

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, MARCH 1, 2010.

Mayor Benton called the meeting to order.

Reverend Robert Coleman, Goodwill Presbyterian Church, gave the invocation.

The Pledge of Allegiance was recited.

Upon Roll Call, those present were: Mayor Robert J. Benton; Commissioners Rufus Alexander, Edward Becht, Thomas Perona, and Reginald Sessions; City Manager David Recor; City Attorney Robert Schwerer; and City Clerk Cassandra Steele. Those absent: None.

The next item on the Agenda was Approval of the Minutes of the Special Workshop Meeting on February 5, 2010, and the Minutes of the Regular Postponed Meeting on February 16, 2010.

Motion was made by Commissioner Becht, seconded by Commissioner Perona, to approve the Minutes of the Special Workshop Meeting on February 5, 2010, and the Minutes of the Regular Postponed Meeting on February 16, 2010.

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

Mayor Benton issued Proclamations in Honor of living ST. LUCIE COUNTY BLACK HISTORY MAKERS: Elder Dr. John Robinson, Jr., Evett L. Simmons, Joseph E. Smith. Mayor Benton issued Proclamations posthumously in Honor of ST. LUCIE COUNTY BLACK HISTORY MAKERS: Jimmy Lee Blakely, Jeff McDonald, Jackie L. Caynon, Sr., Percy & Helen Peek, Reverend Albert Tinsley Stone, and Georgia Porter Curry.

Ms. Evett L. Simmons said she wanted to thank the City of Fort Pierce and thank many of her mentors. She sees Coach Havert Fenn, who was one of her mentors when she came to this City. It is just a blessing to be considered. She appreciates it.

Mr. Joseph E. Smith said he thanks the members of this Commission for honoring him and all of the amazing accomplishments of the other people. He appreciates this honor. They will see what else is in store for him. He is appreciative to all the people. Ms. Simmons talked about Coach Fenn being one of her mentors. Ms. Simmons is one of his mentors. This community has enriched them all so much. He is honored to live, work, and play here in Fort Pierce.

Mayor Benton issued a Proclamation in Honor of the living AFRICAN-AMERICAN TEACHERS WHO TAUGHT AT LINCOLN PARK ACADEMY from the 1940's through the 1970's:

Leonardy Anderson	Idella Anderson	James Andrews
Leila Barnes	Robert Bennett	Matthew A. Bethel
Bertha Hood Brown	Robert Earl Brown	Emily Broxton

Curley Burch	Valerie Calhoun	Dagoberto Cassanova
Alice Chavers	Bennie Clark	Robert L. Coleman
Beatice L. Davis	Lois Dickerson	Mazie Epps
Havert Fenn	Sara R. Fletcher	Ralph Flowers
Vernon H. Floyd	Theressa Gaines	Jacob Gallmon
Clifford Gassett	Ernestine Goodwin	Hazel Green
Joelene Hayling	Horace Hunter	Jack Hylick
Zanobia Jefferson	Rita Marie Johnson	Gloria M. Johnson
Isaac M. Jones	Lovell Kilpatrick	Cleo Leath
Arlena Lee	Earl Little	Thomas Loman
Roy McGriff	Matthew Meadows	Cora Monroe
Margaret Paige	Ossie Paige	Henry Parish
George Rahming Sr.	Mary Roberts	Elder John Robinson
Dorothy Saunders	Betty Seymour	Evelt Simmons
Katye Simpson	Joseph Smith	Mary Smith
Carrie M. Tucker	John Walker	Emma Washington
Marian Williams	Beautice Williams	

