them at the final adoption hearing of the land use amendment. But they wanted the Commission to take a look at it so they had a comfort that they were going down the right path. So if he may, he would like to turn this over to Al Brodeur of Lucido & Associates to give them a brief overview of the project. Then they will be available for any questions. He would be happy to answer any of the questions relating to the land use amendment.

Commissioner Becht asked is he saying tonight they are not talking about even the conceptual site plan?

Mr. Ferguson said not officially. The only official action they will be looking for tonight is approval of transmittal of the land use amendment to the Department of Community Affairs. But they also wanted to present to the Commission the site plan so they knew what would be coming back to them after the Department of Community Affairs has reviewed the land use amendment. They have a 60 day window to do that. It then comes back to the Commission with their comments and then there is a final adoption hearing in front of the Commission. At that adoption hearing, what they would be proposing

is adoption of the land use amendment followed by adoption of the rezoning and then the site plan.

commissioner Becht said when Mr. Ferguson and he had talked earlier - and he will disclose that he has talked to Mr. Ferguson and to Mr. Orazi of KB Home - he had asked him if he knew what the transmittal date was for the City of Fort Pierce. His recollection is that he did not know at that time. Has he been able to identify a date certain when they have to submit the transmittal?

Mr. Ferguson said at this point this would be the first transmittal of land use amendments for 2005.

Commissioner Becht asked if they miss tonight, is there a date he is being pressured to meet tonight for transmittal purposes?

Mr. Ferguson said only for private contract purposes between the applicant and the current owner of the property. If he may, unless there are other questions on the land use amendment, he will turn it over to Mr. Brodeur for an overview of the project.

Commissioner Coke said the first question she has is of staff. She is reading comprehensive plan and it is talking about it is zoned now RL and they are looking to rezone to RM and she just got this lovely chart that she was so happy to get on residential zoning and she sees nothing here that says RL or RM.

Mr. Ramon Trias, Director of Development, said that is because that is not zoning. That is actually future land use designations which is the process they are going through right now. It is the State process that deals with the Comprehensive Plan.

Commissioner Coke said okay. Then her question to staff is, RL in the Comprehensive Plan is equal to what zoning?

Mr. Trias said they do not have a chart. However, typically that is R-1 and R-2. But they don't have an official chart in the Comp Plan.

Commissioner Coke asked RM then would be R-4?

Mr. Trias said typically yes.

Commissioner Coke said they are proposing to change single family low density or intermediate density which would be 4 units or 5 units per acre to 10 units per acre.

Mr. Ferguson said actually tonight what they are trying to do is, over the last year or so various portions of the property have been annexed into the City, so there is a process as part of that annexation they need to convert from a County land use category to a City land use category which is the first step. So they are trying to assign a City land use category that would give them the flexibility to then put the zoning category they are requesting that would allow for the development of the site plan.

Commissioner Coke said they are looking to double the density from what it would be.

Mr. Ferguson said under the County land use it was a mix of commercial and medium density residential. It is actually relatively consistent with what the County had placed on the

property.

Commissioner Coke said let her ask him one more question before they go too far. On Page 3 of their proposal, even if they were to go to R-4, which according to her chart is 10 units per acre, she is reading in his proposal that residential medium is 6.5 to 12 units per acre.

Mr. Ferguson said that is correct.

Commissioner Coke said so the zoning he is requesting is to go from 4 or 5 units per acre to 10 units per acre, but they are proposing 12 units per acre for the development.

Mr. Ferguson said his understanding of the City's zoning code - and he would ask Mr. Trias to correct him - is that the City's zoning categories provide for a range of development of units per acre.

Mr. Trias said they do. He is confused by the question. He thinks they should request that the applicant explain the project more clearly.

Commissioner Coke said she met with this gentleman and they have explained the project quite clearly to her. She likes everything about the project except the density and the size of the lots.

Mr. Trias said then he thinks that perhaps the best way to continue this is to suggest the adequate density and the adequate size the Commissioner believes she can support.

Commissioner Coke said she has done that. And the reason she was pursuing this line of questioning is because she has only one vote and she wanted to be sure all the other people here understood exactly how she felt about it without her becoming argumentative.

Mr. Trias said then he would suggest she ask the question to the people she asked that question to originally, and they will give her the answers.

Commissioner Nelson asked did he meet with them?

Mr. Ferguson said yes, he did.

Commissioner Nelson said he looked at their plan indicating it won't have any impact on the water and sewage and utilities in general. In some cases they go so far as to say they will have no impact and negligible impact. What do they mean?

Mr. Ferguson said what they mean by that, when they are applying for a land use amendment, the process requires them to compare the existing land use on the property with what they are proposing for land use on the property. So what they were comparing it to was the County categories on the property which was a mix of commercial and residential use compared to the residential use they were applying for under the City's Comprehensive Plan. When they compared those two, there were no increased impacts from what they were asking the land use to be assigned to the property under the City's Comprehensive Plan. It wasn't meant to suggest there wouldn't be impacts when the property is developed. Clearly, there will be impacts.

Commissioner Nelson said it will be basically the same as it was

under the other zoning.

Mr. Ferguson said it is actually the same or less impacts. If they compare commercial and they put a Walmart Supercenter in, those impacts are different than residential. And traffic engineers do all their hocus-pocus with the numbers and tell them whether or not it has increased or not. And they were telling him when they put the application together that what they were asking for had a negligible difference in impact. Maybe that is how they should have phrased it.

Commissioner Nelson said okay. He just couldn't fathom their having a facility out there, whether it be zoned one way or the other, they were not going to have an impact one way or the other.

Mr. Ferguson said candidly they will have more impact than a tomato farm. If he may, he will turn it over to Mr. Brodeur to give them a brief overview of the project; and he would be the one to answer Commissioner Coke's development questions.

Mr. Al Brodeur, Thomas Lucido & Associates, said tonight they are just bringing this to the Commission conceptually. Their motion will be for the land use amendment. Although the zoning allows for 10 units per acre, they are actually proposing 2.83 units per acre on this. It would be a single family project. They designed it to be more of a neighborhood with interconnectivity with more blocks and streets. It is not a gated community. They did meet with the County to find out what the ultimate right-of-way was. For Jenkins Road, 120 feet is what their ultimate right-of-way would be. So they did set back the property so they could allocate what the County is requesting. This is how the process normally goes; and if there is a better way for future reference, it would be good to know. With the County they will be required to apply for a driveway permit. During that period of time the County will request the right-of-way and they will not issue that driveway permit until that is dedicated. Jenkins Road, according to their future plan, is going to be a major thoroughfare. The County is planning on building a bridge over Ten Mile Creek and connecting it to the Walmart Distribution Center. So that is in the future to be a main road. So they are communicating with the County. They have had meetings with them. Again, this is a conceptual review. And while DCA (Department of Community Affairs) is reviewing the land use amendment for two months, they will have the opportunity to address any concerns and any questions the Commissioners may have about the site plan.

Commissioner Becht said he did try to read the material they gave them; but he is having a hard time finding out what the current City land use designation is for the 53 acres.

Mr. Brodeur said the reason they are doing a land use amendment is it is very fragmented. There were parts of it that were commercial land use.

Commissioner Becht asked can he drag him to a map that he has given him in the packet that is tabbed that would show him the current fragmentation for the City?

Mr. Brodeur asked is that the land use packet?

Commissioner Becht said yes.

Mr. Ferguson said he doesn't believe they provided staff with that map that shows a current City land use. They were coming from the position that once the property was annexed that the process to go through was to do this land use amendment, to apply City land use categories to the property, and until this process is completed they were simply looking at the County land use categories.

