

MINUTES OF A REGULAR 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 6:30 P.M. ON MONDAY, FEBRUARY 2, 2009.

Mayor Benton called the meeting to order.

Chaplain Lillian Farias, Lighthouse International Worship Center, 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 Reginald Sessions; Acting City Manager Anne Satterlee; City Attorney Robert Schwerer; and City Clerk Cassandra Steele. Those absent: City Manager David Recor.

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The next item on the Agenda was Approval of the Minutes of the Regular Postponed Meeting on January 20, 2009.

Motion was made by Commissioner Becht, seconded by Commissioner Alexander, to approve the Minutes of the Regular Postponed Meeting on January 20, 2009.

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

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

Letter from Charles Hayek, AWM Construction, Inc., commending the Fort Pierce Building Department - Building Official Marc Meyers, Plans Examiner Danny Hawkins, and Staff - for their help and quick response.

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**Ms. Marjorie Harrell** said she has some young people with her whom she would like to introduce tonight - Bratz in Harmony. These are young people who are part of a step group from Fort Pierce who competed at the South Florida Fair. On Saturday they won and on Sunday they won the grand prize. They brought home a trophy and \$500. Everywhere they go, they bring home first prize. Their leader is Zakeyah Owens, who is a full-time student at Florida Atlantic University. She comes back to town during the week and on the weekend to rehearse with the young ladies. They got so many compliments that she had to introduce them to the Commission. The judges and adults from all around the audience came after the Saturday show was over and complimented them on the way they conducted themselves. Kids like to listen to rock music, but that is not what they dance to, that is not the way these girls dance. These are ladies in training. She just wants to compliment Zakeyah Owens. They represent the City of Fort Pierce very well when they are out. They would like to do some of that drop like its hot, but that is not what she allows them to do. They were complimented and they won. There were a lot of groups there who dropped it so hot until she thought they would burn up. If that is what the judges are looking for, their girls will not win; but that was not what they were looking for. She just wanted the

Commissioners to know that Ms. Owens has a group of 15 young girls to the age of 12. Then she has another young lady, Iris King, who works with the teenagers who are 13 and up, fifteen of those. And the young man Sherman Rowell works with the young men. She didn't bring the young men tonight because she got this together at the last minute. She is so proud of them, she thought the Commission would be proud of them too. She does have a photo of them holding the first place trophy and she is going to give that to the City Clerk. If they request that they come and show them a little bit of what they do, at that time they will bring the four trophies they have brought back to the City of Fort Pierce. The adults have tee-shirts that say, "We Take One City at a Time", and they win every time they appear.

Mayor Benton said he congratulates Ms. Owens and thanks her for all her support and help with these young ladies. She should be very proud. The community is very proud. Maybe they all could come back. He knows it might be an issue with school, but he would love to have them at Coffee with the Mayor. He will have his Secretary give her a call and see if they can arrange that.

Commissioner Alexander said this is Black History Month. If they have a few moments at their next meeting, he would really appreciate these young ladies coming back then.

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Ms. Anne Satterlee, Acting City Manager, said Staff is requesting that they pull Item #15 (Proposal by Culpepper & Terpening for Construction Bond for signalization improvements for the Cortez Apartments Project at 25th Street & North Cortez Avenue). They need some additional information from the applicant.

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Mayor Benton said he wanted to acknowledge tonight that they are very honored to have Senator Pruitt in the audience. He thanks the Senator for everything he has done for this community for many years in Tallahassee, they appreciate it.

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Mayor Benton said just for the record, they have an Acting City Manager sitting in tonight, Anne Satterlee. The City Manager is out due to a medical condition. So he would ask everyone to keep their prayers with Mr. Recor, who has been through surgery since their last meeting and he is recovering, but it could be a long recovery. Their prayers are with Mr. Recor and he asks the community to pray with them.

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The next item on the Agenda was Public Hearing on Application for **Conditional Use** submitted by Cathy Robinson to allow a **Grocery Store** in an existing building at **1103 North 13th Street**; said property zoned R-4, Medium Density Residential Zone. (Postponed from January 20th City Commission Meeting.)

Mr. Duane Yazzie, Development Review Planner, said this project was to be heard two weeks ago at the January 20, 2009 City Commission meeting. A postponement was approved by this Commission until tonight to allow for reasonable notice to be sent out to property owners within 500 feet. At this time, reasonable notice has been satisfied. Therefore, in accordance with Section 22-27(c)(11) and 22-30(b)(2) of the City Code, the

applicant is requesting the review and approval of a Conditional Use to allow a grocery store in the R-4 zoning district. The property is located on the west side of 13th Street on approximately .27 acres at 1103 North 13th Street. To the north is Avenue K and to the south is Avenue J. The zoning for the property is R-4, Medium Density Residential. The surrounding zoning is also R-4. This parcel currently has two structures - a duplex located at the rear of the property, and a two-story structure located at the corner of 13th Street and Avenue K. The applicant has stated that the duplex is in use at this time; however, the two-story building has not been in use since the beginning of 2007. On February 8, 2007, the St. Lucie County Fire Department cited the property owner with safety violations; and soon after, the Building Department and Code Enforcement Department cited additional violations on the property. On April 27, 2007, the Building Department sent the property owner an unsafe letter. This letter included the opportunity to rehabilitate the property to a safe manner. The following month the applicant filed an application to rehabilitate the two-story building with the Building Department. However, one year later the applicant has not resolved safety issues with the Building Department and Code Enforcement. On May 12, 2008, the Building Department issued a demolition letter to the property owner. The case between the property owner and the City's Building Department and Code Enforcement was brought before the Construction Board of Appeals. On June 24, 2008, the Board ruled that the applicant shall be given 30 days to file an application with the Planning Department and to allow the Building Official to enter into the property to assess the structure's integrity. The Conditional Use process was implemented due to the fact that the property's usage was not continuous and has lapsed more than one year. In addition, the property was evaluated for zoning compliance. This evaluation includes an assessment for parking, landscaping, vehicular access, and pedestrian access. The existing parking lot currently does not meet the minimum standards of City Codes. Because of the duplex single family dwelling unit and the grocery convenience store, a minimum of 12 parking stalls would be needed to satisfy the requirements of off-street parking as outlined in Section 22-60 of the City Code. Landscaping would also have to be updated to satisfy Section 22-187 of the City's landscaping ordinance. Today the applicant seeks approval of the Conditional Use from the City Commission. The applicant has proposed various improvements to bring the property up to code. The improvements include: The new parking area will be concrete and will have 12 parking spots which will be striped to the City Code; One handicap parking spot will be included in the new parking area and will be located near the entrance of the grocery/convenience store; The applicant will supply landscape strips along the right-of-ways; A total of 15 trees will be planted as required by City Code; New lights will be installed to enhance safety and visibility to the parking area. Because of the new parking lot, a drainage system had to be implemented into the design. The property owner set aside a dry retention area at the southeast corner of the property. Shrubs will be placed around this retention area as a buffering mechanism as required by the City Code, as well as around the vehicular use areas. A traffic statement notes the amount of a.m. and p.m.

peak hour trips this mixed-use facility will generate, the results of which are little impact and does not require any mitigation. Pursuant to Section 22-143(b) of the City Code, property owners within 500 feet must be notified. 122 notices were mailed out to property owners. As of today, 24 have been received back - 18 approve, 4 oppose, and 2 had no response. At the December 9, 2008, Planning Board meeting, the Board members voted to forward a recommendation of approval to the City Commission with the condition that the applicant extend the sidewalk on Avenue K to the duplex's parking area. In addition, a 10-foot easement along Avenue J shall be dedicated to the City for a future sidewalk and drainage easement. All affected Departments have reviewed and approved the Conditional Use. Staff is recommending approval of the Conditional Use for the grocery store in the R-4 zoning district with the condition that the applicant dedicate 10 feet of easement along Avenue J and shall record this easement prior to issuance of a building permit.

Commissioner Sessions said he wants to make a disclosure to the City Attorney that he represented the owner of the property in an eviction process previously. While he is not representing her now, he just wanted to disclose that and see if there is a problem or not in terms of him voting on this.

City Attorney Schwerer asked he represented the owner in a legal case previously, but not currently?

Commissioner Sessions said yes.

City Attorney Schwerer asked this same owner who is before them seeking a Conditional Use?

Commissioner Sessions said yes.

City Attorney Schwerer said let him study this issue for a little bit and recall what the requirements are. He obviously doesn't have a personal gain or loss tonight; but because he has represented this client, he thinks there may be some issues of potential bias. Let him see how the discussion goes and they will go from there.

Commissioner Sessions asked he can participate in the vote?

City Attorney Schwerer said notwithstanding his recusal, he can participate in the discussion anyway. But when they get to the voting, let him mull this over. Because he is an attorney, there is an attorney/client relationship that lasts a little bit longer than just the one incident, so he is concerned about that. It isn't a personal gain or loss to him today under statutes, as he understands it; but this may call for a bias recusal as opposed to a personal gain or loss.

Commissioner Becht asked as he understood the presentation, they are requiring a sidewalk to be built along Avenue K, correct?

Mr. Yazzie said that is correct.

Commissioner Becht said but not requiring a sidewalk along Avenue J.

Mr. Yazzie said that was a condition of approval that the Planning Board recommended at their meeting.

Commissioner Becht asked is Staff recommending the sidewalk or the easement for the sidewalk?

Mr. Yazzie said the sidewalk be added along Avenue K, where the sidewalk will ultimately end up into the duplex's parking area, which will be the northwest corner area.

Commissioner Becht asked is the sidewalk going to take them to the eastern edge of Avenue K and the property line, or is it just going to take them to the parking lot?

Mr. Yazzie said that was only contemplated to go to the parking lot.

Commissioner Becht said that doesn't make sense to him, because it just seems to him to be conducive with people milling in the parking lot. But they have not made a recommendation for a sidewalk on Avenue J. Is that correct?

Mr. Yazzie said that is correct.

Commissioner Becht asked what is the rationale for not wanting a sidewalk there?

Mr. Yazzie said there is an ordinance in the City Code where, if the applicant owns a property for more than 10 years, they are not required to provide sidewalks.

Commissioner Becht said for a site plan.

Mr. Yazzie said the property is over \$15,000 improvements.

Commissioner Becht said this is not a site plan, this is a conditional use approval.

Mr. David Carlin, Interim Assistant Planning Director, said Staff would love to see sidewalks provided along Avenue J and they did ask that of the applicant. The applicant has indicated that they are unwilling to provide that sidewalk based on financial considerations. In addition, Mr. Yazzie did allude in his report that if the Commission feels that condition would be appropriate - because it is a conditional use application - to condition this application based on safety and connectivity, that is certainly something they can contemplate. The applicant is here tonight to get into the details as to why they would not want to provide a sidewalk along Avenue J.

Commissioner Becht said his concern is, with the two parking lots - the one for the duplex and now the one for the neighborhood grocery store - somebody will go in to buy a six-pack and is going to come out and stand around in the parking lot in an otherwise residential neighborhood. This could happen

at any convenience store, but he doesn't need it happening in this particular area. He doesn't know what safeguards they would have to prevent that from happening. It seems to him a sidewalk would accelerate somebody moving on down the road back to their home if that is where they are shopping. Does he have a map that can show him the proximity of other convenience stores to this one?

Mr. Yazzie said at this point he does not have that map, but one can be provided.

Commissioner Alexander said there is none close. He doesn't even recall one.

Commissioner Sessions said Publix is the closest.

Mr. Yazzie said this is a conditional use for a grocery store; however, if the applicant came in for an occupational license to sell alcohol, he would have to come through the waiver of distance procedure.

Commissioner Becht asked they are not going to be able to sell alcohol even for consumption off premises?

Mr. Yazzie said that is correct.

Commissioner Alexander said his concern is again with the City being business friendly. This has been a grocery store for how long? As long as he can remember and he is an adult now. It has been there a pretty good while. He is looking at the development of this area here. The Chief can tell them, they have a local gang that terrorizes there. For them to come in here and to develop and want to spend money in here, they should be welcoming this. They just built those homes and they didn't put any sidewalks down there, and that is half a block away from the store. He doesn't want to punish people that is coming into this community. They are doing a great thing here to renovate this property. They as a City build homes half a block away and they don't have sidewalks there. He doesn't hear them complain about the sidewalks. Evidently sidewalks are not needed. He just stated that, right? It is not a necessary evil, right?

Mr. Yazzie said his concern is that the Commission know that the provision in the Code allows for a developer to build a development such as this or rehabilitate this property, and if the ownership is more than ten years, they are not required to provide sidewalks. However, the Commission can condition the approval with the sidewalks in mind.

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

**Mr. Michael Menard**, Cook & Menard Architecture, said they are working on this project for the Robinsons. He went on this property roughly 20 years ago and it was a convenience store back then. Currently they are working with the Building Official and his Inspectors. He went through the project and provided rehabilitation drawings. They have the plans ready to

submit for permits. It goes back in front of the Board of Adjustment this month. Once they have this approval, they can get it in for permits. They have quite extensive plans on the renovation. It is going to be very nicely done. He thinks they brought this site up as much as humanly possible for the site conditions they are working with. He would like to see it remain as a convenience store with the residents above. The Robinson's basically grew up there. He has done work for them for a very long time and they do things right to the best of their ability.

Commissioner Coke said her concern is safety issues. A convenience store is going to attract neighborhood children. Neighborhood children, if there isn't a sidewalk, will walk in the street. So she has a big problem with not putting a sidewalk near a convenience store because convenience stores do attract children.

Mr. Menard said he understands that. There is a sidewalk on 13th Street and there is currently a sidewalk on Avenue K. With the parking for the duplex, the Planning Board recommendation was to add a 5-foot extension from the existing sidewalk to the duplex parking area, which brings the sidewalk basically to the westerly property line.

Commissioner Coke said that is on Avenue K. What about Avenue J?

Mr. Menard said on Avenue J they were requested to provide a sidewalk and drainage easement in the future. There are no sidewalks currently in the neighborhood except for basically on that one block that goes from Avenue K to Avenue J right in front of the convenience store and along the Avenue K side. They are doing everything they can to try to bring this up. It is just getting very expensive with the landscaping and the amount of parking, plus the complete rehabilitation of the property.

Commissioner Coke said she is going to agree with Commissioner Alexander, that it is difficult to sit here and request an applicant do something that they as a City have not done. It is beyond her that they would build something that didn't have sidewalks, so she guesses they will have to have that discussion at a later date. But that doesn't alleviate the fact that they are going to have kids going to this convenience store walking in the street.

Commissioner Becht asked have they made an application with the FPRA for assistance with the rehabilitation or a facade grant or anything like that?

Mr. Menard said at this time he does not believe so, because usually with the grants they have to have bids and cost estimates for the applications. And at this time they have just gotten the plans finished. Once they have the conditional use approval, they can actually submit for permit or get bids and pick the contractor they wish to use. And then at that point they can actually submit for grant applications.

Commissioner Becht said he is going to be more receptive to a rehabilitation grant if it brings this property up to a true neighborhood commercial property. He doesn't know why the residents over here should have anything less than a neighborhood commercial structure anywhere else, he thinks they are entitled to have a good design plan. So if the applicant is going to come in and ask for money from the FPRA - and he would encourage them to do so - then he is going to be more inclined when he has that hat on, if there are plans that make it a good well-rounded project suitable for 2009. He appreciates they may have all gone in there 25 years ago or longer. But he does think the residents are entitled to have sidewalks around their property. The FPRA can help with that. They can't call it a sidewalk grant, but they can call it a facade grant or a restoration grant. So if somebody wants to take that into consideration, it sure would help with his vote here tonight.

Mr. Menard said as far as the facade grant and the sidewalks and everything, with the amount of rehabilitation that has taken place here, it is quite expensive. He doesn't know if they can get an actual matching grant for something like this. Usually the facade grants are only \$10,000. They probably have more than that just in the driveway and the parking. And then they have the landscaping, the irrigation, and everything else that is required. He just knows how expensive this can be, especially for rehabilitations, because he has done a lot of other rehabilitations and it does get quite costly.

Commissioner Becht said they appreciate those Mr. Menard has done. Does he have a ballpark idea of what it would cost to run a sidewalk 115 feet?

Mr. Menard said \$4.00 a square foot, \$20 a running foot.

Commissioner Sessions said in light of where this is going, maybe the owner could give them some input as to whether or not they would be at this point interested in putting a sidewalk there in order to consummate this and make this happen. Some of them have made some valid arguments with regards to the neighborhoods. He can assure them that if this store does come back up to par, it will be well utilized by elderly, children, and everyone else in that neighborhood in light of there not being a store in that area. So it appears that perhaps this warrants something of that nature. Maybe the owner could speak on that.

**Mr. Gregory Jerger**, 10615 Pineneedle Drive, said he doesn't believe they should put a sidewalk there for the reason that he doesn't think it would be a beautification of the other side. The other side doesn't have a sidewalk, so they would have to create a sidewalk for that side to make it look right. They are trying to make this work. According to the Building Department from what Mike Menard drew up so far, they are alright. He doesn't get it.

Mr. Menard said also he would like to point out looking at the Site Plan, they have quite extensive landscaping on the Avenue J

side west of the parking where the main sidewalk would be, against the retention and closer to 13th Street. If they put a 5-foot sidewalk in, which he believes is what Code requires, it only gives them basically five feet of landscaping, which they are cutting their landscaping down quite tremendously.

Commissioner Coke said according to this, he was going to give them a 10-foot easement along there for future sidewalks. So when they talk about the cost of building the sidewalk, if they are going to cut back on their landscaping, they are going to save some money. They might also save some lives of children. She understands his point that there are not sidewalks across the street. But it is her vision that eventually the entire neighborhood there would have sidewalks. If it is not required for commercial developments to do what they have with forethought put into their codes to have done, then what will happen is the sidewalk that will eventually be along Avenue J, the cost of that will be borne by the entire City tax base. She thinks it is much more equitable if... Many times developers come here and she tells them all, they can't necessarily be here just to insure that they make money, but they have to insure the health and quality of life for their residents. She thinks the sidewalk is kind of a deal breaker thing. And they will save money on landscaping if they put the sidewalk in. And as Commissioner Becht was quick to point out there, are FPRA grants available to assist them with this project.

Mr. Jerger said they are already at the number so they can assist them. How much more do they want to spend? That is what Mr. Menard was saying, this project is as put together so the expenses don't exceed the project. Yes, they want to beautify everything, but they have to spend some money. They already have \$45,000 or \$50,000 into it now and now they have to get the building built. They want them to get a facade grant for \$10,000. That isn't going to cut it. If the City wants to come in and help them out with the beautification of it, that is another thing they can decide. But to ask them to build a sidewalk is a little bit farfetched for a community trying to...

Commissioner Coke said she is not going to argue with the fact with him. The point she is making is, she is not asking him to do anything else than she would ask any other developer coming into the City that is going to build a project; and that is, to put sidewalks to insure the safety of their citizens. She asks it of every other developer that comes in and that is the reason she asked it of him. If he is not willing to do it, that is fine.