Mr. Richard Norwood, Boy Scouts of America Venturing Crew 2465 and Boy Scouts of America Troop 405, said the Scouts, volunteers, and parents present tonight are only a small part of the total Scouts of the Treasure Coast District of the Gulfstream Council of the Boy Scouts of America. The Treasure Coast district includes all of St. Lucie County. There are over 30 Cub Scout Packs, Boy Scout Troops, Venturing Crews, Sea Scout Ships, and Explorer Posts, of which there are five here in the City. The five branches of Boy Scouts of America provide a multitude of opportunities and experiences for the youth of St. Lucie County from 1st Grade through the age of 21. Boy Scouts of America is one of the nation's largest and most prominent values-based youth development organizations. The BSA provides a program for young people that builds character, trains them in the responsibilities of participating citizenship, and develops potential fitness. For a century, the BSA has helped build the future leaders of this Country by combining educational activities and life-long values with fun. Boy Scouts of American, through a century of experience, knows that helping youth is the key to building more a conscientious, responsible, and more productive society. The mission of the Boy Scouts of America is to prepare young people to make ethical and moral choices over their lifetimes by instilling in them the values of the Scout law. They have Cub Scouting, Boy Scouting, Venturing, Explorers, and Learning for Life Programs. Cub Scouts are up through age 10-1/2, Boy Scouts from age 11 to 18, and Venturing from age 15 to 21 co-ed. People with Scouting experience: 312 pilots and scientists have been selected as astronauts since 1959, at least 207 have been identified as having been Scouts or active in Scouting. The list includes 39 Eagle Scouts, 25 Life Scouts, 14 Star Scouts, 26 First Class Scouts, 17 Second Class Scouts, 13 Tenderfoots, 3 Explorers, 25 Cub Scouts, 10 Webelos, 1 King Scout (England), 2 Wolf Scouts, and 32 of unknown ranks. Of the 27 men that traveled to the moon on the Apollo 9 through Apollo 17 missions, 24 were Scouts, including 11 of the 12 men who physically walked on the moon's surface, and all 3 members of the crew of Apollo 13. All 3 of the astronauts who died in the Apollo 1 fire, 4 of the 7 who died in the Challenger launch explosion, and 5 of the 7 who died in the Columbia reentry explosion were Scouts. They have a long history.

Commissioner Perona said every time the Kiwanis Club or one of the organizations that deals with fun runs and stuff, the Boy Scouts are always there. He is very proud to be a Boy Scout himself in his earlier years. As a matter of fact, the very first job he ever had was Trading Post Manager at a summer camp. He went all the way through it, it was a wonderful experience. Commissioner Becht was a Boy Scout at one time too.

The next item on the Agenda was Comments from the Public.

Mr. Brian Hardman, 603 South 23rd Street, said he has some concerns regarding the way the Kings have and are being treated by the City over the lease for **Little Jim Bait & Tackle**. Allow him to give a brief history from his point of view. When the Hurricanes in 2004 virtually destroyed the area, Miss Bobbie the proprietor back then decided not to rebuild. Richard and Rita King stepped up and made an agreement with Miss Bobbie to rebuild it and run it. He knows this first-hand, he was there. This decision was made by the Kings not with dreams of big profits, but to preserve a place that they all love. Many of them who grew up here have fond memories of Little Jim and they don't want to see it change. Every Commissioner here tonight has been there, so they know what he is talking about. When the Kings opened their checkbook to rebuild it, a lot of people - himself included - started volunteering their time to help rebuild. They didn't whine to FEMA, the State, the City, or the County for funding. They did what blue collar Americans do, they got to work and did it. It got done. So while the City may control the land, really the City does not have anything invested. Did the City rebuild the restaurants at the Marina after those hurricanes? He thinks there is a misconception about Little Jim that needs to be cleared up. Yes, it is a business. A business has to make a profit to survive. Without the City's delays, Little Jim would probably be making a modest profit by now, allowing the Kings to recoup some of the considerable investment they have laid out. Instead, they have spent thousands more in legal fees. Regardless, it is far from being the big money-maker that apparently some believe it could or should be. He has heard the term "best use" for the community. It has been his experience in life money can't buy happiness. That saying was made up by somebody that doesn't know where to shop. He will talk about best use. He has been a patron there for 35 years. He has not clue how much he has spent there, but he doesn't regret a penny of it. Best use for the community? Let's ask the hundreds of kids every Easter who have hunted eggs, been given toys and bicycles, who seem pretty happy about the way things are being done. In fact, he doesn't think Little Jim has ever turned a profit on Easter and they are okay with that, because they think there should be more to life in their community than a profit and loss statement. Let's ask the old retired Navy SEALs and the veterans who live here and those who travel from all over the country every year for the annual SEAL reunion. They want Little Jim as is. Let's ask Nate Wells and the other local Toys for Tots coordinators, for whom Little Jim holds a toy drive event every year - they like things just the way they are. Let's ask the many motorcycle clubs that roll through or end their Poker Run at Little Jim's. Don't leave out the Red Cross fundraisers. They may wonder what

the common denominator of all these groups is? One simple thing, the price they pay - Little Jim charges them nothing. Tonight the Commission has the authority and the power to get this lease right. It has been 23 months, it is embarrassing. Little Jim is a true place of old Florida. There is not much left. Please save a little of old Florida for the old Floridians.