Commissioner Becht asked why? They are not changing County land use designations, they are changing his City's land use designations from something he doesn't know what it is, to something they identified as RM. What are they changing it from?

Mr. Ferguson said it is their position that they would be changing it from the County land use categories that were applied to the property prior to the annexation. The annexation is one step. That then brings it within the jurisdiction of the City. And then it is their approach that at that point they go through the land use amendment process to apply appropriate City land use categories to the property.

Commissioner Becht said he thinks where Mr. Ferguson is going, and he doesn't want to speak for him, but he is going to change it directly from the County to what they want it to be in the City; and they bypassed what the City may or may not have done to change it from the County to the City land use classification. Is that a correct summary of what they are doing?

Mr. Ferguson said he probably wouldn't use the term bypass, but yes that is a correct summary of what they are doing.

Commissioner Becht said then Mr. Ferguson would be more politically correct than him. Is there anyone in the room that can tell him what the applicable density is utilizing the City land use classifications and not the County land use classifications? Because they have a packet of material that says if they apply County land use classifications then these densities would be allowed. But there is nothing in the packet...

Mr. Trias asked in some areas that are already annexed into the City, is that the question?

Commissioner Becht said no. There are 53 acres; and the simple question that he wants to know the answer to and he thinks Commissioner Coke at a minimum wants to know the answer to is, what would be allowed as the highest density possible in the current land use classifications that are applicable to this property? And then he wants to compare that number with what they are requesting it to be changed to.

Mr. Trias said he thinks the applicant should answer that question.

Mr. Ferguson said he apologizes. With the original application, they didn't prepare that map. And off the top of his head, he doesn't recall what land use categories may have been applied to the property by the City. He can't put a picture of the City's land use map in his head to tell them which parcels.

Commissioner Becht said he doesn't think there is a map.

Mr. Ferguson said there were five parcels and they were annexed at different times, so he doesn't know that the map exists and that number has not been calculated at least by them.

Commissioner Becht said he apologizes. When they met, he didn't ask him these questions; but his mind is starting to get focused on it. Answer this question. How is he going to make a decision in changing...? Mr. Ferguson may have made a determination and he may have advised his client a certain way, but how is he going to make a determination tonight to change this from a City land use classification that is not identified with certain densities that are not identified to what they are requesting?

Mr. Ferguson said in their opinion that is not what they need to do. He thinks what they need to do is to look at what the County land use categories are and then analyze it as to what is the most appropriate City land use categories and that is the step. Whether there was an interim step.

Commissioner Coke asked is it her understanding that when they annex a piece of property they do give it a land use category?

Mr. Trias said yes.

Commissioner Coke said so whatever these County land use categories were, when the property became part of the City, those no longer apply to anything. The only thing that is applicable to those parcels now is what the City annexed them in at, because what they were before they are no longer. They are zoned in the City, they have future land use in the City. And without knowing what they are now... She doesn't really care what it was when it was in the County. It is not in the County any more, it's part of the City. She needs to know what it is zoned and what the land use is in the City.

City Manager Beach asked the tone of the questions that Commissioner Becht and Commissioner Coke are asking, are those related to the potential density of what is being proposed and they want to compare that density to what it may have been or what it is? Is that the purpose of this?

Commissioner Coke said what the density they annexed it into the City as versus what is proposed.

Commissioner Becht said that is part of it for him.

City Manager Beach said here is what he is hearing being said here. The applicant is proposing a density of 2.8 units per acre. He doesn't know what relevance that is to all of them, but if they had a single family low density, if there was a land use that applied for that, that is 4 units an acre there.

Commissioner Coke said but they are not proposing 2.8. They may be proposing now. But by proposing the density level they are requesting, they can go from 6.5 units to 12 units per acre.

City Manager Beach said if they get the zoning they are looking for. Is that what she is saying?

Commissioner Coke said if they get this land use they are looking for, it says right in their documentation that would give them 6.5 to 12 development units per gross acre, and that is what they are requesting. Her concern is, if they approve something to give them 6.5 to 12 units per acre - it is on Page 3 in the first paragraph - then this is a nice plan, this plan might be perfectly acceptable, but if that is what they are looking to do then why would they be

looking to have it rezoned to 6.5 to 12 units. Why wouldn't they just go with single family low density which would fit in there perfectly with that 2.8 units per acre?

Mr. Brodeur said what they are doing tonight, there is a difference of legal interpretation. He is not a lawyer. But in other jurisdictions if a piece of property is annexed into that jurisdiction, they are still required to do a comprehensive plan amendment even if the density is the same. Even if it was 3 units per acre in the County and now it is 3 units per acre in the City, they are still required in other jurisdictions to do a comprehensive plan amendment from that county designation to a city designation. That is what they are requesting tonight. Most of this property is zoned R-4 at this point right now, which is 10 units per acre. There are certain land uses, let's say RM, which allows up to 12 units, but it doesn't allow that if their zoning is R-4 which only says 10 units per acre. That land use allows for a certain number of different zoning districts.

Commissioner Coke said she knows what he is saying. But her question to him is, first of all if they annexed into the City and they gave it a zoning and they gave it a land use designation...

Mr. Brodeur said right now most of it is R-4. The reason they were requesting that land use is because R-4 is consistent with that land use. This here is the plan they intend to do and if this plan were to be conditioned upon approval, they would accept that. (Mr. Brodeur displayed a drawing.) Right now the lot size is 60' x 125', and that is the minimum one. The R-4 zoning allows for that lot size. The R-2 zoning doesn't allow for that lot size.

Commissioner Coke said her concern becomes, they are telling her they want something that is going to allow them to build 6.5 to 12 units per acre and they have a pretty picture here, but the Commissioners don't know if they go ahead and approve this what they are going to end up with. They have been burned before.

Mr. Ferguson said that is absolutely correct. But what they are approving tonight would be simply a transmittal to DCA that at first blush this is an appropriate land use for this property. It is actually not final action until it comes back to the Commission at an adoption hearing. And he can tell them from personal experience that, for example, in the County they think nothing about sending it up to DCA and when it comes back turning them down after they have had an opportunity to review it. If he may back up to her initial question and partly what may be the cause of a little bit of confusion with the Commission. Typically when they annex property in the City of Fort Pierce they have not done what they are requesting they do, which is file a formal amendment to their Comprehensive Plan to amend their land use map. They have advised KB Home as a conservative approach to an interpretation of State law that this is an approach they should take so there aren't any questions in the future. As people are buying and selling these lots, they get some title company that says wait a second, their interpretation is that they needed to jump through these hoops. So while they haven't done it in the past, there is one way to read the State law dealing with annexations that would suggest that the County land use category remains in place until a formal application is submitted. They are not here to argue that point. Again, this is their advice to their client that this would be an appropriate step to follow. There is nothing that prevents them from doing this, which is unfortunately why they don't have the

answer to Commissioner Becht's question as to what is the density under the City land use, because candidly they didn't look at what the City land use was because their focus was what was the County land use, what are they requesting be the City land use for their proposed use, so they can't answer that question. But why they are here? Again, it is a transmittal hearing which is just the initial step. It is not final action. And it provides them another minimum of 60 days to work out these issues, to answer these questions, to deal with concerns with the site plan, which is why they are sort of jumping ahead and bringing the site plan in front of the Commission tonight so they have that opportunity. What they didn't want was get a transmittal of the land use and come back in 60 days with the site plan and the Commissioner then say these are their concerns when they have that window of opportunity.