Mr. Jerger said this is not a Palm Beach or Boca Raton developer. This is a community that is trying to revive a historical site as he sees it and make it look good. They can go as far as the Commissioners want them to. If they really want them to soup it up, they could soup it up. But the thing, they ask him to go and get a facade grant. They foresee that already, they are already well above a facade grant. They are doing this out of their pocket. He asked Mr. Menard to do this and to get it approved so they could get going.

Mr. Menard said as far as the landscaping, there might be a wash if they are able to eliminate a lot of these trees. If they cut these trees out on that side and put the sidewalks in, they would need a reduction in landscaping. If they have to keep some of those big trees, within five years the sidewalks are going to be cracking from the roots because the trees are going to be too close to the sidewalk. But they have a little bit of working area here.

Commissioner Alexander asked are there any roads that need sidewalks? What is the width of the road requirement?

Mr. Yazzie said Avenue K is 30-foot right-of-way, 13th Street is a 50-foot right-of-way, and to the south of Avenue J is 30-foot.

Commissioner Alexander asked what is the requirement of a road to have sidewalks?

Mr. Yazzie said 24-foot is two directions on non-collector streets.

Mr. Carlin said the minimum right-of-way requirement of the City is a 60 feet.

Commissioner Alexander asked they have 30 feet there? And they want to put sidewalks so kids can dodge in and out of the road off a sidewalk at the end of this property? He is just not here anti-business. If that is the direction the City wants to go, then he is just not going to be part of that.

Commissioner Sessions asked on the Avenue K side there is a sidewalk already in place and it runs right beside the building? Is there a requirement that there be a sidewalk added to the already existing one, or is Avenue K side okay?

Mr. Menard said the Planning Board requested a connection between the existing sidewalk and the proposed duplex parking.

Commissioner Sessions asked just on the Avenue K side?

Mr. Menard said yes.

Commissioner Sessions asked how much footage would they be looking at on just the Avenue K side?

Mr. Menard said additional sidewalk, five feet.

Commissioner Sessions said he is familiar with that corner. If there was ever anything they needed to add, it would certainly be to Avenue K where there is most of the traffic. On the Avenue J side, there is not much traffic. But on the Avenue K side there is a lot of traffic, both cars and people walking. If in fact they are requiring them to put some additional sidewalk for the safety of individuals who are concerned about that, certainly the Avenue K side, which is a smaller percentage. He is sure the applicant would be willing at that point for purposes of putting the sidewalk on the Avenue K side where most of the traffic is. Does he have a problem with that?

Mr. Menard said no.

Mayor Benton asked is this the project Mr. Menard has been dealing with for a long time? Is this the grocery store they talked about over a year ago?

Mr. Menard said probably. He has been working on it with the Building Department.

Mayor Benton asked Staff is okay with this and supports this without the sidewalk on the one side?

Mr. Yazzie said that is correct.

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

Commissioner Coke asked if Staff is recommending this without the sidewalk, is that because that is the legality of it, or does Staff feel it would be a safe project without that sidewalk? Not what the Code says, that they have had it for ten years. She wants an opinion from Staff.

Mr. Carlin said Staff recommends sidewalks anywhere those can be constructed to encourage pedestrian connectivity, safety, keeping people off the roads. Staff certainly would recommend sidewalks. But when they have the code provision that talks about ownership more than ten years, there is a limitation on that. This is a conditional use application, so the Commission does have the ability to impose any conditions that may be appropriate based on its impact to the surrounding property owners and community.

Commissioner Coke said she understands everyone is concerned because they want the project to move forward. She would like the project to move forward. One thing she would like to remind everybody is, this gentleman very nicely stated that he was spending all of his own money on this project. So if they have available a grant that can enable him to put that sidewalk in there, she thinks that is the appropriate usage of FPRA funding.

Mayor Benton said he hasn't applied for that. But as it appears that neighborhood needs sidewalks, it might be an FPRA project in the future to put sidewalks throughout the neighborhood. Or with CDGB funding, he knows that has been used for sidewalks throughout the community. A sidewalk to nowhere that will go 100 feet to an empty grass yard doesn't do a whole lot of good. But if they combine a neighborhood with sidewalks, it works. So it might be a project for the future when the economy picks up. That is just his opinion.

Commissioner Sessions said he has been advised that it wouldn't be inappropriate for him to vote on this issue in light of his representation of the client being an isolated incident and she doesn't have an active file in his office and he doesn't stand to gain any financial interest.

City Attorney Schwerer said it would be appropriate for Commissioner Sessions to vote. He is allowed to vote. He disclosed to him it was an isolated incident, a one-time representation a number of years ago, and no continuing representation of the client. And under those circumstances the statute would require him to vote in the absence of a personal gain or loss, and that has not been shown. He can vote.

Commissioner Sessions said he is familiar with that area, he knows that area, he grew up in that area. He was born about four blocks down from that area. There is a lot of traffic on the Avenue K side. On the Avenue J side, it is nothing, it is residential. Actually it is a rock area. Individuals who come along that particular corridor, they walk along that area. It is an easement for the most part going back and forth to 13th Street on the Avenue J side. But on the Avenue K side, it is a different story, he has some concerns with regards to the traffic there. The owners indicated they don't have a problem extending the sidewalk on the Avenue K area. He would make a motion to approve it with the condition of the completion of the sidewalk on the Avenue K side. He thinks that is an additional 6-feet needed to make that happen.

Commissioner Coke asked does that include the Planning Board's requirement of a 10-foot easement on Avenue J for a future sidewalk?

Commissioner Sessions said for easement purposes, he doesn't have a problem with that, but not a requirement of building a sidewalk.

Motion was made by Commissioner Sessions, seconded by Commissioner Alexander, to approve the Application for Conditional Use submitted by Cathy Robinson to allow a Grocery Store in an existing building at 1103 North 13th Street, with the condition of the completion of the existing sidewalk on the Avenue K side to the duplex parking area on the north and dedication of a 10-foot easement along Avenue J be recorded prior to issuance of any Certificate of Occupancy.

Commissioner Becht said he is confused. If they are granting a 10-foot easement on the south side of their property, that gives them collectively a 40-foot right-of-way on the south edge of the property. He appreciates Commissioner Sessions insight and Commissioner Alexander's insight as to what has happened here and what is potentially about to happen. Mr. Menard's comments were that they are going to put in trees, apparently in the 10-foot easement area. So if the City finds the money to put sidewalks in, then those trees are going to have to be relocated regardless of who eventually pays for the sidewalks. He heard Commissioner Sessions loud and clear that there may not be a need for a sidewalk there and he is probably going to support the motion. But his concern is that he wants to create a standard where the residents in this area can expect a quality development. He does not want to require something ridiculous and nonsensical like a sidewalk to nowhere that will never be used. But he feels comfortable that other convenience stores in other areas of the City, they are going to require sidewalks all the way around them. So they are making an exception here for,

in his opinion, less than a standard convenience store operation. He is uncomfortable with that. He hears what they are saying - this is the way it is and it will be safe. But it is troubling him that they are setting up a lower standard in this neighborhood now. He doesn't want to do that.

Commissioner Alexander said he begs to differ with him on that. It is just a matter of him growing up in this area and being a Commissioner for the years he has been. He knows they just did that corridor on Avenue I and 13th Street and they also five years ago said put sidewalks from 13th Street to 17th Street. It hasn't been done. So where does he think Avenue J is going to fit in this picture, 20 years from now? He is trying not to make it difficult for business people to come in this community and try to do something without a closed door here, closed door there. That is the mentality they have been dealing with for 50 years in this community. Again, he asks them to support this. This family has other properties. Wherever they go and see their properties, they say that piece of property is well kept. It is not a slum lord or anything like that. If Staff agrees with it, then he sure can go along with it. It is not making an exception. It is just these little narrow side streets are only a haven for the gangs and so forth to hide amongst the little area there. They are going to put up excess lighting in that area. He thinks they need to help this young man and his wife. They are young people in this community. They have to live. If they are going to get FPRA to do something, then let them do the sidewalks.

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

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The next item on the Agenda was Public Hearing on Application for Conditional Use & Site Plan Review submitted by Jerald Wuhrman to construct Pinecrest, a 90-unit Adult Congregate Living Facility, at 405 East Weatherbee Road; said property zoned R-4, Medium Density Residential Zone.

Mr. David Carlin, Interim Assistant Planning Director, said before he gets into the discussion on this project tonight, he would like to make a request. They have had a tremendous amount of input from the property owners on this particular project. Based on that information, the applicant is requesting this item to be postponed for 30 days. He also has discussed this with the surrounding property owners and the representative of the property. They have agreed to that to allow some additional information in terms of the applicant and property owners to work together on some concerns they have with this project, to see if there can be some integration and some changes. They did receive a substantial amount of comments that came in last week. They are requesting that the Commission entertain consideration for this to be postponed for 30 days to their first meeting in March.

Mayor Benton asked does Mr. Melville and Mr. Wuhrman agree to 30 days to try to work out the issues?

**Mr. Harold Melville** said he is a local attorney. He is here representing Jennifer and Joey Trefelner, who are opposed to the project. And they have many neighbors here who also opposed to the project. He asks them to stand up if they are opposed to this project. (Approximately 13 people stood up.) It took a lot of effort to get everybody out tonight. It is difficult to get people to come out. They don't want the matter to be continued and continued and continued. But they don't want to be unreasonable either. They are agreeable as a neighborhood to continue the matter at the request of the applicant, Mr. Wuhrman, to a date certain. The March 2nd date is their meeting four weeks from now. He polled the neighbors. For the most part, they are able to come back on March 2nd. They don't want to be unreasonable. He wants to give the applicant a chance to talk to them one final time. But they don't want the matter postponed further than that, if that is agreeable with the Commission.

Commissioner Sessions said what he is hearing is that the applicant realizes and anticipated there would be opposition. Could he encourage them to get with the applicant? He thinks they are somewhat opening their doors so they can try to compromise. He knows how those lawyers can be, he knows a lot of them personally. Could they all try to get together and work something out?

Mr. Melville said they are more than willing to meet and talk with Mr. Wuhrman. They have spent a lot of time talking to him already, so this is not exactly new. But they will try it one more time. He does not expect this to work because there are fundamental problems with this project. But it would be unreasonable for them not to try one more time.

Commissioner Becht asked could Staff facilitate the meeting? Not mediate the meeting, but facilitate a better understanding of the issues promulgated by the applicant and also by the neighborhood. He will have optimism at this point that something might be resolved. But if not, they did give it one last try and they can come back on the 2nd of March.

Mr. Carlin said this was something that the Commission has considered previously in other projects that have come forth where Staff has facilitated that. They had not participated in the joint meetings. So maybe they can have some resolution on that. He will be glad to do that.

Mr. Melville said they are not optimistic, but they certainly welcome to try one more time.

Commissioner Coke asked would Mr. Melville also consider as the neighborhood gets together, if they could make a list of problems, objections, or changes they would like to see, she is sure then they can get a response from the applicant. Even if their meeting doesn't go well, they might be able to on March 2nd find some common ground. If they can't, at least they all will have a clear understanding of what their concerns are as well as the developer.

Mr. Melville said certainly. He thinks it would be appropriate to share that with the Commission as well, so they all are aware of what their issues and concerns are.

Commissioner Coke said if he gets that to the City Clerk's office prior to February 25th, she will be glad to distribute that to each of the Commissioners.

Mr. Melville said they will be certain to do that.

Mayor Benton thanked everyone for trying to work this out.

Motion was made by Commissioner Coke, seconded by Commissioner Sessions, to postpone the Public Hearing on the Application for Conditional Use & Site Plan submitted by Jerald Wuhrman to construct Pinecrest, a 90-unit Adult Congregate Living Facility at 405 East Weatherbee Road until the March 2, 2009, City Commission meeting.

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

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The next item on the Agenda was Public Hearing on Application for **Site Plan** Review submitted by Madison Vines Apartments LLC to construct **Madison Vines**, a 92-unit affordable housing complex for residents over 55 years old, at **4202 Oleander Avenue**; said property zoned R-4, Medium Density Residential Zone.

Mr. Duane Yazzie, Development Review Planner, said in accordance with Section 22-58 of the City Code, the applicant is requesting review and approval of the Site Plan to build a three-story 55 and older affordable housing complex. The 9.28 acre parcel is located at 4202 Oleander Boulevard, which is on the southeast corner of Oleander Boulevard and Tumblin Kling Road. The property is zoned R-4, Medium Density Residential. To the north, south, and east are also zoned R-4, with the exception of a corner parcel to the northwest which is unincorporated St. Lucie County. To the west is R-1, Single Family Low Density Residential. The history of this project is, it came before the Planning Board and City Commission in 2008 as a Conceptual Development Plan. At that time the applicant received feedback from the Planning Department, the Planning Board, and this Commission, as well as feedback from local residents. Today the applicant is seeking the review and approval of a Site Plan to construct an affordable housing complex for residents 55 and older. The proposed project consists of a 92-unit three-story wood frame building that will have one, two, and three bedroom units. This picture shows the elevation of what the proposed building will look like. The color scheme uses various shades of grays. The color was coordinated with local residents and the applicant. The applicant chose to use a variety of roofing materials. The main part of the building will have shingles. The porte-cochere, cupolas, and hip-cap parapets will use a silver standing metal roof. The siding will resemble wood planks. White columns will extend from finished grade up to the height of the parapets. The first floor window trim will be white. The second and third floor window trim will be

continuous to one another and will have louvered siding to add to the architectural features. A white band of trim will be placed between floors to break up the facade's proportion. The height of this building is measured from the mean height of the roof, therefore the height of this building would be approximately 35 feet and 6 inches from the finished grade to the center of the roof. Amenities for the building include a beauty salon, an arts and crafts area, library, exercise room, activity room, and a screened lanai overlooking the pool. Four stairwells will be incorporated within the building. Near two of the stairwells will be two elevators for residents. The applicant has also incorporated energy efficient building products into the proposed project such as programable thermostats, energy-star appliances, and high efficiency air conditioning systems and water heaters. The Site Plan shows the placement of where the proposed building will be located. In addition, tree save areas are also shown. The applicant has chosen this design to maximize tree preservation. Design Review Guidelines encourage placement of buildings at the frontage line or setback line, whereas the City's Comprehensive Plan supports tree preservation. With that, a balancing act of preservation versus aesthetics of building placement has to be weighed out. Access to the building will be from Tumbling Kling from the unrestricted two-way drive. The City's ordinance requires that a minimum of 46 parking spaces are needed for an elderly facility. Discussions were made concerning the surplus of parking, which the applicant states the parking is needed based on previous experience for this type of facility. Although the Comprehensive Plan does not support the additional parking spaces which may limit recharge of local aquifers, however the City's ordinance allows for lot coverage up to 50% in the R-4 zoning district. The Site Plan demonstrates a lot coverage of 30.37% of building and pavement, which is well below the 50% lot coverage threshold. The .97 acres have been set aside for retention of stormwater runoff in the form of a lake. The lake will be located on the west side of the property along Oleander Boulevard. This retention area will incorporate a fountain to aerate the wet retention as required by Section 17-34(c)(2)(a) of the City Code. The retention area will be landscaped by shrubs as required by City Code to visually buffer retention areas from public view. Tree save areas are incorporated into the Site Plan, as the applicant proposes to utilize the existing trees for mitigation. In this case, mitigation has been measured by the total inches in diameter of oaks and pines and the total quantity of palm trees that currently exist on the site. As a result, the applicant will end up with a surplus of trees. Landscaping will also be placed around vehicular use areas and landscape strips along the right of ways. Other areas that would be landscaped to requirements of City Code will be the dumpster, a ground sign along Tumblin Kling, and around back-flow preventers. A traffic analysis provided by the applicant's engineer concluded that a total of 320 daily trips will be generated by the project. Out of the 320 daily trips, 7 AM trips and 9 PM trips will be generated during the peak hours of the day. The Traffic Consultant has determined that this project will have little impact and should be classified as de minimus. However 45% of trips are expected to travel upon U.S. Highway #1, which is considered a Level of Service F. This

failing segment reaches from Virginia Avenue to Midway Road. It should be noted that no development can claim de minimus exemptions on failing roads, which means that the service capacity has been reached or exceeded. As such the applicant has proposed a proportionate fair share contribution of \$400 toward the righthand turn lane at the intersection of Virginia Avenue and U.S. Highway #1. This amount was derived by a formula which determines the proportionate fair share contribution. In addition to satisfying traffic concurrency issues with the City of Fort Pierce, the St. Lucie County Growth Management, Engineering, Public Works, and Community Services Departments have reviewed and commented on the proposed project. The Growth Management Department reviewed the amount of traffic that will impact Midway Road, which is approximately 15% of the total trips the project will generate. The Growth Management Department has required that impact fees shall be paid to offset deficiencies of Midway Road. The St. Lucie County Engineering and Public Works Departments have reviewed the project's impacts to Oleander Avenue and have identified requirements of approval: That a lefthand turn lane and a righthand turn lane is to be constructed at the entrance of the development on Tumblin Kling; dedication of a right-of-way located along Oleander Boulevard, Tumblin Kling shall be recorded within 60 days; the construction of an eastbound turn lane on Oleander Boulevard at the intersection of Tumblin Kling and Oleander Boulevard. In addition to the County's review of the project, the Community Services Department has identified a deficiency for transit in this area. An amount of \$15,000 for a future transit shelter along Oleander Boulevard has been outlined by the Community Services Department as a condition of approval. The Community Services Department has relayed that no public transit services are available along this corridor; however, the Department has stated that the need is demand driven, and when a facility of this type is created, the residents who do not drive are going to need a place to wait safely. In addition to the Comprehensive Plan Housing Element, which encourages affordable housing locations that are best served by transit, not to mention it is a planning practice plan for the future. These are pictures the applicant had previously provided, which are similar to what is being proposed here tonight. The difference with these pictures they see to the proposed development is that the pictures show a four-story building, whereas Madison Vines project will be three stories. That also means less units. At their January 7, 2009 meeting, the Planning Board voted unanimously to recommend approval of the Site Plan with the condition that the applicant pay the proportionate fair share contribution of \$400. As all affected departments have reviewed and approved the Site Plan - with the exception of the St. Lucie County agencies which are yet to be received - Staff recommends approval of the Site Plan with the condition that (1) The applicant pay the proportionate fair share contribution of \$400 prior to issuance of a building permit; (2) Pay the impact fees to the St. Lucie County agency to offset deficiencies of Midway Road; (3) That a left and right lane be constructed at the entrance of the development on Tumblin Kling; (4) Dedication of a right-of-way located along Oleander Boulevard and Tumblin Kling shall be recorded within 60 days of receiving approval of the Site Plan; (5) The construction of an eastbound turn lane on

Oleander Boulevard at the intersection of Tumblin Kling and Oleander Boulevard; and (6) An amount of \$15,000 for a future transit shelter along Oleander Boulevard as outlined by the Community Services Department as a condition of approval.