Ms. Tishunda Tullis, 1817 South 26th Street, said she is here out of concern with what is going to happen with the closing of the **Community Services** program. Previously housing and Pop Warner youth programs were funded by this program. She is wanting to know what is going to happen to that. In the newspaper she read that in 2011 reallocation of those funds will come up again. She thinks that maybe some people are thinking the community won't be paying attention in 2011. They still are interested in having those funds for their youth, they don't want them in the streets, and that is a priority. So has the priority changed? Or has what is important to a few individuals taken precedence over their youth and housing for the elderly? They are paying attention, they are watching. Please don't forget that the youth and the elderly in Fort Pierce housing and sports programs, those are priorities for a thriving community.

Ms. Nerissa Matthews, 2701 Tropic Boulevard, said based on recent media coverage, decisions that was made by **City Manager David Recor** has demonstrated that he lacks the sufficient skills to run the City of Fort Pierce. She will touch on some of the issues relating to integrity and leadership. David Recor showed little integrity from the beginning when he failed to place on his employment application that he had a prior criminal arrest. While serving as Deputy City Manager, David Recor shredded documents in which he compromised an investigation in one of the City's departments. David Recor's leadership skills are no better due to he was paid additional monies to oversee the Community Services Division; and when things went haywire, he jumped ship and left them hanging. David Recor also assisted the media to discredit his own staff. One issue was temporary employees being related to City employees. But David Recor's daughter is employed as a temporary employee at the Golf Course. And other City employees have relatives employed in other departments of the City. David Recor eliminated two positions in the Community Services Division, stating it was due to a reduction in work. At the same time, he created new positions within that same department. The City budget is in the red and David Recor is giving raises to certain staff. With David Recor being their City Manager, it is like being victimized over and over again by the same individual. The Mayor and certain Commissioners are not only allowing it, but approving it to happen right under their noses. The citizens of Fort Pierce need a leadership change right now, not later. They need a leader that will be effective and fair, someone who cares about them as a whole and the staff as a whole as well.

Reverend Willie Kitt, 437 North 18th Street, said he is here concerning the action the **City Manager** has taken concerning the Community Services program. He is highly disturbed over the fact that he has laid off two strong workers - Dorina Jenkins

and Steve McBride - and the temporary workers that was doing an outstanding job in the Community Services program. They had at least a two hour meeting with the City Manager trying to get him not to reorganize that program because the program has greatly benefitted the black community. But Mr. Recor turned a deaf ear to that discussion for at least two hours and said a number of things that he would do, such as not lay off Ms. Jenkins or Mr. McBride right away. Next day or two, the newspaper stated they were terminated. The black community has gone to the extreme to try... He is President of the Ministerial Alliance and represents over 25 pastors. They have gone to the extreme to try to work with the City Manager concerning many problems in their community. They have reached the point to say they don't feel like he is the man for the job, they feel like he should be terminated, he is practicing discrimination in City Hall, and blacks have been victimized by his actions. Not only that, right now the black community is very troubled about the things Mr. Recor has done and has lost faith in City Hall, especially Commissioners that support him. He constantly said to them in the two hour meeting that the City Commissioners support him. They know two don't support him. Mr. Alexander and Mr. Sessions do not support the actions that Mr. Recor has shown in the last couple of months concerning the Community Services program. They definitely stand behind Dorina Jenkins, Steve McBride, and the other blacks that were let go. The Ministerial Alliance, along with many other blacks in the community, are asking the Commission to terminate his job.