Commissioner Alexander said maybe he is a little confused, but in his package it shows him that the applicant is requesting a site plan approval for 214 units. The recommendation by staff was to approve the site plan. He is listening tonight that they are not approving the site plan.

Mr. Trias said as Mr. Ferguson said, this has several steps and they are taking the very first step. The purpose of this step according to State law is that any property that is over 10 acres, which is called large scale amendment, has to go through review by the State planners and also through the Regional Planning Council. The purpose of that is precisely to get comments on whether or not the project or the density makes sense in the overall picture of the Comp Plan. And he thinks it is very good that the applicant has chosen that path and has done a thorough job and they have done it step by step. They have provided the whole site plan for the Commission to review. So they are telling them this is what they intend to do. The steps they are going to follow are going to take a while. There is going to be plenty of opportunity to make comments. And his advice to the Commission is simply to make those comments. If they believe the project is too dense, say that and propose what would be acceptable to them. Because that is exactly the purpose of this review. The purpose of this review is to find an acceptable density and an acceptable way of development. That is why this is here before the Commission. Even though the only action they are taking is the land use, they are providing all the information to them.

Commissioner Alexander said his question to him tonight is that they are saying that the 2.8 units per acre is what they are going to allow. Isn't this is what they presented?

Mr. Trias said that is what they are proposing and that is something that has been reviewed by the Planning Board and by Staff and that is the project before the Commission.

Commissioner Alexander said the acreage has already been in the City limits. What is the density on it?

Commissioner Coke said they are not approving the 2.8 units. They are approving rezoning it. The new zoning category has nothing to do with units they are going to have that would allow them from between 6.5 to 12 units per acre. That is what they are asking the City to approve, a land use amendment that would allow 6.5 to 12 units per acre. They are not approving the site plan. They are not approving anything else.

Commissioner Alexander said again, on his sheets of paper he doesn't know, maybe he is reading it wrong, it is saying the applicant is requesting the site plan approval.

Commissioner Alexander asked why did they have it in there, if that isn't what they are looking for?

Commissioner Becht said this is the first land use amendment he has had the pleasure of dealing with since he has been on the City Commission. He doesn't know if the other Commissioners have dealt with this issue before. So if Mr. Ferguson will bear with them, they are kind of on a learning curve here. What minimum land use classification would allow for 2.8 units to the acre in the City?

Mr. Trias said R-1 he believes.

Commissioner Becht said not zoning, but land use classification.

Mr. Trias said RL.

Commissioner Becht said they are asking for RM. Is that correct?

Mr. Trias said yes.

Commissioner Becht asked if the true intent here is 2.8 units to the acre, and maybe he touched on this before, it has something to do with the design of the lot size? The lot dimensions are impacted if he changes it from RL to RM?

Mr. Brodeur said let him just go back one moment. If they were to go to a neighborhood in Fort Pierce that has an R-3 zoning per se, he thinks the maximum density of R-3 is maybe 6. The Comprehensive Plan has land use designations that zoning must be lined up to, like RM. So if the land use of a property is up to 12 units but the zoning is R-3, the maximum density is still 6 even though the land use allows for 12 units.

Commissioner Becht said he hasn't told him anything he doesn't know yet.

Mr. Brodeur said all right. The majority of this property in the City of Fort Pierce right now is zoned R-4, right now besides the commercial. So a land use of RL, where they are taking the County land use designation, changing it to a City land use designation, does not allow for RL. They would have to also rezone the property from R-4 back to R-1. And that would require a minimum lot size that is much higher than the 7,500 square feet which is their minimum lot size that they are proposing.

Commissioner Becht said he finally got to what he was asking him. What is the impediment with their going through with the RL land use amendment? And if he understands it correctly, the impediment is that they cannot create the lot size they want to create. Are there any other obstacles to using the RL land use classification?

Mr. Brodeur said no.

Mr. Ferguson said if he may, without being able to cite to them specifically, in the hierarchy they have the land use zoning and then the land development code. And the limitation is at this point the code, which is why they are asking for a more dense zoning than they are actually developing. And there may be other

setback requirements that would impact the development. He doesn't know those off the top of his head. But the primary one is lot size. There may be some other minor issues in the code.

Commissioner Becht asked does Mr. Trias agree with that, if they went to RL they can't have the lot size they want?

Mr. Trias said yes. In his interpretation of their site plan, the drainage requirements and the fact there are all those lakes and so on plays a big role also in limiting the size of the lots. And that is why they have chosen to go this way.

Mayor Benton asked what are the lot sizes?

Mr. Ferguson said the minimum lot size - and they vary depending on the radius of the corners and stuff - is 60' by 125', so it is 7,500 square feet.

Mayor Benton said when they get the density in a project like this, compared to a platted City street, they are taking the full acreage and they are including the streets and the retention areas. That is included in the density they are talking about.

Mr. Trias said the Mayor is absolutely correct. The main difference between an old neighborhood and this is the drainage, the lakes.

Mayor Benton said so they really can't compare this to a regular platted City street they have now in the density because they are applying all the property - the roads, the sidewalks, and the drainage and retention areas.

Mr. Trias said the net density, which is what they would describe as the buildings and so on, would be higher here than it would in an old neighborhood.

Mayor Benton said he thinks that is what they are getting at. At least that is his concern. He has no problem with the project. But when he looks at the density like that, because the retention areas, not only are good for drainage but they are good for fill. So when they have lot sizes that small, they have them across the street from him, it does create problems. The 60' to him, half of the lots in the City of Fort Pierce use to be 60' wide and then they eliminated the ability to build on those lots.

Mr. Trias said they are usually 50' or sometimes less.

Commissioner Coke asked can Mr. Trias tell her what the minimum lot size is in RL?

Mr. Trias said it would have to be in the zoning designation which would be R-1. He would have to check.

Commissioner Coke asked could he tell her what the minimum lot size would be in R-1? And do they know what the net density of this project would be if they subtract the amount? Let's not subtract the streets, just all the big retention ponds.

Mr. Trias said he doesn't know the answer to that. Maybe the applicant knows the answer. He could answer the minimum lot size, it is 75' in width and 110' in depth for R-1.

Mayor Benton asked is there anyone else who would like to speak to the Commission on this request?

Seeing no one further and hearing no one wishing to be heard, Mayor Benton declared the Public Hearing closed.

Mayor Benton asked what was the recommendation of Staff and the Planning Board?

Mr. Trias said Staff and the Planning Board reviewed this and recommended approval.

Commissioner Coke said she has one further comment. They have been talking extensively recently about raising the bar. She thinks in theory this is a fabulous project. She has been wanting to see something like that come for a long time. Her personal preference would be that if they build a house on a 70' x 110' lot rather than a 60' x 125' lot, they are going to build a bigger more expensive home and she doesn't think it would hurt the developer personally. After a few of the things they have had going on lately, she is not willing to support, even if it is in theory, changing this zoning to allow 6.5 to 12 units per acre and especially not knowing what the net density of the project is. She would much prefer to see it as R-1 zoning and go with the larger lot size.

Commissioner Nelson said he is prone to agree with Commissioner Coke on that issue. He is trying to figure out what the square footage would be if they went to 75' x 110'. He thinks it would be in the neighborhood of a little over 8,200 square feet.

Mr. Trias said also there is the issue of the minimum square footage for a lot on R-1 is 12,000 square feet. Keep in mind that the 75 feet and the 110 feet are minimums.

Commissioner Nelson said 75' by 110' is minimum?

Mr. Trias said yes, it is the minimum size or minimum dimension for the lot. And then in addition to that, there is a 12,000 square feet requirement in terms of area. So those are the two ways to regulate the size of a lot.