Commissioner Alexander asked can he repeat Item (5)?

Mr. Yazzie said the construction of an eastbound turn lane on Oleander Boulevard at the intersection of Tumblin Kling and Oleander Boulevard.

Commissioner Alexander asked isn't that a County road?

Mr. Yazzie said that is correct.

Commissioner Alexander asked why are they requiring...? Shouldn't that be taken up with the County?

Mr. David Carlin, Interim Assistant Planning Director, said this is not something the Commission hasn't deal with before. When the County makes requests to do certain things, Staff relies on their technical expertise. If the County says a turn lane is required or some kind of special connection or right of way to do an improvement, as part of their Interlocal Agreement, they honor their review process. So the County is making this request. The County ultimately will be the permitting agency on that.

Commissioner Alexander asked so they should take up that matter?

Mr. Carlin said affirmative.

Commissioner Becht asked could he bring up a bigger map that shows the internal traffic circulation? He thought he had heard from Staff that these types of driveways where they have people backing into the traffic circle was not preferred. Here they have the traffic where they back right into it from the parking spot. Is there a reason for that?

Mr. Carlin said the code does not permit vehicles to back out into any street. The question is whether or not this is a street. They have seen these types of designs come in before, where they have an apartment complex and the perimeter access point to get out goes around the entire apartment complex. The question is whether or not this is a street with a dedicated right-of-way and it has the proper drainage, curb and gutter, sidewalks, the whole nine yards. This is not a street. However, that is not to say that certain internal access drives don't function as a street. One of the things they are addressing in the code rewrite is this very issue in terms of what is considered an internal access drive and how do they configure it so it is safely navigable.

Commissioner Becht said he knows Staff has been critical of these before is one of the reasons he brings it up.

Mr. Carlin said this is somewhat of a different layout compared to the typical design they have seen where it goes around the

entire circumference of a development. It doesn't extend it as far as some of the other Site Plans. But the code specifically references backing out onto a street.

Commissioner Becht said this is essentially a gated community. There is one way in and one way out for 90 units. The fact that they don't have a gate up is immaterial to him. What thought, if any, was given to requiring them to have a second point of entry and exit on Oleander Boulevard?

Mr. Yazzie said that was certainly contemplated at the conceptual review. At this point, it could be a condition of approval.

Commissioner Becht said the Commission actually talked about it at the conceptual review process. He doesn't see that point which would alleviate some of the traffic on Tumblin Kling. The northbound traffic, if they could dump it out on Oleander Boulevard directly as opposed to sending it out on Tumblin Kling at the intersection. When they were at conceptual level, he thinks Commissioner Coke may have come up with a comment that they would like the applicant to take into consideration that the 55 year old retiring community are more active. He doesn't see any outdoor amenities. He looks at the 7-story Housing Authority building over here on 7th Street and they at least have a shuffleboard court. All he is seeing here is a pool and a 200 yard path through the woods. He guesses that is an accommodation. Did Staff have any discussion with the applicant about requiring something for these folks to do other than sit in their rooms and play cards?

Mr. Carlin said all of these issues that were raised at the conceptual review, in addition to the concerns they had at the conceptual level, were presented to the applicant. They did provide what appears to be a shuffleboard court and a pool. He doesn't believe the first design had that in there. But certainly if they feel there are additional things they would like to see on here, staff would certainly support seeing additional amenities being placed in any development to give more things to do for people. Certainly the applicant can get into the specifics as to what he is willing to provide.

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

**Mr. Gregory Law**, Paramount Community Development Corp., said he is representing the applicant. With regard to exterior outdoor recreation, they do in fact have a couple of shuffleboard courts, picnic pavilions, a community garden, walking trails, and of course the pool and a covered screen lanai, all of which have been pretty well received at two other very similar communities they developed in Tampa and Jacksonville. With regard to secondary access, they do in fact have a secondary access. They met with the County Fire Department to determine the appropriate location and what their requirements were with regard to fire safety. The secondary access is located on Tumblin Kling Road. He thinks that location was chosen over Oleander Boulevard because Oleander Boulevard has more traffic

on it and there also is a fairly deep drainage swale running along Oleander Boulevard. On Tumblin Kling Road, the Fire Department had the access that they were looking for without having that additional traffic and deep swale.

Commissioner Becht asked is anybody other than the Fire Department going to be able to use what he just described as the secondary access point? Or is it an emergency access point?

Mr. Law said it is for emergency only.

Commissioner Becht said so there is only one way for the ordinary citizen or the visitor to get in and out of their property. He just wanted to make sure he didn't confuse anybody up here.

Mr. Law said he didn't mean to confuse anybody. When they talked last, they were concerned about emergency access. This is not a gated community however, there is no entry gate or anything like that. With regard to the general development and also with regard to where this development is with respect to the previously approved Oleander Village, they met with the folks in White City who were concerned about what would be developed here. What seemed to be for many people important things, he will mention. For example, they have approximately half the amount of traffic in the peak hour. They have something like one-ninth the amount of peak hour traffic that the preceding development had, so it is less impact in terms of traffic on the neighborhood. With regard to the building, because of its compact nature, the building could be located so as to save a lot of trees, while at the same time not imposing itself on the surrounding development. The preceding development had three-story buildings located within 65 feet or so of the right of way, whereas their closest point on Tumblin Kling is approximately 250 feet away from the right-of-way and over 300 feet from Oleander Boulevard. Those seemed to be important considerations. He is here to answer any of their questions rather than lead everybody astray or take up any more time.

Commissioner Becht said the map he is looking at, what he is trying to do is get a picture which depicts where the community theater is in regard to this. He thinks it is due south of them.

Mr. Law said he is correct.

Commissioner Becht asked was any thought given to some pedestrian interconnect between his facility, which is going to be only 55 and older, and the community theater?

Mr. Law said yes, they actually thought about that. They do not have something shown on the plan. They certainly think that location happens to be very fortunate. He thinks it would be very convenient for the future residents of Madison Vines to participate in the community theater. Working out the details of how they would do a sidewalk connection or something, they haven't done that.

Commissioner Becht said that is what he is looking for, because his residents may in fact end up adopting the St. Lucie Community Theater and helping that thing thrive and succeed. He doesn't see that it is necessary to make them get in a car and drive out onto Tumblin Kling, out on to Oleander Boulevard, and then south down to Weatherbee Road, if they could build a pedestrian connect.

Mr. Law said they would be very glad to do that. It is really just a matter of approaching the right persons or whoever who runs the community theater to work out that sort of detail.

Commissioner Becht said there are usually representatives from the County in this building on these evenings. He believes Mark Satterlee from St. Lucie County is here tonight and may be able to talk to Mr. Law about that. All they are looking for is a simple pedestrian connect. They are going to put a sidewalk on Tumblin Kling Road across their entire frontage. Is that correct?

Mr. Law said yes.

Commissioner Becht asked does he have any idea what it costs per linear foot for a sidewalk?

Mr. Law said it very much depends on specifically where it is. The sidewalk itself is relatively inexpensive, like \$4 a square foot, so 5-foot or 6-foot sidewalk is in the neighborhood of \$25 or \$30. However that is assuming that the grade and so forth is pretty close to what it needs to be.

Commissioner Becht said one of the comments from the neighbors was, they don't have a community transit in this neighborhood yet, but they do have it on U.S. #1. So there was a suggestion by a neighbor of connecting his property out to U.S. #1 where the community transit is so their residents could actually get connected with the community. They are not anticipating that they have cars with the number of parking spaces they have. What is the parking?

Mr. Law said they have 96 parking spaces. That would be one parking space per dwelling unit and four parking spaces for the management.

Commissioner Becht said they have some three bedroom units in there if he recalls correctly.

Mr. Law said that is correct. However, there is no children.

Commissioner Becht said right, but it has one car per unit. He doesn't think Mr. Law was at the meeting when they had some discussion about lowering some requirements for college housing, more like dormitory housing. What they were talking about was some innovative stuff like requiring contributions for mass transit. These are the people who need mass transit. They need to bring mass transit to them or they need to get them to mass transit. So in light of a \$400 contribution to traffic impact,

which he just can't fathom how that is what somebody thinks this is, in light of the fact that their parking requirements are substantially reduced because they are telling them these people are not going to have cars, it seems to him that a corresponding adjustment needs to be made with his contribution and perhaps an annual contribution to mass transit so these people can get out of these units and get to downtown Fort Pierce or to a shopping center or a Publix or something like that.

**Mr. Steven Doyle** said he lives at 1001 Egret Avenue, which is actually due west of this development. In fact, he is on the cul-de-sac that is on the other side of Oleander Boulevard. They had gotten together with the applicant several times. Aesthetically, they like it. It is pretty nice for the neighborhood. It is a good transition if they are looking at it from the Oleander Boulevard corridor to the U.S. #1 corridor, they are in a strictly rural to a more industrial and commercial section, so it is a pretty nice transition. At the same time, he would like to thank them because of the fact that they allowed the building to be shifted back away from the property line, which is something they all favor. They wanted a little bit of a setback because it is a three-story building. From his world and his perspective, looking at it from the aesthetics perspective, he supports it. It is going to look nice for the community.

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

Commissioner Coke said she is going to disclose that she spoke with the applicant's representative.

Commissioner Becht said he did too.

Commissioner Alexander said he did.

Commissioner Sessions said he did too.

Mayor Benton said he has also. And also when they looked at this conceptual plan some time ago.

Commissioner Alexander said he recalls that this Madison Vines is the same developers of Madison Cay, who built those beautiful well deserving buildings in his district out there on 29th Street. Those are beautiful. He is not trying to sway anything. He doesn't see them doing anything secondhand or second class, just beyond what it should be.

Commissioner Becht said he doesn't know if there is any support for this, but the connectivity of this project to mass transportation is important. They are leaving it in the hands of the County. Although they are going to require this developer to give the County \$15,000 to use in their infinite wisdom, that is the end of the story. There is nothing that he sees to assist these people in getting connected to the community. If anything, they are almost isolating them by creating the one-way in and one-way out. They criticize the County when the County approves a one-way in and one-way out project. Here they might

be on the verge of doing that tonight. He would like, if they are going to approve it, they at a minimum consider making them connect via pedestrians to the theater which is due south, even though that theater is in the County and probably will be forever. The final point is asking them to connect out to U.S. #1. That is a big ticket item. He doesn't know if they can get any monies toward doing that. He doesn't know if there are right-of-way problems with trying to do that. But he thinks it would be important to try to talk about that rather than just approving the project without asking them for any contributions for that.

Commissioner Coke said sitting on the Transportation Planning Organization, money is getting tighter all the time, especially for mass transit and sidewalks in particular, they are having a lot of trouble funding all of that. The easiest way is to ask, what does he think he can do to help there and to help the future residents of his development?

Mr. Law said he will start with the easiest one, connecting to the community theater is no problem at all other than working out the details. They did specifically look at the possibility of running a sidewalk from their development down to U.S. #1. In connection with that, they also looked to see what level of actual usage their residents might have. They actually do have two 160-unit developments - one over in Tampa and one in Jacksonville. As it turns out, both of them actually have a bus stop right in front of the development, which they obviously think is a great thing; except it turns out they have on average about one person a day who actually uses that. As it turns out, there are other county services that are available. They come once or twice a week and they will take residents under the seniors program shopping and that sort of thing. Evidently that is what the residents who don't have cars choose to do. There is not really a whole lot of people evidently, even with the bus smack dab in front of the property, who would use it. He is as surprised as anyone else. They did look at the possibility of running a sidewalk down along there, but the right-of-way is a complete mish-mash. It varies up and down all over, there are drainage swales and so forth in there. It is about 4/10ths of a mile. Then when they get down to that location, they would be picking up mass transit headed south; but when they come back to the north, they get dropped off on the other side of U.S. #1. There is no light at that location, so it is kind of a problem if they were coming home and they got dropped off on the east side of U.S. #1. He wouldn't do it himself. So honestly, he doesn't think a sidewalk there is very practical in this instance. With regard to doing something else that would help mass transit, which they are a beneficiary of...

Commissioner Coke said she is not sure what the answer is. But when she read about \$15,000 to the County for the purchase and installation of a bus stop at some future date, that concerns her. As developments come in the Commission has requested and required - but those were not 55 years and older - that they would put a bus stop directly inside of their entrance so the school buses could come right to the edge of their entrance and then move forward from there. In her mind it is almost

something that should be done here also because it facilitates at such time when St. Lucie Transit does want to come pick up. They do also offer that service where Council on Aging will come pick people up and take them to the grocery store or to the doctor. That is a cost to the taxpayers. But how much easier is it, instead of having to drive in and look for the person, if they had a bus stop right in front of it? She doesn't know what the answer is. She knows they have just now started exploring that they need to in some way get developers to start supporting their Council on Aging Transit System, but she doesn't think they have any of that in place just yet.

Mr. Law said he thinks it is an excellent idea. With regard to the pick-up, they do have a porte-cochere in the front at that turn-around. In fact, that is the primary use of that. There is a lobby there so people are out of the weather. They zoom in and turn right around there and head on out. He thinks it is kind of like a deluxe bus stop really. It is air-conditioned even.

Mayor Benton said he knows Tumblin Kling Road has a lot of swales. And he thinks they would have a lot of neighbors in here complaining if they were talking about putting sidewalks all the way to U.S. #1 at this point anyway, maybe in the future years down the road. There are areas in the City and the County that don't want sidewalks.

Commissioner Coke asked she assumes the applicant has been given notice of the points that Staff recommends as conditions for approval?

Mr. Law said yes, they have. With regard to the County, he thinks the best way to proceed is really for them to deal with the County as a separate activity. They certainly intend to pay their fair share of anything. One other point, they do have substantially less traffic, yet their traffic impact fees are the same regardless. Compared to a similar garden apartment development, in effect they pay twice as much for actual traffic impact as a non-senior facility would.

Commissioner Coke said the truth of the matter is, they are building an over 55 year old community and there is a need for it. However, who is to say what is going to happen with it five or ten years from now? The nature of the development could change. Her concern is not that she doesn't want to deal with the County on the County roads, because she certainly does. But have they changed the Site Plan to reflect the left turn lane?

Mr. Law said no. At this point actually where they are with the County is that they met with the County Engineering Department. They requested them to develop a conceptual plan, which they did submit to them, for a left turn lane and some cost analysis. That is essentially where they are right now on that.

Commissioner Coke said she doesn't think Staff's recommendation is requesting that they permit that through the City, just merely that they reflect it in the Site Plan. She knows several calls she got Friday, Saturday, and Sunday were questioning the

left turn lane being included in the Site Plan.

Mr. Law said he is hopeful that they would be able to proceed with tracking for the City a review of construction plans and so forth concurrent with this issue with the County, as opposed to stacking...

Commissioner Coke asked can they include the left turn lane? What hardship would it pose if they were to include Staff's recommendation that the left turn lane be part of the approval of this?

Mr. Law said he thinks the issue really would be funding. The left turn lane is a substantial improvement. While they certainly would pay their fair share, he would think it would be very burdensome to pay for the entire thing. To show it like they are going to put the left turn lane in at their entire expense... There is no final actual design. The initial go around was they design something, submit it to them, and they said to add some more stuff.

Commissioner Coke said look at all the money they are saving. They are not asking them to make a contribution to mass transit, they are not asking them to run that sidewalk all the way to U.S. #1, they are not asking for parks and recreation contribution, they didn't ask for any bocce courts. The only other thing they asked for was a sidewalk to go to the Community Theatre.

Mr. Law said the punch line is, \$250,000 to put a left turn lane in. They could buy a lot of bocce courts and do other things for that amount. For this small development, it is beyond the scope of one development doing it on their own.

Commissioner Coke said she is not saying it is a make or break deal, because she certainly would like to hear from her colleagues. But she has heard loud and clear from the citizens that they feel were it not for this development there would be no need for a left turn lane there.

Mr. Law said with their development in, they are less than 2.5% of the left turns from that location onto Tumblin Kling, so it is not a substantial change. The City Traffic Engineer wrote in his report that there is no need for any... He didn't use the word de minimus, but he thinks he said it was insubstantial.

Commissioner Coke said she is talking about the left turn lane to go into his project.

Mr. Law said he is sorry. Is that what she was asking about? He got confused.

Commissioner Coke said that was the left turn lane she was talking about this moment, the one that is going into his project. So were it not for his project, there would be no need for the left turn lane to go into it.

Mr. Law said they really don't have a problem with that. There

is an issue with regard to the drainage swales along the side of the road and there are some utility poles right in that area. They will have one car every 28 minutes during the peak traffic hour turning left. So it is not an actual need for doing that. On the other hand, if the Commissioners would like them to put a left turn lane in there, they certainly will.

Commissioner Coke said that was part of Staff's recommendation.

Mr. Law said he is not trying to put words in Staff's mouth; but he thinks they were taking the staff report from the County and just listed it out. Factually, in other words, these are what they had.

Mayor Benton asked wasn't there a project or maybe it was this site that the County basically said no to the development because they wouldn't make improvements to Midway Road?

Mr. Carlin said that is true, that was part of that previous project that came up. But since that time there has been a different approach that has been handled with Midway Road, because there are no funded projects currently in place. In absence of that, what FDOT has recommended the County do and the County is currently making these requests, is to have any developments that have traffic impacts to Midway Road to pay road impact fees up front. That is what all developments are doing for any traffic that impacts the Midway Road area. But with regard to turn lanes, these are not requests that just get randomly pulled out of a hat. It is capacity-driven. So if the County is saying that there needs to be a turn lane there, then there is a reasonable basis for making those types of requests. Staff honors those requests as part of their review process between both reviewing entities and interlocal agreements.

Commissioner Coke asked maybe just for clarification - because obviously Mr. Law is not as familiar with the City Staff's recommendations as she thought he would be - can they just read those into the record one more time? So he will know exactly what City Staff has recommended and then they can proceed to discuss or question them if need be.

Mr. Yazzie said yes. (1) Pay the proportionate fair share contribution of \$400 prior to issuance of a building permit; (2) Pay the impact fee to the St. Lucie County Agency to offset deficiencies of Midway Road; (3) That a left and right lane must be constructed at the entrance of the development at Tumblin Kling.

Commissioner Becht asked can they do these one at a time and see if he agrees or disagrees?

Mr. Yazzie said sure. He just wanted to add that the applicant has been given the list of the County requirements.

Commissioner Alexander said his City Clerk is saying that is not what is written. What page is he on?

Mr. Yazzie said this is in his report. He has summarized it.

Commissioner Coke said Page 4.

City Clerk Steele said he is not reading what is written on Page 4.

Commissioner Becht said right, he has modified...

Mr. Yazzie said what he has done is summarized his list from their packet and basically outlined what the County has submitted to the applicant and what the applicant has proposed to offset the proportionate fair share mitigation.