Mr. Maurice Shazier, 2513 South 17th Street, said he stands before them tonight due to the concerns of the CDBG (Community Development Block Grant). He is a young man that was born and raised here in the City of Fort Pierce. Many of the history makers that are in this room tonight helped mold and shape him into the individual that he is. When you are from Fort Pierce, you have a different kind of passion, a different kind of burn for the community, rather than places you have visited and lived in. In his lifetime, he is a man that has made some bad turns and needed a second chance. The CDBG is one of the programs that gave him a second chance by him being in the field of construction. He has seen the difference they have made in the lives of the African-American citizens. He has tried to understand and make sense of the decisions that Mr. Recor has made. He does not know Mr. Recor. But the lives that are affected by the CDBG is overwhelming. He has seen people that would not have probably owned a house in their lifetime had it not been for this program. There are individuals in this room that have homes because of the program the City made available. He has been here many years, he has seen the Building Department make cuts in staff, he has seen Code Enforcement make cuts in staff. But when he talks about the integrity of Fort Pierce and what they believe and stand on, which is fairness, he has never seen an entire department eliminated, which happens to be all African-Americans, and then they bring one back to say that it wasn't discrimination. He just believes if they are going to stand on fairness and stand on the fact that rules are important, that the things that affect a person's life the most is... A woman that has three or four children that needs a roof over their heads, things that homeownership, being able to

change the lives of people, older individuals that have fought for the integrity of this community, people like Mr. Fenn, older people that can't afford home improvements, to cut that program. All he is saying, they won't only be getting rid of six individuals, but will be affecting the lives of many men that need work, many individuals that depend on that program to better their lives.

Mayor Benton said Mr. Shazier mentioned CDBG funding. There are several different funding mechanisms that came through Community Services. The biggest housing initiative was after the hurricanes and soon that will come to an end. That was the most money and it came very quickly. When it comes to CDBG, it is something the City has been receiving for years and there has been a reduction over the years, they are down to about \$500,000 a year. That money can be used for a lot of things, like Northside Bat & Ball, different other functions, maybe a rehab and helping other programs out. It can be used for infrastructure. The City of Port St. Lucie used it to lure a business out of St. Lucie County into their city. So it can be used for many different things, it is not set strictly for housing, as the SHIP program - which is probably what Mr. Shazier was aiming at. They are not doing away with the SHIP program, it is a great program that helps people get into homeownership, helps them with the downpayment. That is just something that will be done by different people. It is still in operation in the County also. That is something they are not doing away with.

Mr. Shazier said please forgive him for his lack of knowledge about the totality of what the CDBG functions as. But his primary concern was that it impacts them as individuals. He is just asking Mr. Recor to please reconsider the way it will impact not only the lives of the people being laid off, but also the recipients of the many facets of that area that will be affected.

Mr. Cecil Smith, 1104 South 8th Street, said he is here as a taxpayer. He has known Richard and Rita King from the time they first came here to Fort Pierce. He fell in love with this area, with the people, and with the way things were done here in the City. He has heard them talk about they need to look out for the best for the taxpayer, they want to receive as much as they can from this middle class working family or **Little Jim** to make more money for the city. As a taxpayer he feels Little Jim needs a tax break. This economy is very difficult and tough. People are unemployed, there is no money going around, people have nothing to spend. They are out there struggling and trying to keep this business alive. He applauds them and prays for them every day, because they are doing something that a lot of businesses are not doing right now. A lot of businesses are failing, people are packing up and leaving. This has been going on for a very long time, he is sure they have given it great consideration. Please let tonight be the end of it all. The City has unlimited resources compared to that middle class family. He is here as a simple taxpayer, please let Little Jim - Richard and Rita, very nice people - survive in this very difficult economy. Give them a contract that they can be

sustained through these difficult times.