Commissioner Nelson asked would it be appropriate then if they were to ask for a minimum of 12,000 square feet? And would that be acceptable to the developer? What they are trying to do is come up with a better quality product for all concerned. Certainly if they watch the economic situation around here, everything is selling. So they can jack the price up or do whatever and come up with a quality product.

Mr. Bill Orazi said he is with KB Home. Just a couple of concerns regarding the lot size. The actual lot sizes as Mr. Brodeur had pointed out, actually the minimum is 60' x 125'. There are a number of lots and they don't have a calculation in front of them for what the average square footage is for the lot. He would also point out that concerns over their moving forward with this plan or not moving forward with this plan. Whether it helps or not, they have made a substantial commitment. They have already gone through the Technical Review Committee. One of the reasons they are doing this conceptual is because he needs a level of confidence to tell their engineers and everyone to move forward because they have a lot more work to do and a lot more money to spend to get the full detailed plans and get a lot of plan approvals. So back to the

product, they are going to have a minimum square footage of 1,700 to 3,000 square foot homes in this community. The product they are putting on this lot allows them to have a 20 foot separation between the homes. Whether they go to larger lots or not at this point, they are going to have the same type of square footages. They believe that their plans provide a nice level of square footage difference between the plans and they believe this is a good product to move forward with. They have their good faith that when they come back here with the DCA approval that they are also going to come back for site plan approval for that site plan.

Mayor Benton asked they have a development up in Vero Beach, right?

Mr. Orazi said they have a couple, yes.

Mayor Benton asked what are the minimum lot sizes up there?

Mr. Orazi said they have one in Carriage Lake that has these similar home sites. The lot sizes he believes are maybe 60' or 65' by 110'. There is a huge berm in the back that restricts them in the rear of those. So this is not an abnormal lot size for them to develop on. They also have some in Pointe West that are smaller than that, 45 foot. But they are nice homes. The elevations and the layout of the community with sidewalks and the landscaping, they do a good job and they pride themselves on that.

Commissioner Nelson asked can he live with the minimum lot size of 12,000 square feet?

Mr. Orazi said he can't answer that right now. The reason he can't answer that is because he does not know the average, he is not sure what they have. They do have some lots he can tell them that are definitely longer in certain areas and larger in certain areas. They provided some sufficient buffers along this site and more so than what is required by the code. They are providing 40' to 50' along the commercial side. They are also providing 25 foot along residential sides. So he can have those lot widths increased by including those landscape buffers in those lot widths. That is kind of what they were looking at when they get into detail planning, whether covenants or restrictions are going to include the maintenance of certain areas or if the individuals are. So he can tell them in a lot of instances these lot widths are going to increase considerably. For him to do the math in his head, he can tell them that this site plan is going to come very close to what they are asking with regards to square footage.

Commissioner Nelson asked is he going to come close to 12,000 square feet?

Mr. Orazi said in his head looking at the site plan and what he knows about the square footages, it is going to be average or close to that. He can't give them any guarantees because he is not doing the math.

Mr. Brodeur said he doesn't want to beat a horse to death, but he really needs to make this clear. Right now in the City, this is mostly zoned R-4 with some R-3. They could have come before them with a site plan and in the staff report it would have said R-4 density allowed, 8 to 10 units per acre was proposed. The legal advice and his advice to the client was that for their own protection they should amend the land use from the County designation to the City, so if anybody were to appeal this, they

would know they did it the right way. He knows that has caused some confusion tonight. But right now this is zoned R-3 and R-4. R-3 allows for 6 units per acre and 10 units per acre in R-4.

Mayor Benton said he thinks this is one of the bigger projects, with the exception of on the island, that they have seen. Most of them have started in the County and then were annexed into the City after development. So he thinks they are on the right path. He thinks this is the route they are supposed to go to cover all their bases. He has no problem with it. But he thinks comments have been made. Is there any more discussion?

Commissioner Becht said he doesn't want to beat it to death either. But taking Mr. Brodeur's representation that most of it is currently R-4 now anyway and what is not R-4 is R-3. Does staff agree with that?

Mr. Trias said yes.

Commissioner Becht said then that means right now if they don't do anything, they are living with the 10 units to the acre and the 6 units to the acre.

Mr. Trias said yes.

Commissioner Becht said the applicant is going through the DCA approval and are going to come back. The land use classification is changing, but the zoning classification is not changing. Is that correct?

Mr. Trias said he doesn't recall.

Mr. Ferguson said what they would be proposing, and again this is their conservative approach to this project and the one that is following, is the existing County land use is RM which the County simply assigns five units per acre. The City's RM land use gives a range of 6.5 to 12 units, 10 normally or 12 units if they do extra steps. Within that land use range, they then are looking for the appropriate zoning. They will be coming back with the final adoption hearing of the land use. Formal adoption of the appropriate City zoning for that City land use and then approval of the site plan.

Commissioner Becht said he understands. But Mr. Ferguson is not prepared to tell him tonight what that final City zoning classification would be when they come back for final adoption.

Mr. Ferguson said he is. They will be requesting R-4 for the entire property.

Commissioner Becht said R-4 allows 10 units to the acre and they are saying they only need 2.8 units per acre.

Mr. Ferguson said again, the primary issue is lot width requirement under the Land Development Code, that implements R-4 zoning versus one of the other zoning categories.

Commissioner Becht said he has a question for the City Attorney. What kind of box is he painting himself or the City into, when they come back in for final adoption? He is willing to send this on to the DCA, subject to it coming back in with this promised site plan

at 2.8. When they come in with the site plan and it is not 2.8, or they don't come in with a site plan and when they come back for final adoption, and he says, "Tough cookies, I don't care anymore, you told me you were going to come in at 2.8 and now you are coming in at 3, 4, 5, 6, 7, or 8." If he rejects it out of turn, is he still on safe ground in rejecting it based on their representation to him that it would be 2.8 when they bring it back for final adoption?

City Attorney Schwerer said he thinks the hour is getting late and he is not totally following him, but let him backtrack and ask this. First, they are asking for conceptual approval of this land use designation of RM.

Commissioner Becht said no they are not, not tonight.

City Attorney Schwerer said he is sorry. He thought that is what the action was.

Mr. Trias said the action is the transmittal to DCA.

City Attorney Schwerer said right, conceptual approval to be given for them to send to DCA a letter stating the City conceptually agrees with this. Isn't that what the request is?

Mr. Ferguson said yes. That is one way of putting it. That is what a transmittal hearing is. It is not final action.

City Attorney Schwerer said it is tentative conceptual. As Mr. Ferguson pointed out, the County has in the past sometimes when it comes back from the DCA said they are not going to approve it on final and it dies. He thinks what Mr. Ferguson is saying is, that is correct. The Commissioners would retain that option of doing that as to land use.

Commissioner Becht asked can he reject it when he comes back in? Because he is willing to transmit based on 2.8 units to the acre. When he comes back in for final approval and that is not the picture at that time and he rejects it, is he on sufficient legal grounds to reject it at that time?

City Attorney Schwerer said yes. But that is land use only.

Commissioner Coke said first of all, she doesn't know that when it comes back with land use if they will have the site plan at the same time, so she doesn't know if they will be able to do that. Secondly, she has a big concern. They have been talking about it for an hour and she still has the same concern. The request this evening as in front of them is to change their future land use designation to whatever from the County's land use designation. And her point was an hour ago, and it still is, that land no longer has a County land use designation. It has a City of Fort Pierce land use designation that they adopted at the same moment they annexed the property. It is on every annexation sheet they have. County land use, City land use. County zoning, City zoning. So she doesn't know how they can look to change from a County land use designation when that is no longer in existence.