Mayor Benton said these six points on Page 4 are the ones they are looking at.

Commissioner Coke said her concern is, these are County requirements. They have a Joint Planning Agreement with the County that they have agreed to some concurrency issues. The City likes to support the County when they request things, the same as she is sure the County loves to support the City when they request things. So if they don't condition their approval on these points that the County has requested, it is going to do several things. Number one, the County is going to be annoyed with the City. And number two, the County won't give him approval, they won't let him move forward with his project and use the road and everything else. That is where their level of concern is. She loves the project, she wants to see it move forward; but the County is not going to let them move forward.

Mayor Benton said then they will get a letter from the County Attorney stopping the process until the City sits down with the County and hashes out the problem like what happened with one of the other projects.

Commissioner Becht asked is he on a time line with State approvals where he has to get this submitted and funded or lose benefits?

Mr. Law said yes, they are. But they are fairly early in the time line. They have to deliver everything by the end of next year.

Commissioner Becht said the issue they have is that he can't tell them tonight what the County is going to require of him. Is that true? Or can he tell them what the County is going to require of him?

Mr. Law said the short answer is no, tonight he can't. But it is similar to a Water Management District permit or other... He understands they have a relationship with the County.

Commissioner Becht said he may find that it is not similar because it may not be as predictable as he thinks it is. His concern is that sometimes the County asks more than the City thinks is appropriate, and sometimes the County doesn't ask enough of what the City thinks is appropriate. In this particular area, he doesn't want the County asking too much of him; but he would like to know what they are asking of him. Mr.

Law is saying this will contribute 1.2% of the traffic on Tumblin Kling. With 90 units, it seems to him that number may be a little bit tilted. He understands there are some other apartment complexes in that area, but that number seems a little bit light. So he is wondering if they can approve his Site Plan as the City wants it, subject to the City seeing the actual requirements of the County for the offsite improvements. Let's first find out... He doesn't know which one, chicken or egg. If the applicant doesn't accept it, it doesn't matter whether it is legally possible or not.

City Attorney Schwerer said it is important to understand that they have various different concurrency requirements in their Comprehensive Plan. They have been reminded of that by the County recently. The County is correct that they do have those in the Comp Plan and the City is required under their Comp Plan to coordinate with the County on their concurrency issues. Road impacts, turning lanes, road impact fees, fair share contribution - that is all part of their overall concurrency plan in the Comprehensive Plan, which they are duty-bound to follow. The Commissioner is correct that it helps this Commission to understand exactly what the County is requiring; but he is not sure they want to get into the realm of not putting as a condition to the approval that they honor the County's requests. If they have a question on what the County is specifically requiring, perhaps Staff can read from a memo. They are required to get something from the County in a memo format of official capacity requesting these matters before Staff would make that recommendation.

Commissioner Becht said if he is correct, Commissioner Coke asked if those are enfolded into the Staff recommendations. Are they?

Mr. Yazzie said yes, that is correct.

Commissioner Becht said but it seems the applicant doesn't know. Commissioner Coke was trying to find out what the applicant agreed to and what he didn't agree to with Staff recommendations. That is where they got into the confusion.

Mr. Yazzie said the correspondence between the County has been relayed to the applicant and that is included in their packet.

Commissioner Becht said he wants to do this simply. They have six points that Staff has recommended. Is Mr. Law in agreement with those six recommendations or not in agreement with those six recommendations?

Mr. Law said Fair Share Contribution of \$400 - he is in agreement. Road Impact Fee be paid to County for Midway Road prior to issuance of building permit - he is in agreement. In fact, it would be somewhat sooner than that, because what they are actually looking for is to be paid within 30 days of Site Plan approval. So if they were to receive approval tonight, then they would be obligated to pay, notwithstanding where they are with the Building Permit. Naturally, he would like to be in a position to proceed with the building permit review process.

The next one is, Site Plan revised to reflect a left turn lane into the project entrance. He does have the Traffic Engineer here who could address any of these things.

Commissioner Becht said they are looking for a yes or no. Is he going to put one in or not?

Mr. Law said it is sort of like a given, meaning there is no need for it, but they would do it.

Mayor Benton asked so that is a yes?

Mr. Law said that is a yes. The construction of the eastbound left turn lane (at the intersection of Tumblin Kling and Oleander Boulevard), they are in agreement with paying their proportionate fair share. The County has an ordinance that spells it out as to how that would be done. It is up to the County to determine whether one is needed or not, as opposed to the applicant.

Commissioner Becht said he is going to clarify, what Mr. Law has said is he will pay his proportionate fair share. He will not build it, but he will pay his proportionate fair share.

Mr. Law said yes. Because if he said he would build it...

Commissioner Becht said he just wants to make sure. The notes here say the construction of an eastbound left turn lane at the intersection of Tumblin Kling and Oleander Boulevard. He would clarify that what he thinks they are talking about here - correct him if he is wrong - is as they are traveling south on Oleander Boulevard, they are looking for a left turn lane onto eastbound Tumblin Kling. Is that what they are talking about? The applicant is not going to construct it, but will pay their proportionate fair share.

Mr. Law said yes. The next item has to do with right-of-ways (35-feet on Oleander Boulevard and 15-feet along Tumblin Kling to be conveyed within 60 days of Site Plan approval). They are in agreement. With regard to the payment (of \$15,000 to St. Lucie County for a transit shelter and infrastructure), he thinks as someone suggested here that it might be best for that payment to just go into their transit account, because right now they actually do not have any planned future route up and down the road there.

Commissioner Becht said what he was going to suggest is that it would go into their Transit Authority subject to them having an obligation to build a transit shelter on Oleander Boulevard within two years. If they don't, then it comes to the City.

Mr. Law said it works for him.

Commissioner Coke said she has no problem with that. Can she assume that in the exact letter from the County regarding the eastbound left-turn lane at Tumblin Kling and Oleander Boulevard, it does state Proportionate Fair Share?

Mr. Carlin said he doesn't believe it does make mention of

anything about a Proportionate Fair Share. The County may or may not be willing to accept that, depending on whether or not it has been contemplated in their overall...

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve the Site Plan submitted by Madison Vines Apartments LLC to construct Madison Vines, a 92-unit affordable housing complex for residents over 55 years old at 4202 Oleander Avenue, with the following conditions: (1) The Fair Share Contribution of \$400 shall be made prior to issuance of a Building Permit; (2) The Road Impact Fee shall be paid to St. Lucie County for traffic impacts to Midway Road prior to issuance of a building permit; (3) The Site Plan shall be revised to reflect the left turn lanes into the project's entrance; (4) A Proportionate Fair Share contribution for construction of an eastbound left turn lane at the intersection of Tumblin Kling and Oleander Boulevard; (5) The right-of-way of 35-feet on Oleander Boulevard and 15-feet along Tumblin Kling is to be conveyed within 60 days of Site Plan approval; (6) Payment of \$15,000 to St. Lucie County Transit Fund for the purchase and installation of a community transit shelter and related infrastructure to be built on Oleander Boulevard within two years; and if not constructed within two years, the payment of \$15,000 reverts to the City of Fort Pierce; and (7) A pedestrian path be provided to the St. Lucie Community Theater.

Commissioner Alexander asked where would the bus stop be located?

Commissioner Becht said on Oleander Boulevard.

Commissioner Alexander asked do they have space and the room? There are swales are on both sides of the road.

Commissioner Becht said what he is contemplating is he would defer to the County that within a mile north or a mile south or wherever they think appropriate on Oleander Boulevard they can build the shelter. But for the City to collect the money for them out of a City project and the money to disappear into the Transit Authority... It is being extracted for a bus stop. If the County is not going to build the bus stop, then the money ought to come to the City.

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

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Ordinance No. L-75 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE A PARCEL OF LAND LOCATED ON THE **EAST SIDE OF SOUTH 37TH STREET, NORTH OF WHITEWAY DAIRY ROAD AND SOUTH OF DEBERRY 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 first reading and read by title only. (Owned by: Mount Bethel

Baptist Church)

Ms. Erica Ehly, Comprehensive Planner, said pursuant to Section 171.044 of the Florida Statutes, the applicant has submitted a petition for annexation regarding a 5.28 acre parcel located on 37th Street. The property has a current Future Land Use designation of County RU, Residential Urban, at five dwelling units per acre and a current Zoning classification of County RS-3 at three dwelling units per acre. In accordance with City policy, the proposed Future Land Use designation is City RU, Residential Urban, at five units per acre, and the proposed Zoning classification is E-3, Residential Single Family, at three dwelling units per acre. At the December 9, 2008 meeting, the Planning Board voted unanimously to forward a recommendation to the City Commission for approval of the annexation. Staff recommends approval of the annexation application.

Mayor Benton declared a Public Hearing on Ordinance No. L-75 in session and asked if anyone in the audience wished to be heard.

**Mr. Daniel Retherford**, Engineering Design & Construction, Inc., said he is representing the applicant and is here to answer any questions.

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, that Ordinance No. L-75 be passed on first reading.

Those voting in favor of the passage of Ordinance No. L-75 on first reading were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

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Ordinance No. L-76 entitled, "AN ORDINANCE **REZONING** PROPERTY LOCATED AT **5125 PETERSON ROAD**, FROM E-3, RESIDENTIAL SINGLE FAMILY ZONE, TO R-4, MEDIUM DENSITY RESIDENTIAL ZONE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE." was placed on first reading and read by title only. (Owner: Ward Snyder / Walton River LLC)

Ms. Erica Ehly, Comprehensive Planner, said this is a request for a zoning atlas amendment for a property that was annexed into the City in October 2008. The property was assigned a Future Land Use designation of RM-9 in the County at the time of annexation. A City Future Land Use designation of Rmo, Moderate Density Residential at nine units per acre, was applied. In addition, a compatible zoning classification of E-3, Residential Single-Family at three units per acre, was assigned in accordance with City policy. The zoning classification is compatible with the RS-3, Residential Single Family classification assigned in the County. The applicant is now requesting approval for the change in zoning classification from E-3 to R-4, Medium Density Residential, in order to develop the property as multi-family housing development. The 19-acre parcel is currently vacant and is located south of Peterson Road, east of Jenkins Road. The site is bounded to the north,

west, and south by County Medium Density Residential at nine units per acre, and to the east by City Medium Density Residential at nine units per acre. All but the property to the south have PUD zoning. The proposed zoning change is not inconsistent with the surrounding land uses in the vicinity. In addition, the property location is consistent with the R-4 zoning classification as there is adequate access to Jenkins Road, an urban minor arterial road, via Peterson Road and is within the Urban Service Boundary. Part of the analysis regarding a rezoning application requires a comparison of the impacts to the capacity of the five public facilities for which concurrency is applicable. Concurrency requirements regarding public facilities will be specifically evaluated during the Site Plan Review process and application for a Certificate of Concurrency. In addition, it should be noted that the change in zoning classification is not a guarantee of development build-out density, as the Comprehensive Plan identifies the vision for this area as low intensity residential via the proposed Future Land Use map and supporting statements. The change in zoning classification will result in an increase of 116 dwelling units. The increase in dwelling units will increase the demand on potable water and wastewater by 30,200 gallons per day. As the change in zoning is an increase in residential density, there will be an increased demand upon parks and recreation facilities. Further analysis during development and concurrency review will determine if the adopted level of service will be negatively affected and whether any mitigation requirements will be included in the terms of the Certificate of Concurrency. In accordance with Florida Statute, changes in zoning classification that result in an increase in residential dwelling units must be reviewed for school capacity. The change in zoning will demand an additional 109 student stations in K-8 schools and 47 student stations in high school. At this time the concurrency service area serving the City of Fort Pierce is anticipated to have adequate capacity. The change in zoning classification will result in an increase demand on transportation facilities by 31 p.m. peak hour trips. In addition, the increase in density will result in three times what is needed to serve the existing zoning classification for Solid Waste. 103 notification letters were mailed to those property owners within 500 feet. Two responses were received - one objection and one approval. At the December 9, 2008 Planning Board meeting, the Planning Board members voted 7 to 1 to forward a recommendation to the City Commission for approval of the rezoning. As the proposed rezoning is not inconsistent with the surrounding properties, is generally consistent with the Comprehensive Plan and the existing Future Land Use designation retained by the property, and as the rezoning satisfies the amendment standards specified by Chapter 22 of the City Code, and all respective Departments have approved of the application, Staff recommends approval for the change in zoning classification from E-3, Residential Single Family, to R-4, Medium Density Residential.

Commissioner Becht said he is confused. She made a statement that the zoning amendment is consistent with the land use; and yet the zoning amendment would allow ten units to the acre, when the land use only allows nine units to the acre. How is that

consistent?

Ms. Ehly said the land use is the umbrella limit on the...

Commissioner Becht said they are inconsistent if one is nine and one is ten. She can play lawyer with him and tell him they are consistent; but if one is nine and one is ten, they are inconsistent.

Ms. Ehly said the City doesn't have a zoning classification that allows for nine units per acre. They are not going to be allowed to build to ten units per acre because the future land use designation will limit it to nine units per acre.

Commissioner Becht asked before they go any further, does the City Attorney agree with that?

City Attorney Schwerer said he thinks that is a grey area. It would be his preference however that the Zoning be equivalent to the Future Land Use. That makes it much less confusing and creates no argument by the property owner that they are only allowed the number of units by the Comprehensive Plan. Ordinarily under the law the Comp Plan trumps the zoning anyway. But it would be his preference to have the zoning equivalent of it and not exceed it. That way they don't face that argument. He is not sure there is a clear-cut legal answer that he can give them tonight. But to avoid the legal argument that might be raised, it would be his recommendation to have it match. How that is accomplished, he doesn't know. Maybe creating a zoning category that has nine units is the answer.

Commissioner Becht asked is there a specific plan? He met with the applicant and they had a wonderful conversation about some alternate ideas for a specific development, an energy-friendly subdivision. But there is nothing in front of them now other than a naked amendment of the zoning code which up-zones his property without the City having any idea of what he is doing.

Ms. Ehly said when they are considering zoning atlas amendments they don't consider site plans, they just consider the impact on capacity and the increase in zoning.

Mayor Benton declared a Public Hearing on Ordinance No. L-76 in session and asked if anyone in the audience wished to be heard.

**Mr. Bradley Currie**, Land Design South, said he is representing the applicant, Walton River, LLC, in their request to rezone a 19.39 acre piece of property from the City designation E-3 to City designation R-4. The zoning code is limited in the types of zoning districts they could really apply for this property. The land use lends itself to the property being developed as a multi-family use. The least intensive zoning district the City has in its zoning code is the R-4 district that still allows multi-family. If they went to an R-3, it doesn't allow multi-family. So R-4 is the least intensive the zoning code offers. He is not a lawyer, but he knows that the Comp Plan trumps everything, as the City Attorney just said, and they know their land use is the limiting factor in this density. He knows in many municipalities the zoning district would allow them to have

much more density. But really they are not talking about density in this situation, they are really talking about the type of unit they can put on this property. R-4 allows a multi-family unit. The density, they are not talking about that today, they don't know what the density could be. He can tell them that the subject property is completely surrounded by approved projects. Two of the approved projects - Celebration Pointe and Whispering Oaks - have a multi-family section in them, a multi-family pod. Celebration Pointe is about 62 acres in size and their density is about seven dwelling units per acre within that portion of that property. Whispering Oaks has a 33-acre multi-family portion and that density is about 6.6 dwelling units per acre. So he would like for the Commission to think about this piece as a multi-family pod within a bigger... When they look at the overall area, don't think about it as this being a standalone PUD, this is more like a pod within an overall area. They have Staff's support, they have the support of the Planning Board. He knows Commissioner Becht did meet with the applicant and there were some discussions about innovative green building designs. That is something they are willing to do if that is something the Commission would like for them to do. There is a method of doing that, a Developer's Agreement that would run with the property, almost like a restrictive covenant they would be willing to do. The other method that could come up is the PUD. With the way the economy is right now and the cost of a PUD application, it is very difficult for his client to do that. Many of them know that a PUD requires a very detailed Site Plan - which is expensive, engineering plans, architectural plans, everything else that goes along with that. The client has an idea of how he would like to move forward with this. They are trying to rezone the property to be consistent with the land use. When he thinks about the property that was discussed earlier tonight, Madison Vines, that was an R-4 zoning. And he thinks the site plan that resulted from that is a great looking Site Plan - they did a great job going through all the conditions, the roadway conditions, their own Design Review Board it has to go through. So there are appropriate steps along the way that control what R-4 properties can look like. His client Ward Snyder is here. If they have any questions, he would be happy to answer them.

Commissioner Becht said on the off chance that the Commission is thinking about going forward, he would like for Mr. Snyder to make a statement on the record that he understands that he is limited to nine units per acre.

City Attorney Schwerer said he would bump that one notch by saying that he agrees and stipulates that the Comprehensive Plan Future Land Use controls and he is limited by the Comprehensive Plan Future Land Use.

Mr. Currie said he is very comfortable with that. They would even put that in writing if that would make the Commission feel better, because they understand that the land use is the controlling factor.

**Mr. Ward Snyder**, 16 Herons Nest in Stuart, said he understands that the Comprehensive Plan Land Use designation would trump the

inconsistencies, so it would be nine units per acre.

City Attorney Schwerer asked he agrees with that?

Mr. Snyder said he agrees with that. That is his understanding.

Commissioner Alexander said he has to disclose that he did speak with the developer.

Commissioner Sessions said he did too.

Mayor Benton said he has also, on that and other projects he has going in the City.

**Mr. Patrick Langel** said he lives at 990 South Jenkins Road, which would be to the northwest of this project. He is here on behalf of his brother Chris Langel, his mom Betty Langel, Tom Gladwin, Aden Rudd, and Reinaldo Perez. He has lived 56 years at that location. He doesn't know where to start, he has lots of questions. He is assuming this thing is not approved. Is that correct?

Mayor Benton said not yet.

Mr. Langel said he just became aware of it Friday. He doesn't know why he didn't get a notification. He is only about 900 feet from this. The only person he knows who got a notification was Mr. Perez, which he informed him through his neighbors. They have to be 500 feet from this to get a letter. Is that correct?

Mayor Benton said he believes so. He thinks there should have been a sign posted.

Mr. Langel said yes, there is a sign posted and that is incorrect. He understands 100 letters were sent out. Where were these 100 letters sent? There are no houses around there. This is in the middle of a project. To the south of him there are 750 units approved. Behind him there are 400, next to Mr. Perez. They are surrounded by these developments that nothing is happening right now, they are in bankruptcy. He would like to know why he didn't get a letter - he is 900 feet away - if they sent 100 out? Where are these homes? What are the addresses? Who got them? There is nobody there. There are just the people he mentioned who live there - himself, his brother, his mom, Tom Gladwin, and Ray Perez. Tom Gladwin didn't get one and he is closer than him. He is curious as to who was notified. The sign reads E-3 to R-2. He has a photograph of it. That is wrong, it is not right. Where is the in and out? Where are all these vehicles going to travel?