Ms. Pearl M. Davis, 2006 Avenue Q, said she knows all the Commissioners have their individual disciplines that they deal with day to day and don't have time to spend with their packets. So she took the time to identify some things that likely have never been mentioned in the News Tribune; and that is, a series of questions where it relates to the management and the leadership with regards to the program (**Community Services**) they have decided to dismantle. When she read the initial report in the newspaper, it implied to her that if there were sufficient policies and procedures in place and some form of internal controls, and an internal audit being performed, external audits being performed, and the various grantees of the funds that are being utilized in this program would come in and do periodic audits of the use of their funds, if there had been no material problems or exceptions noted in any of the prior audits, why was it that they had to get involved with a forensic audit by a known organization that would do nothing more than destroy the reputation of the City of Fort Pierce. It just floors her when she thinks about and reads about the reputation of Kessler and the fact they utilized them. And then further to learn Mr. Recor's familiarity with Kessler, it just floors her to think that they would go as far as taking action as a result of it, passing a report to the State Attorney that Mr. Recor himself refers to as being a bunch of fluff. Why is it that this takes precedence over all of the prior audits prior to this particular audit? Why is action being taken on that? Get policies and procedures in place, get an internal audit in place, heed to their external auditor's guidance, and do those things that are necessary to run a reasonable municipality. None of this is foreign to them. Mr. Becht made a comment the other day that one of his concerns was the way that the funds are being utilities disproportionate in the community. 49% of the population of the City of Fort Pierce is black. However, in her further discovery she sent a foyer to Mr. Recor requesting an outline of all the recipients. She neither received the information she requested, not even an apology for failing to meet her time line. Through other discovery she learned that the funds went to all districts. Yes, blacks are in all districts, but they well represent a great percentage of the community, so it is going to happen that way. She wanted to be clear with Mr. Becht on that point.

Commissioner Becht said she has distorted what he said. What he said and what he meant was, he wanted the money to get to more people. Because the way it was distributed in the last batch, they had two people getting \$380,000.

Ms. Davis said the two people who got \$380,000 received funds under the REACH Program. The REACH Program was allocated for counties, cities, educators, policemen, firemen. Those funds were allocated and both those loans were approved by David Recor. She is concerned as to why he is still here.

Commissioner Becht said she has missed his point. She has distorted what he said in trying to twist it into a black and white thing. It is not a black and white thing. What it was,

he wanted more money to get to more people. That was his point.

Ms. Davis said her initial understanding was, it was more people. So the first thing she wanted to do was to get the listings of the addresses where the funds have been distributed within the City of Fort Pierce. She sent a foyor to David Recor and requested a listing of the addresses so that she could exhibit to them that funds were in Becht's and Perona's district as well as Alexander's and Session's district, so they could see that it was broad spread. Maybe there was a lot of it in the African-American community, but it was broad spread. So she was really hoping it was going to districts, that is why she made the foyor. But then she learned later that there was a comment made by a Commissioner or the Mayor possibly that blacks live in those areas too. So that is what made her feel that it was the race card, that is the reason she goes there. Initially it was to exhibit the districts. But she later learned that the comment was made that it is not the districts, it is race. So she just wanted to get that clarity to them, because they probably haven't had the time to do the research.

Reverend George Porter, 1905 Juanita Avenue, said he has a great concern this evening. His concern this evening is leadership. They spent two hours with **City Manager Recor**, talking about this Community Services program. With Mr. Recor being the leader, he in turn talked about what he might do and what he wouldn't do. Then in the newspaper he lays off the people that has been running the Community Development Block Grant program. These people was running this program when Mr. Recor was a Deputy City Manager and already knew if they had a problem. So what did Mr. Recor do? He did something like a little boy or a little girl that have parents and didn't like what was going on, he said in his own mind when he takes over he is going to change this. So that is what Mr. Recor was intending to do. He didn't care about what or who he destroyed. He did not use his leadership. If he used his leadership, he would have not brought Kessler here, who he was well familiar with. Why did he go outside of the HUD audit? Mr. Recor is saying they were wrong. This evening the Commissioners and Mayor need to look at their City Manager, his leadership. The black community is asking that they get another City Manager.

Mr. Ronald Smith, 4056 Greenwood Drive, said quite a bit has been spoken tonight already about leadership and integrity. He is not going to talk about racism. He is going to talk about two things that are critically important to him. At the last City Commission meeting, they were told that nothing would happen on this matter (**Community Services Division**) for the next 60 to 90 days by Mayor Benton. They left with that understanding. Then to read in the newspaper this week that action had taken place, it causes him to now doubt his leadership as Mayor. Over and above that, Mr. Recor said that he had a preliminary report and was waiting on a final report before he would take action. Mr. Recor has now taken action on a preliminary report, which says to him that Mr. Recor lacks integrity. What he would like to know is, what happened between the last meeting and his actions that resulted in actions being taken, when the Mayor assured them that actions wouldn't be

taken?