City Attorney Schwerer said without belaboring the point or being in disagreement with the applicant, they can simply take the position that whatever the land use is, it is. But they are going to either support or not support by comment to the DCA the proposed

land use designation of RM. It would be his recommendation to the Commission that if they are inclined to so support that conceptually, that they make the motion simply saying that they support conceptually the request of the applicant for RM future land use on this parcel and that it be transmitted to DCA for further review and comment, subject to it coming back to the Commission for final approval. That would be the necessary motion and they wouldn't have to deal with whether it is County land use or City land use.

Commissioner Nelson asked can they also include it that the number of units per acre?

City Attorney Schwerer said they can in fact comment further and state that it is being proposed that this is 2.8 units per acre.

Mayor Benton asked can they make that a condition? That is what they are agreeing to is 2.8 units, not anything else.

Commissioner Nelson said that would make him feel more comfortable.

City Attorney Schwerer said he thinks they can for their comment purposes at this juncture.

Mayor Benton said because that is all it is, it is going to DCA, that is all.

Mr. Trias said he wants to make a comment here. If they rezone the property, it can change hands and it can be developed by somebody else and it would be developed along the rules. Let's not underestimate what the action is.

City Attorney Schwerer said that is true.

Mayor Benton said that is why if they put a condition on it and put in the maximum density...

Mr. Trias said as far as he knows they cannot condition any rezoning. A rezoning is a rezoning and they cannot have any conditions to it.

City Attorney Schwerer said that is true. But this is a future land use designation that is going up for a review by the DCA. He is not disagreeing with Mr. Trias. Mr. Trias is absolutely correct, they cannot condition a rezoning or change in future land use. But the applicant is saying this is for conceptual approval. Is it not?

Mr. Ferguson said yes, in essence, that is correct.

City Attorney Schwerer said the applicant understands that the Commission will have one return look at this when the DCA comments and the applicant further understands that this Commission can simply change its mind at that juncture and say they are not going to support RM future land use. Does the applicant understand that?

Mr. Ferguson said the applicant understands that.

Commissioner Coke said she is just not going to be able to support this. It is not that she is against the project, but she has a very difficult time... She is sure when they annexed each piece of

property they looked at and had a recommendation of what their future land use was going to be. And without her knowing in black and white from her staff what their future land use designation is on each property now, she doesn't want to take something from here and go to here. Because quite often when they annex properties, if they don't have an equal land use from the County, they go to the lesser land use.

Mr. Ferguson said he understands. And if he may, he believes Mr. Trias answered a question from the Commission as to what the City zoning category was and he believes his answer was R-4. By implication under the Comprehensive Plan, that would require a minimum of RM, which is what they are asking for.

Commissioner Coke said she doesn't feel she has the necessary background information, because they are not looking to change zoning now, they are looking to change land use designation. And she agrees 100% with Mr. Trias, that giving this land use designation gives them up to 12 units per acre and they cannot condition it. Because if the property was sold tomorrow, they would have the new land use and the City wouldn't be able to stop them from doing whatever they wanted, including putting in 12 units per acre.

Mr. Ferguson said he is not sure where the 16 units comes from.

Commissioner Coke said Page 3 of his proposal. It says 6.5 to 12 units.

Mr. Ferguson said under past practice, there is a City land use category; and the only legal appropriate City land use category given the zoning is RM, so that is what it has.

Commissioner Coke said not to question Mr. Trias' memory, but certainly that was a question that was put to him the last minute here tonight and he hasn't looked at all that stuff. Anyway, she is just saying her piece. She is not going to leave them open for that. She doesn't have enough background information. And really before she could support the project, she would like to know what the net density level was when they take away all those beautiful retention ponds.

Mr. Trias said one possibility also is not to take any action here as Commissioner Becht asked before. There is no real deadline here to take action from the City's point of view. So if they want more information, they could request it.

Commissioner Becht said he mentioned earlier to Mr. Ferguson, the Commission is on a learning curve. He believes actually his firm is helpful in dragging them down this learning curve. He believes the prospective buyer is a real builder, not a paper flipper. They do build homes, which is encouraging to him. Unfortunately, he believes they are in a position of trying not to put the cart before the horse. They are trying to make sure they are going to get the appropriate land use classification before they go into the engineering diagrams on this. They have already done some very detailed plans. But he thinks when they come back to the City Commission with a site plan... He will be supporting the transmittal either tonight or in two weeks, whenever they bring it back in. He will not be supporting it if it comes back from the DCA and they don't have site plan approval, so he is going to be real clear on that. And it will need to be at no greater density

than what they talked about here tonight, so be real clear on that. One thing he wanted to ask Mr. Schwerer is, and this would lead him to support a two week deferral, which he really doesn't want to have to do. He doesn't want to establish any kind of precedence. He doesn't want to give anybody an argument that the City doesn't have full confidence in the process they have followed with their annexations and that they have been legitimately legally done and that whatever amendments the City did as they brought it in, were done properly and are legal and are enforceable. If there is anything special they need to do tonight, if they are going to transmit tonight, including making them redraft the transmittal papers such that it is an amendment first from the City and have complete references to current City land use designations and they can embellish it with all the letters they want to DCA referencing County land use designations. He just wants to make sure the City doesn't diminish their position in any way. That was a question. He needs his input on whether the City needs to do anything special in the transmittal to make certain the City's position is not diluted.

City Attorney Schwerer said ideally he would like to see the proposed letter of transmittal before their formal action is taken on the proposal subject to the Commission's comments tonight. And that they would postpone action on this subject to them sending him the proposed draft of that, which would incorporate the conditions that have been discussed by this Commission, should they so desire to support it. That is, that the City is transmitting it with full rights of reservation and that they are supporting a density on that which is really going to work out to closer to 2.8 units. He is sure Mr. Ferguson could draft that letter in such a way that Staff could have a prior review of it and amend it as necessary.

Commissioner Becht asked what harm would Mr. Ferguson's client suffer if they put them off for two weeks? This is the time to make a big pitch.

Mr. Ferguson said a couple of impacts. One, they have a contract. They are under contract to purchase property. They haven't closed. There are certain trigger dates that occur. And then again, they are trying to get a certain level of comfort as to whether or not this is going to be ultimately doable. And too, there is a second project that is immediately following this one on their agenda. It is a separate piece of property. It has to be transmitted at the same time as this project. So if they delay this project two weeks, they are delaying that project two weeks, so it does have impact on a totally different property owner. Again, that one is under contract. It is totally a different project with possibly different concerns. He would reiterate and confirm what Mr. Schwerer said, tonight does not commit the Commission to anything. They have committed to bringing back a full package at the adoption hearing.

Commissioner Becht asked can he commit to working with Mr. Schwerer on the transmittal letter and incorporate what he just referenced?

Mr. Ferguson said they absolutely would work with Mr. Schwerer. And in addition, to address Commissioner Coke's concerns, they will supplement the application with the current City's land use categories for the property. So when they send the package to DCA they will have the whole process of when it was annexed, what land use categories the City imposed on it and what they are requesting, so they can see the full package and won't have skipped any steps

and they will add that to the package.

Motion was made by Commissioner Becht, seconded by Commissioner Alexander, to approve transmittal to DCA the proposed change to the Future Land Use Map of the City Comprehensive Plan to change the Future Land Use designation of approximately 53 acres located on the northeast corner of Jenkins Road and Edwards Road, with the understanding that Mr. Ferguson is going to work with Mr. Schwerer in the drafting of the transmittal letter.