Commissioner Becht asked does he have that photograph with him?

Mr. Langel said he sure does. Who does he bring it to?

Mayor Benton said to the City Clerk.

City Clerk Steele said he doesn't have it printed out, it is on

his cell phone.

Mr. Langel said that was taken this evening.

Commissioner Becht said show it to the applicant too, so they can be fair.

City Clerk Steele said she has no way of identifying the location of that sign.

Commissioner Becht asked would Mr. Currie take a look at that?

Commissioner Coke said just for clarification, the applicant does not send out the letters or put up the sign. It is Staff.

Mr. Langel said he doesn't know who the letters were sent to, because there is no 100 people around this property.

Mayor Benton said let Mr. Yazzie take a look at it. He doesn't know who from Staff would be sending them out.

Mr. David Carlin, Interim Assistant Director of Planning, said they normally have Public Works post the signs. They will have to look into how the E-3 to R-2 classification was put on there. But they do have a printout of their property owner notifications that are mailed out, they pull it from the Property Appraiser's website. They do a 500-foot radius search around the subject property and it generates a list of the mailings.

Mayor Benton said it doesn't have to be somebody living in a home but just a property owner. If some of those lots in those PUD's have been sold to owners that are caught in foreclosure right now, that is probably why there was no response.

Mr. Carlin said this aerial they see on their screen isn't the most recent aerial, but it does show a general idea.

Mayor Benton said those letters also could have all gone to the developer if he hasn't sold that property. They could have sent 98 letters to one developer.

Mr. Langel said he can't believe that anybody around that would not voice their opinion one way or the other. He doesn't know where the 100 people are and he doesn't think those lots are sold either. The in and out on Peterson Road, is that the only entrance on this project, in addition to the others that are there? There is no bridge. The road ends. That is where the sign is posted.

Mayor Benton said tonight they don't have a project in front of them. They just have a vacant piece of property where they are looking to rezone it. Those improvements would be required when they see a Site Plan, whenever that could be.

Mr. Langel asked is there any particular reason why they feel they have to increase the zoning? It only benefits, in his opinion, the developer. When they purchased that property, it

was at the existing zoning. They understood and knew what it was. They bought it with the intentions of making money, which is good, that is what they all want to do. But as far as the neighborhood, he thinks it reduces their quality of living with the automobile traffic and more people. Not only that, but that is the highest density in all of that. They thought that was bad? He spent a lot of time in front of the County Commissioners a year and a half ago doing the same thing, getting a big berm to separate them, which is not high. He is asking them to really look at it. Do they need this? Is it the right thing to do? He believes the last time he counted it is about 2,000 units approved around them. Now do they need another 170-something? Also, he thinks when they get that many people in a closed area they have generally more problems. Is that not true, they could expect to have more problems as far as law enforcement and that type of thing? He believes this is denser than what the County approved. The County was six or seven units per acre. Is there any reason why they even consider increasing the density? He knows they are saying the developer needs more density to make it profitable. But are they here to do that? Is that their job, to change the zoning so a developer can make more money? He thinks they ought to consider the quality of life the existing residents have and will have, especially when it builds out.

Commissioner Sessions said he pointed out that he is an actual resident close to that area. How close?

Mr. Langel said he measured it tonight at about 900 feet or 324 yards according to his laser range finder. Which he thinks probably impacts him quite a bit when the entrance and exit, the only one he can see that is available, passes probably 35 feet or 40 feet to the south of his bedroom. It will have a great impact. Is there any other place for traffic in or out?

Commissioner Sessions said right now most of the land mass is just land mass, unoccupied. Is he correct?

Mr. Langel said he knows they are supposed to put a bridge, Peterson Road bridge, which has been removed for about 15 or 18 years.

Mayor Benton said he believes one of those developments was supposed to make improvements there. Now that they have gone bankrupt, whether that will ever happen...

Mr. Langel said they were supposed to, yes. He doesn't know if that is where the letters went to. But he was really surprised when he heard 100 people were notified, when he knows only one person who actually lives there who was notified. He would really like them to take that into consideration. But the posting is wrong. He believes there is quite a difference between R-2 and R-4. So he would like them to take that into consideration and give the residents time to look at these things, maybe get with the developers or the Commissioners.

Commissioner Sessions asked does he understand, with the present ordinance in place, he is not even entitled to notice? He is

outside of 500 feet.

Mr. Langel said he understands that. He doesn't know who came up with the 500 feet. He knows that is the ordinance. But the fact is, it will greatly affect him and the residents there, whether they are notified or not. He understands that legally by law they don't have to notify him. But he is curious about the other 100 who were notified and nobody responded.

Commissioner Coke said if they have posted this incorrectly, they need to backtrack and have it posted properly.

City Attorney Schwerer said he would advise the Commission when they finish the Public Hearing and see how this is going. He will be giving them some advice and instruction on how that should be handled once they conclude the matter here. It is going to have to be re-posted and they are going to have to have another meeting on this, so it will be a postponed decision. They will address that shortly.

Mr. Currie said that would also give them an opportunity to meet with the residents. The property is going to be developed and the rezoning that they are proposing tonight he believes is something they can cater where it works for them and as beneficial as possible for them.

**Mr. Renaldo Perez** said he is the only one who got the notification. He sent it back with disapproval. He doesn't think it is fair. He agrees with Mr. Langel. He has five acres of land there with only two houses on it. He doesn't think it is going to be better for them to have that many units on less than what he has in there. Besides, all it is going to create is nothing but problems. They already went through this with the County Commission. Just going through it again. He is completely disagreeing with it.

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

Mayor Benton asked will Mr. Schwerer tell them legally what is going to have to be done?

City Attorney Schwerer said technically he would recommend to the Commission that this matter be continued in the sense that the Public Hearing is not totally closed. It will be postponed by date, but it will be continued; because once the sign is posted, they may have additional public comments that will be generated by that sign that would not have normally been generated because of the R-2 versus the R-4 designation. So his advice is, while they will technically moved to postpone, they will not close the public hearing and they will reopen the public hearing at the postponed date, hear any additional comments from the public based on the posting of the sign, and then render their decision at that time.

Mayor Benton said years ago when this rezoning occurred throughout Jenkins Road, he was one of the ones who didn't agree with a lot of the planned unit developments that the big

developers from down south - he won't mention their names - but he did go on record at the County not supporting that because it became a problem with the City. As the County approved rezonings and these developments, the City annexed them and it became a nightmare for the City. He thinks all of them have been out there because of issues that were brought up at a couple of those developments. But when Mr. Snyder came to see him... Because now, with the exception of their properties, it has almost encompassed everywhere around them, the rezonings, although maybe not to this extent. That is what he talked to Mr. Snyder about, that he has a parcel that the density is considerably less than what surrounds him. So he is hoping that maybe if they all got together they could come to something they could agree on. Because if the properties with the PUD zoning are less dense than this proposed zoning, he would like to see them as close as they could. The Langels and the neighbors out there aren't unreasonable people, but he just knows what they have had to deal with in the last couple of years. He would ask between this meeting and the next one, if they all could sit down and maybe discuss this, it would help all of them he thinks.

Commissioner Becht said he would ask that they re-post the property. They will call this up for first reading in two weeks or in 30 days?

City Attorney Schwerer asked what are the posting requirements in the Code? It must be posted for how long?

Mr. Carlin said he believes it is ten days.

City Attorney Schwerer said if they re-post it and it has to be up for ten days, can he get the order for the new sign and get it erected so they have a full ten days prior to a meeting that occurs in two weeks?

Commissioner Coke said the next meeting is February 17th.

Mr. Carlin said he believes they can facilitate that, but he wants to make sure this is ample opportunity for those to come in, he wouldn't want to leave it for the last minute. It is possible to put it in there if they get that up tomorrow.

Mr. Currie said the applicant would be okay with the 30 days, just to make sure they have plenty of time.

Motion was made by Commissioner Becht, seconded by Commissioner Coke, to continue the Public Hearing on Ordinance No. L-76 to the March 2nd City Commission meeting in order to allow Staff to re-post the property correctly.

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

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The next item on the Agenda was Application for Subdivision Review - Preliminary Plat for Okeechobee Crossings - submitted for NNN/1031 No. 16 SR 70 Jenkins LLC, to reconfigure three

parcels into five separate tracts, located on the corner of Okeechobee Road and Jenkins Road (a/k/a 2502 Jenkins Road); said property zoned C-3, General Commercial Zone.

City Clerk Steele said the Public Hearing was held on January 20, 2009. There was a motion to postpone action on this application to this meeting.

Mr. Duane Yazzie, Development Review Planner, said in accordance with Section 18-9 of the City Code, the applicant is requesting approval of a Preliminary Plat to section off the current three parcels into five. The property is located at the intersection of Okeechobee Road and Jenkins Road. The properties are zoned C-3, General Commercial. To the south is C-3, with a portion that is unincorporated. To the west is C-3, as well as unincorporated County. To the east is C-3 and unincorporated St. Lucie County. The Preliminary Plat was considered at the January 20, 2009, City Commission meeting. At that meeting, the Commission voted to postpone action on the Preliminary Plat to allow Staff additional time to analyze the drainage easement. As such Staff has returned to update this Commission on the results. First, the Commissioners wanted to insure Tract #4 was set aside for drainage and would be maintained. And second, the drainage easement would not pose a problem for the City if a potential buyer sought to develop that parcel which was set aside for drainage for the surrounding parcels. Staff has since confirmed that a perpetual drainage easement exists for Tract #4 as documented by a First Amendment to Declaration of Covenants, Restrictions, and Reciprocal Easement Agreement (St. Lucie County OR Book 2868, Pages 2716-2718). Within this agreement it demonstrates that the property owner of Tract #4 can charge a fee to the property owners who use this drainage easement for a pro-rata share. In essence, the owner of Tract #4 can recoup the cost to maintain the property. Also within this Agreement it states that the easement shall be perpetual or continuous and shall run with the lands and their owners. Additional questions the Commission wanted answered were: Confirmation that off-site improvements have been completed; and assurance that the owner of the proposed Tract #5 would not be able to access Okeechobee Road directly. Staff has visited the site and confirmed that all off-site improvements have been completed as required by the City Commission. In addition, language has been added to the Preliminary Plat that restricts access to Tract #5 to Tract #2 and shall not be made directly to Okeechobee Road. The Commission questioned the right-of-way landscaping located on the corner of Okeechobee Road and Jenkins Road. This question was raised because the Commission felt that landscaping was incomplete. Staff has since notified the owners of the corner parcel, which is owned by the North St. Lucie Water Control District. The NSLWCD responded by proposing acquisition of the parcel, or entering into a Maintenance Agreement with RAM, the Developer, or the City. As all affected Departments have reviewed and approved the Preliminary Plat, Staff recommends approval of the Preliminary Plat. This picture shows the northernmost entrance with the decel lane looking southward on Jenkins Road. This is the southernmost decel lane on Jenkins Road looking north. This is the decel lane on Okeechobee Road looking northeast. Additional improvements at the intersection,

on the righthand side they can see the bike lane and a righthand turn lane. This is a photo of the traffic configuration that the applicant has proposed for this site. This photograph shows an additional deviation within the sectioning off Tracts #2 and #5. The City Manager had questioned the adequate parking for a proposed fast food building on Tract #5. The applicant has re-configured the plat including additional parking so Tract #5 would be adequately parked.

**Ms. Cynthia Angelos** said she is here on behalf of RAM Development. They have worked real hard with Staff and Staff has worked very hard to address the Commission's concerns. If there are specific questions, she will be happy to answer those. If they want her to go through one more time what was changed since the last meeting, she is happy to do that; but if it is not necessary, she won't.

City Attorney Schwerer said the Commission asked that he verify certain things from the last meeting and he will give them a brief report. They asked that he make sure that the dedication of Tract #4 in perpetuity for drainage applies to all lots and that it is properly dedicated. Ms. Angelos office was kind enough to provide him with documents consisting of restrictive covenants and also an amendment to that which were represented to him as being recorded in the public records. He did review those. There is much discussion in there that the tract is dedicated. He also asked that they make some amendments to the plat language. They have done that, so the plat language will contain that dedication. The second thing they asked him to check is that the documents provide for sufficient future maintenance expenses and that the obligation of maintenance is on a real entity and it will be in perpetuity. The same documents were reviewed by him. Those do provide for maintenance responsibilities, not in any way to be an obligation to the City, it is the developer's responsibility. There is a method for billing the other owners if the lots change hands to different owners. There is also the option and requirement to transfer to a property owners association entity to control that and pay for it in the future. The plat has also been amended to reflect that. So in both of those instances, it does appear to be sufficient from a legal standpoint.

Mayor Benton said it appears they have covered all the bases and all the concerns they had.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve the Preliminary Plat for Okeechobee Crossings submitted for NNN/1031 No. 16 SR 70 Jenkins LLC, to reconfigure three parcels into five separate tracts.

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

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The next Item on the Agenda was Presentation by Fire Chief Ron Parrish, St. Lucie County Fire District, on Year In Review.

**Fire Chief Ron Parrish**, St. Lucie County Fire District, said at

the last Fire Board meeting he had the opportunity to give a Year In Review of 2008. Of course, they all know how challenging their budgets have been, so they feel very fortunate that they were able to accomplish some things throughout the year. They were able to rebuild some fire stations, two of them here in Fort Pierce, and they also built two additional stations, so they are now up to 17 Fire Stations. They were able to hire about 36 firefighters to enhance the service they provide for the community. They had actually been looking at 50, but settled with 36, and now they are very happy with that. They put together a powerpoint presentation. It is about 3-1/2 minutes long and it shows some of the accomplishments as well as the challenges they faced over 2008. They are certainly grateful for the support they have gotten from their elected officials and from the citizens of the community, they appreciate it and feel very fortunate to have that support. He does have to apologize because the sound isn't working. (Chief Parrish showed a slide presentation.) They had a lot of great things happen over 2008. They were certainly fortunate to be able to accomplish this with the budgetary constraints they are all facing. He is very proud and honored to be part of that organization.

Mayor Benton said it is a great job they are all doing and he wants to compliment him on his Firefighter of the Year, Al Votinelli. He had the great ability to know him very well and the job he does. He has never seen him not doing his job without a smile from ear to ear. He just loves the job he does. It is really something when they can call on somebody like him or have an employee like him.

Fire Chief Parrish said certainly Firefighter Votinelli represents his Fire District well, he is very conscientious. He wishes he had 400 more, because his job would be a lot easier. He was also nominated as one of the Treasure Coast Firefighters of the Year. He didn't win, but to be nominated for that is quite an accomplishment.

Commissioner Alexander said he knows the northwest section at one time they were #8 in the nation ranking with emergency calls in the whole entire nation for that particular area back in the day. At any rate, they built a fire station over there. It is his understanding it is one of the busiest fire stations they have, the one over on Avenue D. Does the Fire Department anticipate or project in the near future some additional fire stations to offset the burden of that particular fire station? Or does the Chief even foresee that to be a problem right now? He is concerned about the number of calls that are coming in and out of that particular fire station, and whether or not that station can continue to handle the number of calls coming in and out of there.

Fire Chief Parrish said he is referring to Fire Station No. 15 on Avenue D. It is one of the busiest fire houses in the County. It probably ranks very high in the nation. With Fire Station No. 15 and the ability to utilize additional resources in that area as well as adding resources to that station, he doesn't foresee them building any new fire stations in that

immediate area in the near future. It is not in their CIP plan to build one within the next five years in that area. They may have to add additional units there to cover the run volume. Fire Station No. 2 is right on Seaway Drive and it has actually picked up some of the load from Fire Station No. 15. They have the new station at the airport - it is not new, it has just been moved - and Fire Station No. 1. Actually the run volume is staying relatively flat in this area. Where they are seeing the increase in volume of runs is actually in the south end of the County. So they are covering pretty well right now.

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The next item on the Agenda was Mr. Stefan Matthes, Culpepper & Terpening Inc., to submit proposal for Construction Bond for Signalization Improvements for the Cortez Apartments Project at 25th Street & North Cortez Avenue.

This item was pulled by City Planning Staff prior to the Commission meeting.

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City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 09-04

"A RESOLUTION AUTHORIZING THE CITY OF FORT PIERCE, FLORIDA, TO ENTER INTO AN **AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR AMENDMENT NO. TWO OF THE JOINT PARTICIPATION AGREEMENT** FOR THE DESIGN AND CONSTRUCTION OF STATE ROAD 1A FROM U.S. #1 TO BLUE HERON BOULEVARD; AND AUTHORIZING THE MAYOR, CITY CLERK, AND CITY ATTORNEY TO EXECUTE SAID AGREEMENT ON THE PART OF THE CITY; PROVIDING FOR AN EFFECTIVE DATE."

Motion was made by Commissioner Becht, seconded by Commissioner Coke, that Resolution No. 09-04 be adopted.

Mayor Benton said he thanks everyone. Two years in a row he went to Tallahassee and this was one he just pushed all around Tallahassee with the support of the Chamber of Commerce and everybody else up there. He was getting a lot of negative looks, so it really surprised him when it finally came through. So they can finish something. When they started years ago, they never dreamed it was going to take an additional \$9 million because they started with \$12 million to do it all.

Those voting in favor of the adoption of Resolution No. 09-04 were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

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City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 09-05

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, REAPPOINTING **SHIRLEY WALKER** AS A MEMBER OF THE **CITY TREE BOARD**; PROVIDING FOR AN EFFECTIVE DATE."

Motion was made by Commissioner Coke, seconded by Commissioner

Becht, that Resolution No. 09-05 be adopted.

Those voting in favor of the adoption of Resolution No. 09-05 were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

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City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 09-06

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, ST. LUCIE COUNTY, FLORIDA, PURSUANT TO CHAPTER 171, PART II, FLORIDA STATUTES, THE **INTERLOCAL SERVICE BOUNDARY AGREEMENT ACT**, RESPONDING TO AN INITIATING RESOLUTION OF ST. LUCIE COUNTY AND SETTING OUT IN ACCORDANCE WITH FLA. STAT. § 171.203(6) CERTAIN ALTERNATIVE OR ADDITIONAL ISSUES FOR NEGOTIATION AND DISCUSSION."

Commissioner Becht said Mr. Carlin has generated a letter on behalf of the Planning Department identifying certain additional planning issues that relate to a dialogue between the County and the City. He suspects that when the County has a chance to digest those comments, that they will have a list of issues for discussion that they are going to want to have back with the City. Have they all seen that or not seen that?

Mayor Benton said he hasn't seen that.

Commissioner Sessions said no.