Mayor Benton said three Commissioners set direction up here. The Mayor has no special privilege. It was his understanding why the employees haven't been brought back, until that cloud that surrounds that department and those employees is cleared up, they will not be brought back or considered brought back. But he thinks the community has demanded that the money be used as it has been used, instead of for infrastructure. So three Commissioners gave the City Manager that direction. It was his understanding the direction they talked about going was toward infrastructure. That has nothing to do with SHIP money or the other program, just CDBG. But it appears maybe one of the Commissioners changed their mind. That is the way it works, the majority rules. It was his understanding at that meeting that is where things were going.

Mr. Smith said the Mayor reassured them that no action would be taken for the next 30 to 60 to 90 days. There was a time frame. The Mayor said actions would not be taken. The Mayor didn't say that actions wouldn't be taken for the next 30 to 60 to 90 days and he needed two other Commissioners to...

Mayor Benton said the action that was taken is what the community was asking for. The community wanted the housing programs to continue. That is what he is told is happening. He is not going to argue with him tonight about what he said.

Mr. Smith said he is not here to argue. His point was, they were told... Unless he just heard something....

Mayor Benton said if the community would prefer that they put this on hold for the next 60 to 90 days, they could. But the community came in and the outcry was to get back to what they have been doing that has changed this community for the better. Isn't that what they are doing?

Mr. Smith said like what has potentially happened before, the understanding of what the community is saying is not what the Mayor just repeated. So therefore if they do need to put it on hold for another 60 to 90 days - which is what the Mayor said at the last meeting - then they really need to do that. Because the actions that have been taken appear to be unfair, appear to be unfounded, because there is no final report for the actions taken.

Mayor Benton said the employees don't work for the five Commissioners up here, they work for the City Manager. It is his understanding that the programs are going to be continued with different people in charge of those. He is not arguing this tonight. If they would like to contact the City Manager if they have any questions tomorrow. But they have made it very clear that the programs are going to continue as those had been with some minor changes and some different people in charge. This is for Comments from the Public. He is not ready to get into a discussion on this because he has explained what he knows of it. There are a lot of people that have been in the pipeline for work, they are continuing that.

Mr. Smith said based on what the Mayor said, he knows that he doesn't know what the community wants.

Mayor Benton said Mr. Smith doesn't live in the City. He is going to set the record straight. He has the Minutes from the last meeting (February 16, 2010). He will read what his quote was: "Mayor Benton said he wants to say to the folks that are here for the Community Services Division, this Commission wants to get through this. There has been a cloud surrounding this for some time. They have heard allegations one way and the other. Their job is to have the appropriate people come in, do the investigation, get the details, and then decisions are made. But right now, because of the cloud surrounding the Community Services Division, they have had to do what they have had to do. They all want to get through it, because it has done this community a remarkable thing, the housing. He has been dealing with it for 15 years. They have come a long way and they don't want that to stop. But there has been a bump in the road. They have to get over that bump and see if there is anything to the allegations, that is their job. They can't look the other way. Hopefully they will know something within 30 to 90 days..." That is knowing something about the allegations, not the way business is done by Community Services. "...and they can take it from there. That is all he can say today." There is investigations going on with the FBI and HUD. "Those folks do not work for this Commission, they work for the City Manager. The City Manager works for the Commission. They will take it from there." He didn't say anything about stopping the programs for 60 to 90 days, he said it might take 30 to 90 days to get through the investigation and clear up the cloud about the employees. He just wanted to make that clear. They have heard from the public that they want to continue the program.

Mr. Smith said his point was, action has been taken against the employees before it was cleared up.

Mayor Benton said this Commission doesn't have anything to do with that.