Commissioner Nelson asked are they going to include concerns of Commissioner Coke in that letter of transmittal also?

Commissioner Alexander said Mr. Schwerer will take care of all that.

Commissioner Becht said that was the intent.

City Attorney Schwerer said it would be himself as well as Mr. Trias, whose department will be working on that too.

Commissioner Nelson said let us not exclude the City Manager.

City Attorney Schwerer said yes, of course.

Those voting in favor of the motion were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

The next item on the Agenda was Public Hearing on proposed change to the **Future Land Use** Map of the City Comprehensive Plan to change the Future Land Use designation of approximately 74 acres located southeast of the intersection of Okeechobee Road and Jenkins Road, from County COM (Commercial), County RM (Residential Medium), and County RU (Residential Urban) to City RM (Residential Medium).

(Petitioner: KB Home Treasure Coast LLC - Land Use Amendment Applications for Neill's Farm and Edward's Road Properties, a/k/a Heritage Grande)

Mayor Benton declared a Public Hearing in session and asked if anyone in the audience wished to be heard.

Mr. Johnathan Ferguson said he is with the law firm of Ruden, McClosky, Smith, Schuster & Russell, P.A., on behalf of the applicant, KB Home Treasure Coast LLC. With him is Al Brodeur, Thomas Lucido & Associates, and Roderick Kennedy of EDC (Engineering Design & Construction, Inc.) and Bill Orazi with KB Home. Again, this is the same process they are going through as on the previous Agenda item, so he won't belabor it. This is a transmittal hearing to change the land use to RM on the property. It is a different type of development for the property. He will defer it again to Mr. Brodeur for any development questions, but there is nothing that binds them to this specific project. Again, they are showing it to them in sort of good faith as to what they propose so the Commissioners know what they have in mind. Again, it is simply a transmittal for DCA (Department of Community Affairs) to provide their comments. Then when they come back, they will again have the full package. And if he may, they would again supplement the package with the appropriate land use categories and commit to the same things they committed to on the previous application.

Mayor Benton asked what is the density on this?

Mr. Al Brodeur, Thomas Lucido & Associates, said currently they are proposing 6.39 units per acre. If they were to look at this City zoning map, the area is currently zoned R-4 and the other area shown on the map is zoned R-3. So again they are changing the future land use to match up with the zoning. These will be ownership, these are townhomes with four units per building, and these are duplex lots with two units on the duplex lots. This will have a design similar to downtown with the brick pavers and royal palms around the roundabouts with the live oaks all along the streetscape. He would be happy to answer any questions.

Mayor Benton asked are these rental or ownership?

Mr. Brodeur said ownership, all of it.

Commissioner Becht said how can they represent that it will be ownership? Once again, he talked to the applicant and his attorney on this project. When they say it is ownership, it will be individual owned units; but those units will be capable of being rented to anybody.

Mr. Ferguson said the answer is, they are a home builder and they are intending to sell these as fee simple ownership throughout this development.

Mr. Brodeur said but the next owner could rent it if they want to.

Mr. Ferguson said if the Covenants & Restrictions so allow, then that would be the case for any fee simple owned property they approve.

Commissioner Becht said but what he and Mr. Ferguson had talked about was, if they do create the by-laws of the restrictive covenants then they could establish a mandatory ratio where most of it would be owner-occupied.

Mr. Ferguson said right, he understands; and they can work that out in the detailed plan approvals. Just so they know, KB Home policies now are going toward that way, that people who buy from them are signing an affidavit that they won't sell or they won't rent in that area. So he is sure they could work something out in the CCR when they do the detailed plan approval.

Commissioner Becht said once again, if they do move forward to transmit this, it would be conditioned upon the final site plan being filed, if he makes the motion, it will be filed subject to their all coming back in and not requesting anything more than 6.39 units.

Mr. Ferguson said he understands.

Mayor Benton said the Public Hearing is still open. Is there anyone else who would like to speak to the Commission on this request?

Seeing no one further and hearing no one wishing to be heard, Mayor Benton declared the Public Hearing closed.

Motion was made by Commissioner Becht, seconded by Commissioner Alexander, to approve transmittal to DCA the proposed change to the

Future Land Use Map of the City Comprehensive Plan to change the Future Land Use designation of approximately 74 acres located southeast of the intersection of Okeechobee Road and Jenkins Road, subject to Mr. Ferguson working with City staff inclusive of Mr. Schwerer on the form of the transmittal letter.

Those voting in favor of the motion were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Mr. Ferguson said if he may for clarification, he wishes he could blame it on the hour, but apparently he didn't look at the Agenda real carefully and he grabbed the wrong site plan. He apologizes, but the prior discussion was actually on Item #12(b) and they just did Item #12(a). But his interpretation is that the direction is identical for both and they will prepare the transmittal letters for review by staff.

City Attorney Schwerer said could they please provide himself and Mr. Trias with calculations on what is the total density that he now has under the current City land use, not the County but the current City land use as annexed on the property. Could they have those calculation figures sent with the draft of the letter.

Mr. Ferguson said absolutely.

The next item on the Agenda is Ms. Marilyn Buchenholz, representing Fort Pierce Jazz Society, request **Alcohol Beverage Permit** for Jazz Week Events at the Community Center in Indian River Veterans Memorial Park on February 5-7, 2005.

Motion was made by Commissioner Coke, seconded by Commissioner Nelson, to approve Alcohol Beverage Permit for Jazz Week Events at the Community Center in Indian River Veterans Memorial Park on February 5-7, 2005.

Those voting in favor of the motion were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

The next item on the Agenda was Ms. Mary Ann Bryan, **Downtown Farmer's Market**, request advertising funds in the amount of \$1,000.

Motion was made by Commissioner Nelson, seconded by Commissioner Alexander, to approve advertising funds for the Downtown Farmer's Market in the amount of \$1,000.

Those voting in favor of the motion were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

The next item on the Agenda was Request by Pedro Moreno to rescind Code Enforcement Board fine or lien in the amount of \$15,000 against **3205 Boston Avenue**.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve rescinding Code Enforcement Board fine or lien in the amount of \$15,000 against 3205 Boston Avenue conditioned upon payment of administrative costs of \$578.37 within six months.

Those voting in favor of the motion were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

The next item on the Agenda was Submittal of Application for Appointment to the **Communitywide Council**.

City Clerk Steele said that is just an application for their consideration. The resolution for appointment will be back on the next agenda.

Commissioner Alexander asked was that a countywide membership? His question is, is this how they do these things? Or do they put out applications or what?

City Clerk Steele said in the particular case of the Communitywide Council, the recommendation is made by the staff.

The next item on the Agenda was Director of Development to present proposed ordinance imposing limitation on **building height** in **downtown core area**.

City Manager Beach said just for clarification, this ordinance has not been advertised. Is that correct? It is just to be presented for discussion by the Commission.

City Clerk Steele said that is correct.

Mr. Ramon Trias, Director of Development, said the two aspects of this ordinance as they requested is that no building shall exceed four stories in height and 65 feet above grade. That is the ordinance as he understood they requested it and it is before the Commission for discussion. If they make any changes, it will be drafted properly and then advertised properly for a future meeting.

Mayor Benton said his only comment is he would hope they could look at all the areas in town instead of one area. He knows there was some concern when they ended the workshop, both Commissioner Coke and himself were looking for that same language on the island but without the 65 feet attached to it. They discussed other areas of town. To him, he thinks they ought to set height limits all over Fort Pierce.