Commissioner Becht said it was sent to him via email, that is how he got it. The point is, those issues relate to the ability of the City and the County to work through issues that have arisen incident to their Joint Planning Agreement. They have a wonderful Joint Planning Agreement that they knocked heads to create. It is a wonderful idea and it is a wonderful concept. As they say, the devil is in the details. The County Staff and the City Staff have struggled through it he thinks for four years. He thinks they have done a good job so far, but there are a couple of mis-steps with it. Mr. Carlin has picked up some on the City's side. With all respect to the County, he thinks the County is going to have some where they have perhaps dropped the ball. The reason he thinks that discussion is relevant is because what they are talking about with this Chapter 171 in response to the County is going to be a Planning Agreement for certain parts of the County, soon to be the City; or they are going to abdicate the ability to plan in certain areas of the County. That warrants a lot of discussion. The discussion cannot take place here across the dias with County Commissioners. It has to take place one on one. County Commissioner Grande met with him today. They spent an hour-plus together talking about these issues, which are very complex, very broad. The County has some legitimate concerns. The City has legitimate concerns. Each of them has to put the time in to try to wrap their minds around the complexities here. But a lot of them relate to planning. So while this Resolution sets out several points which he thinks are very important to them, it

doesn't set out the planning issues that Mr. Carlin has raised. He had asked Mr. Andrews, are there any issues with the Engineering Department - their engineering philosophy and practice within the City in where they connect with the County and ultimately take over the County. He hasn't seen anything in writing from Mr. Andrews yet. But he suspects the City has some issues with the way the County is doing things, and he suspects the County has issues with the way the City is doing things. This is all part of the planning process that F.S. 171 in his mind represents at a staff level. And he wants to encourage City Staff to communicate with County Staff on those issues because they may be able to come up with resolutions without the Commissioners having to burn the time. Each of them are going to have to burn the time in a dialogue with the County Commissioners to try to get through these issues. Whether they successfully get through all of them or not, he doesn't know. But as this resolution is drafted, if they have the time and he thinks they do, they don't have to respond tonight. He thinks they have another 15 days, don't they?

City Attorney Schwerer said unfortunately, they fall short. It is February 13th they have to have it served by, so that falls before their next meeting. If they have consensus of the Commission, they can add anything they want to this Resolution tonight; and he and the City Clerk will simply reformat it and get it signed by the Mayor, and forward it.

Commissioner Becht said the problem with that is, one or two of them have seen Mr. Carlin's comments, but not all of them. When he says a consensus, if they haven't even seen it, he doesn't know how they can...

Mr. David Carlin, Interim Assistant Director of Planning, said as he and Commissioner Becht discussed Friday, he generated a list of some planning-related issues and he was able to forward that to him. Unfortunately, the Agenda packets were already distributed out, so that is why not everyone saw the issues. What he can do, if the Commissioners are interested, he can show them here on the document camera and go through them. There are only about five or six. He did receive correspondence from Mr. Satterlee (St. Lucie County Growth Management) this morning. One of the issues he had raised was in regards to the Site Plan Review process. They have not been receiving the Site Plan applications in the Planning Department for some time now. He knows the County had a moratorium passed well over a year ago. But they have not been receiving those plans. It is important that they share their Site Plans back and forth. They rely on County approvals for bringing forward applications to the Commission, so...

Commissioner Becht said for the viewing public, he wants them to know that Mr. Satterlee is here tonight; and to his recollection, has been here the last two or three meetings. He wants to thank Mr. Satterlee for that, because that is going to help.

Mr. Carlin said he would like to thank him too personally, because he did receive correspondence from him this morning.

The County has agreed to go ahead and start forwarding those Site Plans to the City so they can identify the issues, if any, that the Planning Staff has as it relates to annexations and non-conformity. But the first one he has emphasized here, Item #1, has to do with stormwater retention ponds. There is an inconsistency with the County approving stormwater locations along roadways. The City has its own design review standards as it relates to stormwater and approving them only if those meet certain aesthetic type improvements. So for compatibility purposes, they think it is important to have an overall consistent unified approach to that particular issue. The second item, Item #2, is the approval of metal buildings. The City has Design Review Guidelines in effect that this Commission spent a considerable amount of time and energy contemplating. It does not allow metal buildings. So for compatibility with both the City and the County, they would like to see that there are no metal buildings approved within Fort Pierce, that they have a consistent representation of how things are going to look, to raise the bar so to speak. Item #3 is the Site Plan and Concurrency Review process. Mr. Satterlee was able to address that this morning. Item #4, another issue as they go down the road is implementing GIS here in the City. They would like to coordinate and facilitate improved exchanges of information with the County. The County does have a GIS in place and they have some pretty impressive files and database, that they could rely upon one another when they review these types of applications to use that. So he identified that they need to have better coordination with regard to that. Item #5 was the correction of the County to update the traffic count. The St. Lucie County traffic counts they have are outdated. And quite often they find disputes with developers who use that information and try to say that it is wrong. So the City would request that they have an updated database. Both the City and County to give a representative number of approved projects and committed trips so they all have a centralized database that can use that information and accurately look at whether or not projects need turn lanes and signalization and things that often come before this Commission. Item #6 was improved coordination with regard to providing information to the City on projects that would affect any type of greenways and trailways, to figure out how can they insure that what they are looking at is consistent with any County approved Master Plan for different areas. So they want to make sure they are on board with that. Again, that is exchange of information. That is it, those were the six planning items he laid out on Friday. Again, not everyone received that because the resolution, due to the time constraints, had to be typed up from the last meeting. He hopes that clarifies some things for them.

Commissioner Alexander said he doesn't mean any disrespect or harm to anyone, but when he hears him say he does something on Friday... Not only him, but he received a memo about a meeting today on Friday. He has a problem with last minute things. He is punctual. He is always trying to be sitting down at a desk or table when they need to. But when the City Clerk tells them any information they need to put on the Agenda has to be on a deadline point, he expects that to come from Staff. He is not harping on Mr. Carlin. He is just saying, when he doesn't get

information... He knows Commissioner Becht is one of those astute individuals with that email. But he is not. They have to be consistent across the board, whether it be email or a telephone call. Again, he is not harping on him, he is just speaking of this last minute. Mr. Schwerer is saying this deadline is the 13th. He will tell him the same thing, let them be aware of it so they can adjust their brain cells to it, okay?

Mr. Carlin said he appreciates what he is saying. There was a short period of time when the resolution was requested by the Commission and that was generated. Unfortunately there was not an opportunity to insert the comments due to the timing of the submittal and the packets that went out. He did his best to get him that information.

Commissioner Alexander said he understands perfectly.

Mayor Benton asked is there an agreement that those six items be added to the Resolution?

Commissioner Coke said she thinks those should be. Do they have any further addendums from the Engineering Department?

Mr. Jack Andrews, City Engineer, said he had that request today and he came up with a list of different things they need to look at. One of the main things is the County roads within the City limits - resurfacing, drainage improvements, and sidewalks. They have a lot of sidewalks missing on some of the roadway sections on Oleander Boulevard, Sunrise Boulevard, and 33rd Street. This may be something they want to consider.

Commissioner Coke asked is there anybody else from Staff that wants to weigh in on this?

Commissioner Alexander asked Public Works?

Commissioner Sessions asked the Police Department?

Commissioner Becht said it has been his experience that City Staff and sometimes the FPUA Staff can help educate them on deficiencies or shortcomings with the delivery of services by the County to City residents. He fully expects that the County Staff may be able to educate them on some shortcomings that City Staff has with the same delivery of services to City residents. He welcomes that dialogue. He wants to get that dialogue started, he wants to get it all out and get it all aired. The reason it is pertinent and germane to have that discussion now is because the F.S. 171 solution in part contemplates joint planning between the County and the City. They have a Joint Planning Agreement that is a wonderful document, all of them worked on it to create it. A couple of things could happen here. One, they come up with a better program through a F.S. 171 agreement. But minimally, he thinks they can improve the interaction between Staffs through the Joint Planning Agreement and that would be a bonus for all of the residents of St. Lucie County. He is in favor of adding Mr. Carlin's comments. If Mr. Andrews can come up with any engineering issues... Again, for discussion. He doesn't want to send the County ultimatums from

Staff. What he wants to send them is, they would like for them to talk about these issues. There are County Commissioners that probably don't understand that Oleander Boulevard is a County road and the drainage on it is horrible. They need to bring that to their attention so they understand this is a County road, it is deficient. The County keeps asking the City to take it over; but as soon as the City takes it over, it is sub-standard. That is why they don't want to take over it. He would like to put these things on the table. As the County pushes the City to want to do joint planning with the Research Park or with anything else in the western County, he wants them to understand there are some issues as they are trying to do the planning through the Joint Planning Agreement and that is why those needed to be added. So he would say at a minimum he would request they add Mr. Carlin's comments. And if they are all comfortable with adding Jack Andrews Engineering Department comments, he would say let's go ahead and add those, because all they are talking about is discussing them.

Mayor Benton said right. He thinks it is essential because a lot of the drainage problems they dealt with after Tropical Storm Fay were just identified by Mr. Andrews. He thinks the County wasn't maintaining those. It is just issues. He thinks they can get through it by adding it to the Resolution.

Commissioner Becht asked how do they do that in a motion, when they don't even know what Mr. Andrew's comments might be yet?

City Attorney Schwerer said it would help if they had them defined, at least so they can define the subject matter. If they will trust their legal Staff, they will put it in non-confrontational and general terms to just add to the list.

Commissioner Becht said if they need to amend the resolution at the next meeting, he doesn't think the law prohibits them from amending the resolution later. Does it?

City Attorney Schwerer said the law says they have to have this served out within 60 days. The 60th day falls on February 13th which, unless they want to have a special meeting to adopt it...

Commissioner Becht said he just thought of the solution. The solution is, further issues to be identified and expanded upon by Mr. Andrews relating to drainage and engineering. That is pretty general and vague, and he can expand on it.

City Attorney Schwerer asked if Mr. Andrews could get those to his office in the next couple of days? They will take Mr. Carlin's list and Mr. Andrews list, put those into the proper legal terms, and will have that ready for the Mayor to sign. Do they want to do a motion to amend the resolution by including Mr. Carlin's comments and the subject matter areas that Mr. Andrews will provide his office? It will be amended and then signed by the Mayor and forwarded. That will be sufficient for their purposes.

Motion was made by Commissioner Becht, seconded by Commissioner Coke, to amend Resolution No. 09-06 to include the six items set

out by the Planning Department (in Mr. Carlin's letter dated January 30, 2009) and to include the further issues to be identified and expanded upon by City Engineer Jack Andrews relating to drainage and engineering; and that Resolution No. 09-06, as amended, be adopted.

Those voting in favor of the passage of Resolution No. 09-06, as amended, were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

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The next item on the Agenda was Mayor Benton Discussion on Florida League of Cities "Building Citizenship in the Community: Back to Basics" Initiative.

Mayor Benton said he received a letter from the President of the Florida League of Cities, looking for all the cities in Florida to support it. He thinks they would all agree. He is just looking to see if they can bring it back as a Resolution at the next meeting. Does everyone agree? (The Commissioners agreed.)

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The next item on the Agenda was City Attorney request direction on how to proceed with Best Car Wash (d/b/a Sunshine Car Wash) expired lease and delinquent amounts owed to City.

City Attorney Schwerer said the memoranda they were furnished with this Agenda item is pretty self-explanatory. They are looking for some direction from the Commission on this. They need to collect what is overdue. They are not recommending they agree to extend this lease until those monies have been paid. If the monies are not paid, then he would recommend they move to retake possession of that property. He has no other explanation other than what has been provided to them from the Finance Department as to why this bill is not paid.

(Commissioner Coke temporarily left the meeting room at 9:25 p.m.)

Mayor Benton said he and Mr. Recor had several meetings with the owners. It was his understanding they weren't going to pay it until the proper name was given to the lease and he guesses that came from their attorney. He doesn't know why it hasn't been cleared up. But it was a real headache. They met with the owners several times and there was a lot of frustration on their part. He doesn't know what the legal name of the car wash is, but for some reason their attorney has told them not to pay it until they get the name straight.

City Attorney Schwerer said he doesn't mean to disagree; but he talked to Mr. McCarty and he had no explanation. The way the lease is phrased, it is non-assignable. They have received nothing in writing from the lease holder. If they want to amend the lease to have it assigned to another business, whether they have sold it or created another one, there is a process for that. They did that once before from Dixsan, Inc. to this lessee. It is a simple process. But to not pay the lease without explanation in writing is pretty serious. Staff will do what the Commission asks them to do. But if the Herndon's want to amend it, there is a process to request that; but nothing has

been filed.

Mayor Benton said they should send them a letter basically saying pay up or else the lease is terminated.

City Attorney Schwerer said if they have a request of the City, Staff will pass it on to the Commission with comment.

Commissioner Alexander said he read communication between Mr. Schwerer and this business a month ago. He raised it at the last meeting about not only this lease, but all the leases. Why could there not be a letter sent, explaining the explanation on what they need to do? How long has this lease been? How long has the car wash been there?

City Attorney Schwerer said the car wash has been there a while, but this lease had been amended in 2005. The Finance Department sends a bill and the bills have not been paid. If they want them to send a letter, they will send a letter.

Commissioner Becht asked didn't he already send a letter?

City Attorney Schwerer said he believes they did.

Commissioner Alexander said there wasn't a response. Did he explain in that letter, this is what they need to do if they request this? Every letter Mr. Schwerer sends out from his desk costs citizens. So if it is going to resolve it, let's resolve it. If not, let's cancel the lease. He doesn't see bickering back and forth. Best Car Wash has been there for many years.

Mayor Benton said it has been there a long time. When the new owners came in and purchased it, they did spruce the place up, it does look a lot more attractive than it did before. He doesn't know why they are not paying it.

Motion was made by Commissioner Becht, seconded by Commissioner Sessions, to authorize the City Attorney to send a letter to the James & Patricia Herndon; and if they do not respond adequately to the letter, that they authorize the City Attorney to proceed with the appropriate lawsuit.

Those voting in favor of the motion were: Commissioners Alexander, Becht, Sessions, and Benton. Those opposed: None. (Commissioner Coke was not present during the vote.)

(Commissioner Coke returned to the meeting room at 9:29 p.m.)

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The next item on the Agenda was Finance Director to give Financial Report for Quarter Ending December 31, 2008.

Ms. Gloria Johnson, Director of Finance, said she is here to present the first Quarterly Report for this fiscal year. They prepared this quarterly report for the last Commission meeting and she was not here to do the presentation and she is sorry about that. Her Assistant Director didn't get a chance to even review the report until the morning of the Commission meeting and she apologizes for that. She had her Executive Assistant

help her prepare this. She must admit she kind of screwed it up a little bit on a few things today trying to correct a couple of things. This is the Quarterly Report for December 31, 2008. The General Fund Revenues for this budget year is \$40 million, taxes take up about 58% of their budget, contributions from their Enterprise Funds is 14%, and 10% is from Intergovernmental Revenues, that is their State Revenue Sharing and revenues they get from the State. What she wants them to keep in mind is that if they do not receive just 1% of these total revenues, their budget has a shortfall of \$400,000. So if they are off in their projections 1%, they have a shortfall of \$400,000. They went through the revenues and prepared a legend to tell them which items or which revenues are serious that they should have some concerns about right now. Red denotes those they should have serious concerns about right now. Green is moderate, they need to monitor these revenues very closely. Slight concern is yellow. Grey is good news, they aren't going to worry about those too much. Their current ad valorem taxes, she has to monitor that closely. Right now they are about \$700,000 less than what they had this time last year. That number could change substantially. It may be because their taxpayers are a little bit late paying; or it may be the taxpayers don't have the money and the City may not get it. When the budget ended last year, they did not receive \$700,000 in taxes that they budgeted for. So she thinks they may be close to that number again this year. If not, she thinks their delinquent taxes may make up for the difference of that \$700,000.

Mayor Benton asked when it comes to ad valorem taxes, if people don't pay them, don't they auction the properties off in May? So basically they will be covered, but just a little bit late getting it.

Ms. Johnson said right, but they need to always remember what she was telling them about in the beginning. Their ad valorem is 60%. If they don't receive 1% of those taxes, it is a big figure they are looking at that they are not getting. So even if they get 95%, 5% is like \$700,000.

Mayor Benton asked have they ever been short?

Ms. Johnson said yes, normally they are short. They never get 100%.

Commissioner Coke asked if they are normally short, why do they budget for 100% collection?

Ms. Johnson said they had never ever budgeted 100%. The last two budget years they budgeted to the 100%.

Commissioner Coke asked did everybody just want to give them a false sense of security?

Commissioner Becht said this was discussed actually. He raised the issue with the tax sales, that the certificates may not get bought in May. At that time either Ms. Johnson or Mr. Bergalis pointed out to them that they were budgeting at 95%; but in order to make this budget balance, they figured it at 100%.

Ms. Johnson said this is what she was told to do. But in the last two years they have been budgeting 100%, which they really should not have, but they did. She thinks they are going to get delinquent taxes probably from last year. Right now they have collected \$152,000 and that is going to make a part of that deficit. This month they got another \$100,000, so that will make up another part of the deficit. So they may be almost on track. They still may be a little bit short at the end of the year. Their local option gas tax isn't coming in as they anticipated and it looks like they may have a shortfall of about \$200,000. She highlighted the public electric and water service tax. That is what they get from the U.A., the 10% tax. She knows the amount looks like it is 9.84%, but it is okay. They actually have not booked the last two months, so that is why that number is extremely low.

Commissioner Becht asked when she says she hasn't booked it, what does that mean? They got the money, but they haven't put it in?

Ms. Johnson said no. There is one month they haven't gotten. The U.A. is supposed to transfer their taxes on the 15th. They didn't do it on December 15th. They did get it in January, but they didn't get it December 15th. That is why it looks like that.

Commissioner Coke asked when they got it in January, did they get paid for two months?

Ms. Johnson said they did get the December payment, but she hasn't checked the January number yet.

Commissioner Becht said let him understand what this represents. There is a tax on his utility bill that he pays to the Utilities Authority. So the U.A. gets that money and they are holding it for 30 days?

Ms. Johnson said no, they are supposed to transfer that money to the City by the 15th of the month. At the end of October, they should get their October taxes on November 15th. What happens is, they are always a month behind.

Commissioner Becht said he is okay with that. But on December 15th the City was supposed to get the utility tax the U.A. collected in the month of November, that they actually collected and received. They are supposed to remit that to the City on December 15th.

Ms. Johnson said that is correct.

Commissioner Becht asked they did not do that?

Ms. Johnson said they didn't do it.  
Commissioner Becht asked has she called them or written them?

Ms. Johnson said it has been an issue with them for a little while, but they are straightening it out.

Commissioner Becht asked does the City have the authority to impose a late fee? Do they have the ability to impose interest on that?

Ms. Johnson said they could.

City Attorney Schwerer said if they give them a policy.

Mayor Benton said it would just get passed on to the customers.

Commissioner Becht said what they are supposed to do is pay them on time.