Commissioner Coke said she would agree with the Mayor on that. She thinks though that they had discussed this several months back. She has two concerns with the way this is worded. Number one, and she thinks this is probably after this ordinance was drafted, they discussed limiting the number of feet available for architectural enhancements to increase the size of the building to a percentage or a flat number of feet. She would like to see that addressed specifically in here. So if they say 65 feet with 6.5 feet, if it was 10 percent, for architectural enhancements, it will prevent them from having to explain to people why they don't think 30 feet is an architectural enhancement on a regular basis. And she thinks they also need to address in here if it is going to become the norm that they have four stories in height over a story of parking or retail, she thinks that needs to be addressed in here also.

Mr. Trias said yes. That is something they discussed after that ordinance was prepared. He agrees and he concurs with that suggestion.

Commissioner Alexander said he just has one question concerning the height of buildings period. Somewhere in the readings, he knows he scratched through it somewhere, but it was speaking about the

County Clerk's office building. What is the height on the proposed building?

Mr. Trias said it is five stories. He doesn't remember exactly the height, but it is about 80 feet or 85 feet perhaps.

Commissioner Alexander said when they come to him now saying 65 feet, but then they are going to allow an 80 foot building?

Mr. Trias said the Commission had the ability in the past, yes.

Commissioner Alexander said he is just asking Mr. Trias a question. Maybe he is asking the wrong person.

Mr. Trias said he is asking the right person. The code allowed the action they took in the past. What they are saying is, changing the code to this language will allow other things to happen. It is a proposal. It is not in the code yet.

Commissioner Alexander asked where is the 80 feet in the code?

Mr. Trias said they could do up to 200 feet previously in C-4.

Commissioner Alexander asked why would he want to support anything that is going to be other than City officials or County officials who won't allow other developers to do the same as they do? Why would he support that? He is just befuddled. Maybe Mr. Beach can help him. He looks at this City as a whole.

City Manager Beach said no, he can't help him with that. That is an argument between the Commissioners. Those of them sitting here make that determination. Staff can't really tell them why they should or shouldn't. This is a judgment call that is based on all the input they can get, but it really is a decision of the City Commission.

Commissioner Alexander said if they allow 80 feet all downtown, then he doesn't have a problem. When was it approved?

Mayor Benton asked this was previously approved a year ago?

Mr. Trias said at least.

Mayor Benton said he can go back the nine years he sat up here, that years ago they wouldn't have gotten a consensus of the Commission to bring those height limits down. The past Mayor believed in property rights to the fullest.

Commissioner Alexander said he is looking at the property owners and developers that want to come into this community. If he is going to allow an 80 foot County Clerk Office, then he is going to allow 80 feet across the board.

Mayor Benton said that is what was done in the past. At least he for one thinks when they look at what has been done around them in Martin County and they look at the quality of growth there and the quality of development, he thinks they just don't have to go high to get quality.

Commissioner Alexander said they don't have the expansion. They can't expand their arms. But he is serious about this. The thing

is, the cap they put on it now will be for the next 20 or 25 years. They are putting a cap on 65 feet now. How long is that going to last? Maybe as soon as two or three of them vote?

Mayor Benton said it could be two years.

Commissioner Alexander said let's start it tonight then.

Commissioner Becht said the Fire Chief is here. What is the highest floor in terms of feet, what is the highest that their ladder trucks or whatever they can reach with their current equipment? And he will limit that to downtown Fort Pierce.

St. Lucie County Fire Chief Jay Sizemore said the current height of their quints is 100 feet. So if they raise the ladder vertically, straight up, they can reach 100 feet theoretically. They are not going to have a climbing angle. It depends on how close they can get to the building. Seven stories probably adequately.

Commissioner Becht asked when he says seven stories, what does that mean to him in terms of feet?

Fire Chief Sizemore said 84 feet, somewhere thereabouts. There are discussions 10 foot per floor or 12 foot per floor, ceiling height. But 12 feet per floor is a pretty good rule of thumb, he thinks Mr. Trias would agree with.

Commissioner Becht asked that is with their current equipment?

Fire Chief Sizemore said yes.

Commissioner Nelson said it is indicated here in the proposed ordinance 65 feet above grade. He is concerned as to where do they begin measuring the grade on this thing? Where they have sloping land like they had with One Marina Place behind the P.P. Cobb building.

City Manager Beach said he thinks the Commission gave staff direction on that subject at Commissioner Nelson's suggestion at their workshop. That is part of the notes from their workshop unless he is mistaken.

Commissioner Nelson said but are they going to incorporate that into it?

City Manager Beach said yes.

Mayor Benton asked are they looking for a motion on this?

City Attorney Schwerer said there is none needed.

Commissioner Nelson said this is just for discussion.

City Attorney Schwerer said it is going to have to be redrafted to be brought back before the Commission after proper advertising for a formal motion.

Mayor Benton said but if there is not a consensus, then they don't need to worry about it.

Commissioner Nelson said they need to incorporate those thoughts - the ones that Commissioner Coke mentioned and the one he mentioned

are not in here.

City Manager Beach said they are going to incorporate them. That is what they are telling them to do.

Mayor Benton asked is there a consensus to move forward with this? (The Commissioners agreed.)

Commissioner Alexander said let's raise the bar for the next 25 years.

St. Lucie County Fire Chief Jay Sizemore said for some time there have been some discussions in the public, and he knows Commissioner Nelson has brought it up, concerning **minority hiring**. In conversation they have had, he thinks everybody has agreed they have had a problem, especially in the fire service, with the minority hiring. They have looked at it and tried to figure out why they don't get the applicants. He doesn't think anybody can really put a finger on it. They worked with Indian River Community College and a couple of things are going on. The IRCC is setting up a Fire Service track where high school students are going to be able to start working toward a Fire Science degree while they are in high school, so when they get out and graduate they will go straight into the Fire Academy and ultimately graduate with an Associates Degree in Fire Science. But to help their hiring process with minorities, they went to the Fire Board - with Commissioner Becht and Commissioner Alexander - and they suggested a scholarship at the college and the Fire Board has funded two scholarships for minorities through the College Foundation. They are going to pay 100 percent for two students a year to attend IRCC for the EMT and the Fire Recruit Training as long as they meet the qualifications. He thinks what goes beyond this is they are guaranteeing these two students a job. They complete the program on the Fire Board's dollar and the Fire Department hires them. He thinks that is amazing. Just so they know, they have their first African-American in this scholarship. She has completed the EMT program and she will be starting the Fire Academy here, he believes next month. So they are on the road to good things here, he does believe.

Commissioner Nelson asked over the past year have they had any increase in women and minority hiring and promotions of minority staff currently?

Fire Chief Sizemore said absolutely. Granted, they are still small; but along with Chief Emerson's recent promotion yesterday...

Commissioner Nelson said he is not a minority.

Fire Chief Sizemore said but to fill that Captain's position, Derek Foxx was promoted to a Captain in the Fire Prevention Bureau. He just completed a hiring process at the Fire Department with 28 new employees. Among those were several - and he doesn't know the exact number - African-Americans, Hispanics, and three females. Those numbers are still low, but the applicants are not coming in. He can't control that. So hopefully through this scholarship program and guaranteeing the job, they are going to pick up at

least two more per year.

Commissioner Nelson said that is good.

Commissioner Becht asked is it two or is it four scholarships?

Commissioner Alexander said two right now.

Fire Chief Sizemore said they are funding two. The college through the grant will be able to match that, so it will be four. But the Fire Department is guaranteeing two employments.

Commissioner Becht said he thought it was four when they got through with the matching. The Fire District did something proactive to make something happen.