Mayor Benton said he is glad she brought this up tonight. He will talk to Mr. Thiess the first thing in the morning. The U.A. better have a good excuse. But they will get this on track.

Ms. Johnson said it is the same with their Solid Waste revenues also. Those are due on the 15th and they didn't get that either. But normally they are supposed to get it on the 15th. But they did not get the December payment on time.

Commissioner Coke asked the Solid Waste fee is collected by whom?

Mayor Benton said by the Utilities Authority. He is going to ask that they have a discussion probably at their next meeting about the City redoing their thoughts on that and collecting, as the County does, on the tax bill for garbage pick-up versus the utility bill, because they get their money right up front and it is just less on that utility bill. That is the way the County does it.

Commissioner Coke said she doesn't think they get it up front.

Mayor Benton said as the taxes are paid. It is a lot easier than collecting it monthly. If they are a County resident, their garbage bill is added, as their recycling also.

Commissioner Coke said they pay their taxes in November.

Commissioner Becht said that is an interesting question. Do they know what time period it represents in terms of collecting, is it in arrears or is it for the future? It is in arrears. So they go about a year without... That would be an interesting situation.

Commissioner Alexander asked what about property owners versus rentals? When they are paying their utilities, the rentals have to pay theirs on a monthly basis. So they put it into the tax, they have to raise the rent?

Mayor Benton said the property owner has to pay for it. It was just something brought to him by some folks.

Commissioner Alexander said it is a good idea, but it is going

to be a dilemma.

Commissioner Coke said they would be out for a year before they could collect it.

Commissioner Becht said there has to be a way to work through that. Back to this late payment by the U.A., he would like to motivate them to pay it on time. What is the authority the City has to order or compel them to transmit the monies by the 15th? Why is it they pay it on the 15th and not the 5th or the 10th? Is there a written document somewhere?

Ms. Johnson said she thinks it is, it has always been that way for 30-something years. She thinks it is somewhere written that they are supposed to remit the utility taxes...

Commissioner Becht asked does Mr. Schwerer know?

City Attorney Schwerer said no, he doesn't. He will have to check. There are a lot of agreements between the Utilities Authority and the City that they would have to take the dust off and look at. It may be in the Charter, but he doesn't know that for sure.

Commissioner Becht said he would like to know why it is the 15th, it is the 15th, or is it the 5th or the 10th and they just modified it by practice to be the 15th. If they don't pay on the 15th, then he would like to add a penalty or surcharge or late fee or something. Because this is silly, that money is the City's money, not the Utilities Authority's money. For the U.A. to have the use of it...

Mayor Benton said he could be wrong, but if he recalls correctly last year there were some issues with the City paying their utility bills late.

Commissioner Coke said once in the last 33 years she mailed her utility bill two days late and they charged her \$6.00 and change. They didn't call it a late fee, they wrote it as something else. She called and said in 33 years she has never paid them late before. They got it one day late and they were refusing to write off this \$6.00. So the U.A. doesn't think twice about charging the ratepayers a late fee if it is a day late.

Commissioner Becht said he doesn't want the late fee. What he wants is for the U.A. to pay them on time. It may be that the agreement right now authorizes a late charge. If it does, send them a bill for the late charge for the late payment in December. As he is prone to say, tune them up. If they can hit them with a late charge...

Mayor Benton said he will get that information to everyone tomorrow.

Commissioner Becht said but they are also getting the solid waste fee late too.

Ms. Johnson said yes. Both are usually paid on the 15th, they come in at the same time. So both were actually late this month.

Commissioner Becht asked could they get a report back from Staff on where is the requirement, what is the requirement, does it have a late charge? If it does not have a late charge, how do they go about creating and imposing a late charge?

Commissioner Sessions said or a cut off. How do they cut them off?

Mayor Benton said he thinks there was some question about the City paying their utility bill on time last year, so he would hate them to cut City Hall's power off.

Ms. Johnson said they are threatened, they have to get that money over there if they are a little bit late. Back to the report, Licenses and Permits. There are serious concerns about their building permits. Their collections are way down. She doesn't know if maybe in the next months they will have some big developments come in or some houses or whatever. But it serious.

Commissioner Becht said on the bottom line, Total Licenses and Permits, is 19.15%. His way of looking at that, they are 6% off of where they ought to be. Is that the right way to look at that?

Ms. Johnson said no, it is not. Occupational Licenses is \$240,000 (2008/09 Budget). The \$202,000 (2008/09 Actual) is their receipts they have received from last year go cover the licenses for this year. They have already collected \$202,000 in receipts for licenses and that is about all they are going to get. So it is like 100% almost in the first quarter that they have got that money already. So it kind of boosts that final number up a lot, because ordinarily that would only be maybe about \$40,000-something instead.

Commissioner Becht said then the 19% is higher than the real...

Ms. Johnson said no, it is lower. If they look at last year's, they were at 33%, which is probably a good number because with the occupational license they always get 100% of that.

Commissioner Becht said he understands what she is saying, but she is not understanding what he is saying. What this is showing them is that their collections for licenses and permits is at 19%, it ought to be 25%, except that it would be skewed higher because the occupational licenses are mostly paid in the first quarter.

Ms. Johnson said that is correct.

Commissioner Becht said so at a minimum they are 6% behind with the collections out of licenses and permits over where they should be. If they look at the 33%, like she was saying, they are 15% behind where they were yesterday in a \$1.8 million

expected budget. So 15% of that is almost \$300,000 that they are behind. If things keep going the way they are going, they will be behind at the end of the year.

Ms. Johnson said that is correct.

Commissioner Becht said that could be highlighted in red.

Ms. Johnson said she has highlighted the building permits in red because that is the big ticket item of \$1.2 million. Of course, the demolition permits is not always something they can predict or determine how much it is, that is definitely an estimate.

Commissioner Sessions asked at what point do they decide, in light of the lack of revenue here something as serious as this, when do they start cutting back in terms of expenses and administration and staff.

Ms. Johnson said maybe she needs to go through the presentation first, then she has a summary, and then they can get to that point. Their Intergovernmental Revenues, the gray highlighting represents good news. This is free money for the City sort of. The \$1,941,000 is the Moore's Creek Grant. Even though they got \$1,941,000, there is an expense in the Administrative Department for that same figure, so they don't want to get too excited about that. But they did get that grant for \$1,941,000. The Casualty Premium Tax, even though they see 0% there, that is really the 185 money, that is the Police Officer's money they get from the State. It has to go through the General Fund to the Police Officer's Fund. So that is why they see that in the budget now. They didn't always budget it that way, but that is an accounting issue. They will see that coming in from the State, usually in the last quarter, and they will also see it go right out.

Commissioner Coke said she wants Chief Baldwin to make a note that the City of Fort Pierce takes that Casualty Premium Tax for the Police Department's retirement and collects it and does a pass through, without taking any administrative fee or anything else. If the Chief would pass that information to his members on the Retirement Board, so they can stop questioning how come the City of Fort Pierce is allowed to ask questions or anything else about their money, she would appreciate that.

Ms. Johnson said under Payment in Lieu of Taxes, Housing Authority. They always have to call them, it is an every year thing, they stay on them; but they usually pay. The Housing Authority will pay this year, but they just haven't gotten it yet, it always comes in late. Next is Charges for Services, she doesn't see any need to go over any of those, they seem to be okay in there. The next issue is Fines and Forfeitures. Court Fines, that figure is way down this year.

Commissioner Sessions asked who is responsible for collecting that?

Ms. Johnson said the County does, it is paid through the County.

Commissioner Sessions asked have they communicated with them?

Ms. Johnson said it is something she doesn't think they have any control. It is what goes through the courts.

Commissioner Sessions asked is that where the problem is?

Ms. Johnson said maybe they aren't arresting anybody or maybe they aren't paying, she doesn't know. But it is low this year. Even this month it is running around the same amount. Why? She has no idea. But it is low.

Commissioner Alexander asked why is it budgeted for \$300,000 then?

Ms. Johnson said they anticipate that is what they are going to get. Last year they got that.

Commissioner Alexander asked is she telling him they put an emphasis on the Police Department to go out there and arrest?

Ms. Johnson said no, she is not saying that.

Commissioner Alexander said it just sounded like that to him.

Ms. Johnson said no, she was just saying that maybe they aren't having as many people go through the system as they have in the past.

Mayor Benton said Commissioner Becht just said he thinks the judges maybe aren't fining as much. Maybe the people coming in front of the judges don't have the ability to pay, so they are going to jail instead of paying the fine.

Commissioner Alexander asked are they boosting up their budget just so they can have a number?

Ms. Johnson said no, they are not. As they can see, last year they collected 25%. They actually got 25% last year at this time.

Commissioner Sessions asked was it a collection problem, not in terms of an enforcement issue? That is what his concern was. Are they communicating with the County?

Ms. Johnson said she doesn't know, but they will look into it. But it does seem like it is a trend. Sometimes the money is low, but it kind of re-adjusts itself sometimes. It seems like this is a trend.

Commissioner Coke said not only does she think the judges are dismissing more and more cases because people just can't afford it, but the other side of the coin is, if they go downtown and they get a \$30 parking ticket and the walk down the street with \$30 cash to pay it, the County charges them an additional \$10.00 to accept their \$30 payment. So she thinks they get more people when they go down the street then show up in court. Having recently sat in the court over a parking ticket, she would say

probably better than 85% of the cases, no matter what it was - handicapped parking with no sticker - 85% of the cases were just dismissed because people stand there and say they can't afford them.

Chief of Police Sean Baldwin said he has been tracking citations and parking tickets and so forth. They actually have seen a slight reduction in those numbers, but he doesn't think it is enough to account for this. They have also identified some procedural issues with how they process civil infractions other than traffic tickets. Parking tickets, animal control citations, and so forth, they are working with the City Attorney's office. He believes they have what is going to turn out to be a great solution for both the citizens and for the City because it is going to make it easier. If they go to court and the charges are dismissed or they lose a case because the judge feels like the person shouldn't have gotten a parking ticket, it actually ends up costing the City quite a bit of money with the process they have now and that may be catching up to them. They are within probably a couple of weeks of correcting that.

Commissioner Coke said she doesn't know how much they budget annually for this. \$300,000 they projected in income? She is telling them there are 10 or 12 police officers from Fort Pierce, Port St. Lucie, St. Lucie County, and the Florida Highway Patrol, 10 from each agency sitting in the courtroom for three hours getting paid God knows what per officer to sit in the courtroom over parking tickets.

Commissioner Becht said it is more than parking tickets.

Commissioner Coke said she sat there for three hours and there was one moving violation. Other than that, everything was parking - parking overnight in a park, parking in a handicapped space, parking in a two-hour space. Whatever it was, it was parking.

Mayor Benton asked was it parking against traffic?

Commissioner Coke said that is the one the judge got. One of their officers gave the judge a ticket. But she will be interested in seeing versus for \$300,000 they have allocated as an income there what it costs them to pay officers to sit in court.

Ms. Johnson said the next area of grave concern is their Impact Fees - Roads, Parks, and Building. Those are very low. They are like 5% in those fees. That is associated with their Building Permits, it is kind of hand in hand, one kind of drives the other. Line Item 369.60 (Miscellaneous Reimbursements) State of Florida, that \$467,000 they have budgeted is for traffic and road expenditures like the closed loop system they have. She thinks it is some kind of Joint Partnership Agreement they have with the State. But the main amount, they don't get that until May, she thinks why the percentage is so low. Next is Interfund Transfers. As they know, they are no longer self-insured as of June 1, 2008. In closing out their Health Claims fund, they had \$592,000. That was transferred to the General

Fund. They knew that was going to happen. Actually when the auditors finish their audit, they may have to move this back to October 1st. But she just wanted to show that they did get that money in.

Commissioner Coke asked they got \$592,000 that they didn't have to spend on health claims? Is she understanding that correctly?

Ms. Johnson said right, they got it back. It was not that they didn't have to spend. They had a reserve set up for claims that they didn't use.

Commissioner Coke said so that was \$592,000 that, to the best of her knowledge, they didn't utilize in this year's budget.

Ms. Johnson said they did utilize it in the Reserve Fund. She knew they were going to have that amount of money left over. And when they were doing salaries and wages and trying to determine that, she used that number to help out in the calculations.

Commissioner Coke said that didn't help out in the calculations.

Ms. Johnson said it did.

Commissioner Coke said it didn't because what she wanted was, this is their income. That \$592,000 isn't coming in next year and the year after and the year after. It was a one-time pop. So when they looked at it and asked do they have the money for this...?

Ms. Johnson said that is why she said yes, because she knew they had this coming.

Commissioner Coke said but no, they didn't have the money for this. If she had said yes and clarified that they were going to have a one-time refund of \$592,000... That is an awful lot of money to have worked on the assumption that yes, they had it available to them. The only reason they should have money available to them in this year's budget is because it is a revenue stream. This is not a revenue stream.

Ms. Johnson said June 1st they knew they were no longer self-insured. What happens is, they have like 90 days to pay off their claims.

Commissioner Coke said she understands all of that. Her concern with it is, if she thought they were short x-number of dollars this year and eked by by the skin of their teeth... But they weren't. They were short x-number of dollars plus \$592,000, because she was misinformed.

Ms. Johnson said she is sorry.

Commissioner Becht said she is showing the \$592,000 as not being in the 2008-2009 Budget. On this sheet right here, the 2008-2009 Budget, the \$592,000 is not reflected as having been in the budget.

Ms. Johnson said no, it wasn't. That is what she was saying.

Commissioner Becht said it is extra money.

Ms. Johnson said it is extra money. But when they asked, how much do they have in Fund Balance? She was using that number. When they were saying they needed money for the raises, she knew they had that coming. This was in her mind, she didn't write it on paper.

Commissioner Becht said he understands what she is saying. They didn't budget it in this fiscal year; but when they talked about raises, which he thinks was after the fiscal year, then it was in the reserve.

Ms. Johnson said right. Under Contribution from Enterprise Funds, they don't usually get their transfers from the Utilities Authority until some time in March or April after their audit is complete.

Commissioner Sessions asked did they ever get that money the U.A. owes them?

Ms. Johnson asked that \$500,000? As a matter of fact, she has it booked on the City's books, but the U.A. won't book it on their books. She has been complaining to the auditors about that because they always say they are not reconciling. She tells them the City Commissioners say the U.A. owes them \$500,000.

Commissioner Coke asked didn't they say last year they weren't going to consider...? She is telling them this in warning because the U.A. is coming shortly to ask for another rate increase. A year ago they said they weren't going to approve anything until the U.A. gives them that money they owe or resolve the issue. This is three years now, this \$500,000. She hopes they are adding interest to it on a monthly basis when they send them a statement.

Commissioner Becht said it is on the City's books, but more importantly it needs to be on the U.A.'s books.

Ms. Johnson said right.

Commissioner Becht asked don't they have to approve their budget?

Ms. Johnson said yes.

Commissioner Becht said when they come in and ask them to approve their budget, maybe they can talk about it then.

Ms. Johnson said they appropriated from their Fund Balance \$971,191 to help balance the budget. That is what that revenue figure is. As of today, they haven't had to use any of it.

Commissioner Becht asked does that \$971,000 include the \$592,000

from the Health Claims fund?

Ms. Johnson said no, it doesn't.

Commissioner Coke asked where does the \$592,000 show?

Commissioner Becht said it will show in the Fund Balance.

Ms. Johnson said they are getting to it. She is going to show them where it is. Next is the Summary of Expenditures. Personnel Services at 27.68% is over about 2.6%. Operating Expense is at 38.88%. The others are okay. The Non-Operating Transfer at \$2,279,625 includes that \$1.9 million that they transferred to the FPRA, so the balance is their debt service at about \$300,000, the same as last year. So those numbers are okay. They just had some problems in Personnel Services. These were the items that were highlighted that they are having problems. In the City Manager's Office, their Personnel Services are over 57.41%. That is because their former City Manager has a year's salary that they did not budget and they also had to pay him his accrued compensation.

Commissioner Coke said now she is confused. She thought part of that payment was done last year. There was supposed to be a huge savings in the City Manager's Department because they were no longer going to have a City Manager and a Deputy City Manager. That is fine, she understands they would not want to budget extra personnel so that someplace down the line somebody says there is a spot, let's fill it. But if they knew they had the expenses of Mr. Beach's retirement and severance package and they didn't pay it last year, why was that not included in the budget? By not including an expense they knew they had, she personally has not acted fiscally responsible. She passed a budget with a great big expense not included in it, so she didn't do her job properly.

Ms. Johnson said when their former City Manager went through this contract stage, he was going to get everything up front and then it was supposed to be paid out over the next year. Then something came up about paying him all at one time. It came up about if they paid him all at one time, there was some benefit. There were a lot of things, they were going back and forth with his contract. In the meantime, he was budgeted in the department; but they took him out, because they thought they were going to pay him all up front last year.

Commissioner Coke said then it should have been budgeted last year.

Ms. Johnson said right, they should have put it back in. But they didn't put it back in because of the timeliness of it, it was like at the last minute.

Commissioner Becht asked so are they going to be \$100,000-plus short in the City Manager/Personnel Services column at the end of the year?

Ms. Johnson said they are going to be \$200,000 short.

Commissioner Becht said so they are \$200,000 short there and \$300,000 projected in the Permits and Licensing.

Ms. Johnson said let her get to the end of her presentation, they are going to get there. The City Clerk's Office, it shows 31.56% and it should be 25%. The Executive Assistant for the Commission was budgeted in the 1000 account this year and they haven't moved her yet. She is being moved now though. That is why the City Clerk's budget is off. It is okay. It is just that the Executive Assistant is the wrong spot. Finance Department, the former Director left and they really didn't change the budget. Whatever the budget was, they took the excess he was making, the amount he was making more than what she is making, and transferred it to help support his salary. And of course, the Assistant Director is making a lot less than what she was making, so they used that figure. But they are still short \$60,000 because of the accrued compensation.

Commissioner Coke said Mr. Bergalis retired early on. There was no end of the year trying to fit this in at the last minute. He was long gone. And they didn't have the retirement figures?

Ms. Johnson said there is a problem. When people leave, right now they don't have a vehicle to put these accrued compensations in. They had his salary there, but there was no vehicle for the accrued compensation he got paid, like the sick leave they get paid at the end. That is one thing they need to start addressing, because these budgets can't handle it when someone leaves and they have to pay these lump sums.

Commissioner Becht asked when does she want to address it? Because some of them have been talking about it for a while.

Ms. Johnson said they are going to address it in this next budget. They have to start putting money aside for these accrued compensations when these people leave, because the budgets don't handle them.

Commissioner Becht said they have been talking about not just setting the money aside, but Commissioner Coke has been talking about having a more accurate accounting of it, knowing what the liability is and having a column for that.

Ms. Johnson said they definitely know what the liability is.

Commissioner Coke said they talked at the Commission level that not all sick and/or vacation time is accrued at the rate it is paid. Sitting on the Retirement Board, it is amazing to her that they have so many hours that they pay out for sick or vacation time, some of which may have been earned at \$10 an hour and is now being paid out at \$25 an hour. It really is not at all fair to the taxpayers. They need to address a policy about limiting the amount of vacation and/or sick time that can be accrued and insuring that they have an accurate accounting of what the dollar amount it was accrued at so it can be paid out properly. What happened here with the Finance Department, which is very disheartening to her... When did Mr. Bergalis retire?

If they had vacation and sick leave they were going to pay him, they certainly knew about it before this budget. If it was going to be paid now, it should have been budgeted.

Commissioner Becht said he doesn't think Ms. Johnson was in the meetings, Mr. Bergalis was in the meetings. One of the ideas they discussed was paying it annually. Both Mr. Beach and Mr. Bergalis said they have no idea what that is going to be. They were right. But it is an accumulative liability they are now seeing in red with two key positions, Mr. Beach and Mr. Bergalis leaving, and they are picking it up in the year following. He is not blaming Ms. Johnson; but she is inheriting a problem that Mr. Beach and Mr. Bergalis wanted to put off. He is not meaning to be critical of them. But they did have meetings at the Commission level where Commissioner Coke said that five years ago somebody accumulated sick time or vacation time or whatever at \$60,000 a year and they have worked themselves up to an \$80,000 a year position and then they want to retire or whatever, and they cash them out at the \$80,000 level instead of accumulating it at the dollar level it was actually accrued at. If Ms. Johnson wants to create some recommendations and bring those back... How do they move forward on this issue? Because they talk about it and nothing happens.

Ms. Johnson said if they are going to discuss it, probably come up with some type of means of addressing it. They are getting ready to do a budget workshop. Maybe they can come up with some plans. They have to start at some point, if they are going to do something like that.

Commissioner Becht said it is going to hurt no matter what they do. But this is hurting right now.

Ms. Johnson said the problem is right now with people who have already been in this particular system where they are accruing like they are. How do they determine...? Let's say she did take some sick time 15 years ago. Who knows how much she took 15 years ago?

Commissioner Becht said she told him she knows what the liability is.

Ms. Johnson said the liability is about \$3 million.

Commissioner Becht said she knows which employees have how much of that \$3 million, so they know what that is. What he would like to do is task Staff to come back in three months or four months, because this is going to take some innovation, and give the Commission three or four proposals for having a better way of handling this consistent with the accrual takes place at the rate of pay they were receiving that year. So they don't get a bonus check-out like has happened where some of the sick leave was accumulated 10 years ago and now they are cashing out. What he foresees happening is, whatever they have accumulated, they have accumulated, he can't take that away from them. But going forward they are going to have a new program that is going to be fair to the City, it is going to be fair to the employees, and it is going to be fair to the taxpayers. So that is what they need

to do.

Mayor Benton said he thinks the time it would be appropriate is in April, because in March they will be six months through.

Commissioner Becht said they can get it done in two months. Mayor Benton said but he thinks they are going to have to address some budget shortfalls and amending a budget. He thinks the numbers are at the point where they are going to have to have a workshop to discuss what they are going to do.

Commissioner Coke said the other side of the coin when they are talking about this kind of thing is, this should be a line item in every department for just that, benefit liability. If they know that for every hour they work so much time is accumulated and accrued toward sick and vacation time, it should be booked as a liability and budgeted for. Because if they pay it today, that is fine; but if they don't end up paying it for 15 years, the money still needs to be there. At the end of every year they should take that long term liability that they have the payment available for and put it in a separate place.

Ms. Johnson said this is the issue, for most governments it is a liability, but nobody budgets for it. It is just one of those things.

Commissioner Coke said it is groundbreaking. Let's show them how to do it.

Ms. Johnson said that is what she is saying. Right now if they were to set up a reserve for it, it is \$3 million to put aside. If everybody left today and said give them their sick and vacation time that is due them, it would be over \$3 million.

Commissioner Becht said that is highly unlikely.

Ms. Johnson said it is highly unlikely. But when they get to this point where they have a lot of people who have a lot of years of service, it is a huge liability to the City.

Commissioner Becht said it is going to get bigger as people live longer, as they are healthier. He is hoping all of that happens. But just because it hadn't been budgeted before... They have just had a prime example of what not budgeting for it means with two top employees, Mr. Beach and Mr. Bergalis, stepping out. Actually it wasn't the same fiscal year, but she is showing the two red marks here - with the Finance Department because of Mr. Bergalis and with the City Manager Department because of Mr. Beach. He doesn't want to beat this up. He needs direction from her.

Ms. Johnson said they know how many people are close to retirement, they can determine that because of the years of service. Perhaps they need to set up something, appropriate a certain percentage of whatever it is these people have in their accrued liability in the 6000 account and budget for it. If they don't use it, they let it go back into the pot, and they only use it when they leave.

Commissioner Becht said they put money into a pension plan. It is done on an actuarial basis. They understand and comprehend that future liability. What they are not doing is comprehending the future liability they have for the accrued sick time and all that. So they need to start budgeting for it. If she knows it is \$3 million, it seems to him all she has to do is format - not this report - but format the master report by Department. The other interesting thing from a management perspective is, if it reveals that one or more of their departments are overloaded with accumulated sick time and that, then maybe...

Ms. Johnson said she does have it by Department.

Commissioner Becht said okay, so they can move off of this. By April does she think she can have some proposals back for them? He is not looking for one proposal, he is looking for two to three that they can evaluate. He is just looking for a couple of different ways to handle it.

Commissioner Coke said it seems to her they have talked about this now four years, changing the number of accumulated time and paying it out annually or only allowing people to accumulate a certain amount of time to lessen this liability. Had they changed it four years ago, they would still have an impact. No, they can't change it going back, but they can change it from today forward. She thinks what they need to do is get a better feel of what other entities are doing that are like size as far as allowing accumulated sick and vacation time.

Ms. Johnson said she will do that.

Commissioner Becht said League of Cities might have something.

Ms. Johnson said next under Summary of Expenditures by Department is the Police Department. They are over budget about 4.36% currently. But she must admit this total includes the one year of retro pay in the first quarter of raises in this year. So she thinks the Chief is in pretty good shape. One thing she did, she sent out a memorandum that people can not transfer from salaries to any expenditures.

Commissioner Coke said she saw that. She loved it.

Ms. Johnson said she thinks they are going to be running into this shortfall. If people leave through transition or whatever and if they have money left there, that is going to help absorb some of this retro pay and some of the salary increases they have currently. That is why she says it is pretty good. They may be able to absorb a lot of this in this budget. She is hoping that it happens that way. Under Administrative Operating Expenses, last year it was at 12.50%, this year it is at 70.79%. That includes their transfer to the FPRA. She thinks they transferred it last year somewhere around the 1st of January and this year they did it in December, so that is why that number is so high. Under Non-operating Transfers, that is the \$1.9 million they transferred out of the General Fund to the FPRA for the Moore's Creek Project.

Commissioner Alexander asked back to the FPRA, did they transfer the total amount?

Ms. Johnson said no, they transferred \$1.9 million. The other is the debt service. They transfer from General Fund to cover their debt. That is what the additional \$3 million is.

Commissioner Alexander asked but when they expect it from the County, they expect it at one lump sum, or are they doing it over quarters? How do they do that if it is budgeted?

Ms. Johnson said she is not following him as far as the County.

Commissioner Coke asked does she transfer 100% of what...?

Ms. Johnson said yes.

Mr. Jon Ward, Director of Fort Pierce Redevelopment Agency, said it is a TIF transfer, it is required all at once.

Commissioner Alexander asked so it was done?

Ms. Johnson said yes, it was done.

Commissioner Becht said this is a different transfer.

Ms. Johnson said this is for the Moore's Creek Grant they got from the State.

Commissioner Alexander said he thought he read in a memorandum that it was like 87% of it transferred. He can't remember. If she says it is done, it is done.

Ms. Johnson said next is the Quarterly Projection (Shortage or Overage for Fiscal Year 2008/09). This is her quarterly projection as to where they are at this point in time, if everything stays constant as it is currently.

Commissioner Becht said may he suggest air sickness bags the next time she gives him a \$1.2 million shortfall projection.

Ms. Johnson said but this is if things stay constant as they are now.

Commissioner Becht asked what if it gets worse?

Ms. Johnson said then the next quarter it will be worse than what it is. She sees she has the second quarter sitting there blank. What she will do next quarter, where they see Current Ad Valorem Revenues, if she thinks that number is going to change, she is going to show them what she comes up with in the second quarter. If she needs to add more in here, she would add it in there. This is what she is contemplating. She went through the revenues, expenditures, and the salaries. They actually appropriated money for the retro pay, but they didn't appropriate monies going forward in this year. That is why she said earlier, they are going to see if they can absorb that. That is what that \$400,000 under Expenditures is, the salaries

from October 1st through September 30th of this fiscal year, because they haven't appropriated anything for that yet. If she needs it, she will come back for it. But right now she is going to see if they can manage on what they have.

Commissioner Coke said what is really scary is this \$1.2 million shortfall is including that \$592,000 that came from the Health Claims transfer. Without that, they would be short almost \$1.7 million.

Ms. Johnson said that is correct.

Commissioner Becht said what she didn't show him - and he understands this is a very moving target - what is the Fund Balance at the end of the first quarter?

Ms. Johnson said this what they are projecting at September 30, 2008. These numbers may change. There are some adjustments like that \$1.9 million that she has it booked as revenue in this year, the auditors are saying maybe it should be a receivable as of last year.

Commissioner Becht said she is going to confuse him. Just tell him what is the dollar figure for the Fund Balance at the end of the quarter.

Commissioner Coke said at the end of the quarter, \$2.8 million.

Commissioner Becht said so he is \$1.2 million short with his Fund balance, because it should be at \$4 million.

Ms. Johnson said right, because of the \$1.3 million they have appropriated; but they haven't used it yet. That is where they are currently right now.

Commissioner Becht asked is she contemplating another \$1.3 million being appropriated out of that \$2.8 million before year end?

Ms. Johnson said no. But they could.

Commissioner Becht said no, they can't. They have to put \$1.2 million back in it in order to get it back up to \$4 million.

Ms. Johnson said no. This one is a little bit different. She is showing them with the revenues they have now, this year's revenues, that is what the shortfall is in the revenues and expenditures this current year. Just the current year they are in, this first quarter, that is what that figure was.

Commissioner Becht said she has lost him. What is the Reserve Fund as of the end of the quarter?

Ms. Johnson said \$2.8 million.

Commissioner Becht said he is supposed to have a \$4 million reserve.

Ms. Johnson said actually their reserve at the beginning of the

year with \$8.2 million, that is projected.

Commissioner Becht asked at the beginning of the year?

Ms. Johnson said the beginning of the year. September 30th they set aside the 10% budget reserve.

Commissioner Becht said so he has a \$2.8 million surplus.

Commissioner Coke said they have \$4 million plus the \$2.8 million.

Commissioner Becht said the way she should answer his question is, the reserve is \$6.8 million.

Ms. Johnson said right. Because she just took the \$4 million out. This is what she considers available that they can work with now.

Mayor Benton said she should have told them that in the beginning and they would have been done 20 minutes ago.

Commissioner Becht said but they can burn through that pretty quickly.

Mayor Benton said the good news is, the \$3 million they were concerned about coming from Tallahassee, it appears to be coming. He heard that from Senator Pruitt today. That could have been a real problem.

Commissioner Becht said he wants to thank her, he wants to compliment her. It has been a long process getting this quarterly report. With all due respect to Mr. Bergalis, she got it done in the first quarter of her taking over.

Commissioner Coke said especially for that memo about transferring funds from the salary line item to other line items. The Mayor and she had that discussion at the U.A. today.

Mayor Benton said yes, they are going to have to change a few things over there.

Ms. Johnson asked does anybody have any questions about their Enterprise Funds? If not, that will conclude the presentation.

Commissioner Becht said he would like to meet with Ms. Johnson and Mr. Recor and go through some of those Enterprise Funds with more detail. But it is 10:30 p.m. and he doesn't want to do it tonight.

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The next item was the Consent Agenda. Mayor Benton asked does any Commissioner have an item they wish to pull for further discussion?

Commissioner Alexander said he would like to pull Item 22b (Temporary Easement at 1234 Avenue D) and Item 22c (Emergency Drainage Replacement Projects).

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

- a. Approve **Alcohol Beverage Permit** submitted by Anita Sperry, Fort Pierce Jazz & Blues Society, for **Mardi Gras Jazz Week** in the Indian River Memorial Park Amphitheater on February 7, 11, & 12, 2009.
- d. Authorize submittal by the Police Department of an Application to the US Smokeless Tobacco Company to be considered for its 2009 **Operation Polaris Ranger Donation Program**.
- e. Authorize piggyback St. Lucie County for provision of strategic planning and marketing services from **Comet Creative** (formerly Blair Advertising) in the amount of \$13,500.00; funds from Law Enforcement Trust Fund.
- f. Authorize six-month extension for payment of code enforcement lien in the amount of \$1,000 (previously reduced from \$10,924.88 on April 21, 2008) against **1202 Avenue B**, requested by Alice Mitchell, with condition if not paid by the deadline then the lien will return to its original amount.
- g. Reduce code enforcement lien of \$11,400 against **3019 South 4th Street**, owned by RSC Equipment Rental (Jason Chism), to \$2,500, contingent upon payment within 60 days.

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The next item considered was Item 22b, which had previously been removed from the Consent Agenda: Authorize execution of a Grant of **Temporary Easement** for Unintended Encroachment between the City and the Fort Pierce Redevelopment Agency for structure located at **1234 Avenue D**.

Commissioner Alexander said he is just trying to grasp what they are saying here. Are they granting a temporary easement? What kind of temporary easement is for a permanent building?

Mr. Jon Ward, Director of Fort Pierce Redevelopment Agency, said they are actually rebuilding 1234 Avenue D for the headquarters to Lincoln Park Main Street. As part of doing that, the design calls for a covered walkway in the same fashion as the Police Substation is just to their east.

Commissioner Alexander asked on the east, isn't that stairs?

Mr. Ward said the Police Substation has a covered walkway. They are doing the same thing with this building. And when they cover the walkway, they are encroaching on the right-of-way. That is what this is, it is allowing them to encroach on that to cover the walkway.

Commissioner Alexander asked wasn't that something they agreed they wasn't allowed to do?

Mr. Ward said it is a permanent building, just like the Police Substation, the same architectural style, same ceiling.

Commissioner Alexander asked how are they going to do that and

have a walkway?

Mr. Ward said underneath, just like the Police Substation, it will just be a covered walkway.

Commissioner Alexander said he just thought that was something when they designed the City Hall Parking Garage and...

Commissioner Coke said the Fire District wouldn't let them do that because it was attaching two structures.

Mr. Ward said yes, that was a different circumstance. All this is, it is encroaching on the sidewalk.

Motion was made by Commissioner Alexander, and seconded by Commissioner Coke, to authorize execution of a Grant of Temporary Easement for Unintended Encroachment between the City and the Fort Pierce Redevelopment Agency for structure located at 1234 Avenue D.

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

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The next item considered was Item 22c, which had previously been removed from the Consent Agenda: Approve Change Order No. 1 to Contract with Precision Paving & Excavating Inc. for **Emergency Drainage Replacement Projects** (10th Street & Delaware Avenue, North 9th Street, North 12th Street, and North 16th Street) in the amount of \$30,526.96. SMU Bond No. 2 & FPUA Reimbursement

Commissioner Alexander said just for information for himself, but he thought they had a company they exclusively use for paving and that there wouldn't be any outside. He is just asking a question because it was raised before. Is this just one company?

Mr. Jack Andrews, City Engineer, said this was a project that was an emergency drainage replacement. They had four separate projects. It was under this bid. This was put out for bid and Precision Paving was the lowest bidder on this. It wasn't necessarily just paving, it was mostly drainage work - replacement of storm sewers and different things.

Commissioner Alexander asked it wasn't in the contract to redo the surface when they get through with it?

Mr. Andrews said no, the major cost of this Change Order was when they got into construction, they found out different sections of the pipe needed to be replaced. There are different items in here, like additional pipe that needed to be replaced. In another instance, the one on 12th Street, there was a lot of concrete that was put around the pipe over the years and the contractor had to remove this. This was all unforeseen conditions that they found out when they got into the project.

Commissioner Alexander said it is late at night so he won't dwell on this, but he just thought it was odd if they have a

contract all that should be inclusive, but this is a change order.

Motion was made by Commissioner Alexander, seconded by Commissioner Coke, to approve Change Order No. 1 to Contract with Precision Paving & Excavating Inc. for Emergency Drainage Replacement Projects (10th Street & Delaware Avenue, North 9th Street, North 12th Street, and North 16th Street) in the amount of \$30,526.96.

Commissioner Becht said he is going to abstain. He has an attorney/client relationship with Precision Paving and it might be perceived that a Change Order would inure to their interest.

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

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Commissioner Becht said he wants to compliment Marc Meyers and his Building Department. They went through some hard times with some bugs and some other things. They got a letter tonight from AWM Construction, Inc. complementing Mr. Meyers on the Building Department and the processes. He has also received some calls that have been complimentary of the new way things are done. He wants to compliment Mr. Meyers on that, because in the past he has perhaps been somewhat critical. He will compliment him for a job well done.

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Commissioner Becht said he got an email today from a friend telling him that they have suffered another tragic death in the community. A young man by the name of Francis Smith, who was a Boy Scout, apparently died yesterday down at St. Mary's Hospital. They don't know why. The family is obviously destroyed right now and need their prayers and their help. There is a fund set up at National City in his name, Francis Smith, to help defray some of the expenses that have been encountered with this tragedy. He thanks them for their consideration of that.

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Commissioner Alexander said he observed that elevator on the north end (City Parking Garage) hasn't been in working order since conception. There is an out of order sign on there. Does no one pay attention to that?

Mr. Jon Ward, Director of Fort Pierce Redevelopment Agency, said it is working now.

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Mayor Benton said the date for the groundbreaking for the Federal Courthouse has been changed from February 10th to February 20th. He believes it was to meet the schedules of Congressmen and Senators who are in session on February 10th who would like to be here for the groundbreaking. He just wanted to let everybody know why. He would love to have everyone here, because hopefully while they are here, it could save them a trip to Washington and save the taxpayers some money. Catch them while they are here.

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Monday, February 16, 2009, is Presidents Day Holiday in the City

of Fort Pierce. All City administrative offices - with the exception of the Police Department Public Safety Services, the City Marina, and the Indian Hills Golf Course - will be closed. There will be no garbage and/or trash collection on that day. The City Commission meeting normally scheduled for Monday will be postponed to Tuesday, February 17, 2009.

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There being no further business, Mayor Benton declared the meeting adjourned at 10:35 p.m.

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Adjournment.

ATTEST:

CITY CLERK

MAYOR COMMISSIONER