Fire Chief Sizemore said two are guaranteed employment.

Commissioner Alexander asked he heard the Fire Chief say they have how many new employees coming up?

Fire Chief Sizemore said 28.

Commissioner Alexander asked is that this year?

Fire Chief Sizemore said yes.

Commissioner Alexander asked they are anticipating next year being what?

Fire Chief Sizemore said 25.

Commissioner Alexander said that is like an ongoing thing, right?

Fire Chief Sizemore said yes.

Commissioner Alexander said he just wanted to let Commissioner Nelson know he hasn't turned in an application yet.

Commissioner Nelson said he doesn't want to work on the Fire Department.

Commissioner Alexander said he is not talking about himself. Commissioner Nelson hasn't recommended any individual. He should know at least ten people.

Fire Chief Sizemore said the college is going to actively pursue this on their behalf too. He just had an e-mail from the Education Division at the College; and they are going to start marketing it to all the County High Schools, the appropriate locations, IRCC's Adult High School, GED Departments, the One Stop Career Center. So they definitely are going to get this out there.

Commissioner Alexander asked these are St. Lucie County students, right?

Fire Chief Sizemore said they have to be a graduate of a St. Lucie County High School.

Commissioner Alexander said all is well from him this year, but he heard a comment yesterday concerning the Martin Luther King festivities. He doesn't want it to be a black eye to the City, but

he understands they had a situation out there yesterday after the...?

Police Chief Eugene Savage said they had an incident yesterday which was handled relatively swiftly. And when they put it in perspective, they had a number of celebratory events that happened throughout the past week and a half or two weeks, and they had only one reported incident. He thinks that is a blessing.

Commissioner Alexander said yes. He just wanted to say that so they don't hear it from the news. He knows the news is going to report it. But his understanding is that this is an ongoing problem with certain individuals of this community, that **13th Street Gang**. He is sick and tired of having to deal with those little thugs. He doesn't know what they need to do as City leaders, but they need to do something before someone else's child is lost. He doesn't know what to do and that is why he is bringing it to the Commission tonight, that they have this one particular area and they call it the 13th Street Gang. It is ridiculous. They need to address it. He doesn't know what they can do, but that is just his comment on it.

Commissioner Becht said he has in the several months past been critical of staff of the **Development Department** particularly for a couple of booboos they have had. So he would like to be complimentary when compliments are due. He was very proud of the City's staff at the Joint Planning meeting with St. Lucie County, particularly when Mr. Trias was able to produce a letter dated August 2004 where the City had attempted already through his efforts to fulfill the intent of joint planning, and also commend him for his service on the Planning & Zoning Board of the County. He will still be critical when he needs to be or thinks he needs to be, but he also wants to compliment them when it goes well.

Commissioner Becht said it is not on tonight's agenda. He would like to move forward with several of the things that came up with the Joint Planning Meeting with St. Lucie County (January 14, 2005). He noticed that Mr. Beach has sent several letters out to staff asking for reports back. They are going to have a CRA meeting coming up; and they need to talk about where they can or if they can find the funding for the two stories on the County parking garage.

Commissioner Becht said if someone could get back to him on the **Blue Heron**, why it is closed off. That still bothers him that the public road would be closed off. Other than that, all is well.

Commissioner Nelson said as a result of the hurricanes, they had exacerbation of problems with **potholes** particularly along 17th Street and 13th Street and Avenue J between 25th Street and 29th Street. Could they put a little more effort into getting those potholes covered up? People are complaining about running over them and knocking their cars out of line, etc. And the area right down there on Avenue B and 7th Street there, they have a real dangerous situation there. He knows they are planning to do some reconstruction along that area from Orange Avenue to Avenue D, but on the east side of the road there, they have a real serious problem with the erosion of the asphalt and potholes in there that might cause a problem.

Commissioner Nelson said he is waiting for some type of action to

cause the parking lot on the east side of the **Police Substation** on Avenue D to be activated or constructed or something. What is the status on that effort?

City Manager Beach asked is he referring to that vacant property immediately east of the Police Substation? Have they closed on that property? Do they now own that?

Chief of Police Eugene Savage said to his knowledge he believes they own it. He will have to double-check, but he does believe the City does own the property. It is just undeveloped at this time. The plans were to extend the parking lot. And if he is not mistaken, there was some conversation with Hector Arias, City Engineer, regarding including that in a future capital improvement plan.

City Manager Beach asked is that the current plan for that lot is to extend Police Department parking?

Police Chief Savage said yes.

Commissioner Nelson said they need to move forward on that. He sees the police cars parked all over the place and on private property and taking up parking space over at the park area and all that.

Commissioner Nelson said the area they created there which is the **Farmer's Market** on 13th Street and Avenue D was damaged severely by the storm and the lights down and all that. What are they doing to get that back on line?

Mayor Benton said he believes they are putting it together now. Isn't that right?

City Manager Beach said they should have Burkhardt authorized to repair that. If they recall, the Commission authorized the reconstruction of the waterfront park a couple of Commission meetings ago, so that Avenue D park should be part of that.

Commissioner Nelson said those are the types of things the public looks at. Asking them to show the image of a resiliency and positive action to get their public facilities back up and running again. So what are they doing?

Mr. Gary Ferch, Director of Public Works, said he believes the lights are repaired, his staff told him, as of yesterday. He thinks the Mayor had nonchalantly in passing mentioned it to him last week and he had staff jump on it right away. But keep in mind, any of the decorative lights that were damaged, they are just piecing these together. Eventually they are going to run out of pieces.

Commissioner Nelson said some of the big trees are gone too.

Mr. Ferch said the trees, that is a big high dollar value. The City Manager can tell them, no trees in the City have been replaced by anybody because there is no money from FEMA or anything on that. That is going to have to be something coming through the City Manager's office as to which ones are going to be replaced and where the funds are going to come from.

Commissioner Nelson said okay. They need to look at it because again, that is something that is an image builder they need for this City.

Mayor Benton said he had some citizens call him about getting that Farmer's Market park open on 13th Street and Avenue D and mainly getting the lights workable so there wasn't any hazard, so he thinks they want to use it. Reverend Quarterman was one of them. So hopefully it will be workable and usable in a couple of days, thanks to Mr. Ferch.

Commissioner Nelson said at the corner of 7th Street and 11th Street and Orange Avenue some of the **trees have been damaged by the storm** and need to be replaced. These are small trees, oak trees or whatever the trees are, but they need to get those trees back in place because it gives them that image. That is one of their main corridors going into the City. As well as some of the trees that FDOT put in over there at Taylor Creek Bridge. Some of those were damaged by the hurricanes on the west side of the road on the south end of the bridge. They need to get those straightened up or replaced. And the lighting on the west side needs to be activated because they are out of wack. If they don't fix those lights as soon as possible, they are going to have people come along there knocking them out because they are not functioning. That is what happened to the ones they had in before. People going down there will damage them if they are not functioning properly.

Mayor Benton said he just wants to pass on some information. Earlier he gave everybody a copy of what they talked about in the **Utilities Authority** meeting today at 3:00. The weatherization program which is supposed to start February 1st. There is a report from the Independent Auditor regarding the high bill complaints. And the third one was the FPUA has contracted with the Florida League of Cities to evaluate the automatic meter reading system. So they are taking some steps to try to communicate with the public and explain and work on some of the problems. That is for their information.

There being no further business, Mayor Benton declared the meeting adjourned at 10:15 p.m.

Adjournment.

ATTEST:

CITY CLERK

MAYOR COMMISSIONER