Mr. Ken Irish, 355 South Ocean Drive, said the **Jetty at South Beach** is probably the biggest tourist attraction in Fort Pierce. If you get there after 8:00 or 9:00 p.m., you can't find a parking place. It has been three years since they acquired the Rollins property and it just sits there. If they are not going to develop it, then at least have temporary parking there. Last weekend there was cars lined up down both sides of the street, a lot of people couldn't get in. The lights on the Jetty are like candles. Every pier, jetty, or dock from Miami to Jacksonville he has been on is well lit with overhead lights. The end of the Jetty is an accident waiting to happen. All of the holds there serves as a garbage collector. Being in the tourist business for 40 years, he knows they need access, clean bathrooms, and garbage removal regularly to attract tourists. Saturday at the Farmer's Market he parked south of the Library on **Melody Lane**. Walking there, there were fishing poles across the sidewalks and cut up fish on the wall. They could eliminate this by putting a fishing pier south of the Library for the elderly, women,

handicapped, kids, and everyone to use, and then ban fishing from the sidewalk. This would be another tourist attraction. Each year for the last three years he has asked the Commission to address the drainage problem on **Hernando Street** one-half block north of Avalon Avenue. Whenever it rains hard, it is a lake going over the sidewalk into their parking lot. They call that Lake Avalon every time they get a hard rain. He is asking them to put some money aside to put a storm drain in there and drain it a block down to the one on Avalon Avenue. It seems they have money for other things, so he is asking them to save a little money back to take care of this problem. In closing, give Little Jim a reasonable long term lease so they can operate. It is another tourist attraction as far as he is concerned.

Mr. Terre Cooper, 4706 Regina Drive, said the last time he was here he tried to speak on behalf of **Little Jim Bridge**. Apparently he raised somebody's hackles, because he was promptly jumped on by the City Manager, who said he objected to some way he characterized something. No explanation was given. He would like to know what that was that he mischaracterized. He was cut short and interrupted. Commissioner Alexander spoke up for him and said he was interrupted and owned an apology. He would also like to collect that while he is here this evening. A gentleman obviously would forward an apology. This is what they have to deal with. Secondly, Little Jim Bridge, keep in mind this isn't a place of yachts, this is a place of boats. This is a place of the common people. This is also a place of heroes. Some of the finest people that defended their country frequent Little Jim. These people don't feel comfortable going into the yacht clubs and they don't drive Bertrams and all that. This is one of the last places in Fort Pierce, or as far as he knows anywhere along the east coast, where the common folk can congregate and enjoy themselves. They don't propose to be rich, they are not fancy, they are just people. They would like to keep Little Jim Bridge there and have the people that operate it pay a fair amount to the City to do this. He would still like to know what this characterization was? Mr. Recor jumped on him. What was that all about?

Mayor Benton said this is Comments from the Public. If he wants to find that out, his suggestion is to give the City Manager a call tomorrow morning and ask him personally.

Mr. Cooper said if Mr. Recor is going to jump on him in public, he thinks he is owed a public apology.

Mayor Benton said he probably doesn't remember, that was a while back, and there was probably a reason for it.

Mr. Cooper said he raised somebody's hackles about something.

Mayor Benton said chances are, he took shots at them. But when it comes to Little Jim, he knows more than anybody in this room that it has taken a lot from both sides to get through this.

Mr. Cooper said he came here, he thought that he was going to be in good company, and he got jumped on pretty hard by somebody

that now won't even let him know what it was all about. He was soiled that evening.

Mayor Benton said if Mr. Cooper would like to call Mr. Recor tomorrow...

Mr. Cooper said no, he has no reason to ever speak to that fellow. He thinks everybody in this room knows what that man is.

Mr. Vernon Shazier, 3950 Juanita Avenue, said if he were to ask them, have they ever received a phone call that they did not answer that they wished they would have answered? He is sure their answer would be yes. What they are hearing tonight is a repeated call for them to bring credible professional leadership to the City of Fort Pierce. **City Manager Recor** has clearly shown and demonstrated that he is not the quality and caliber of leadership they need here in the City of Fort Pierce. His inability to handle and manage staff properly, his inability to make correct decisions concerning the direction the City should go into, is not the type of leadership they need. Mr. Recor has created a division, a schism within the City of Fort Pierce. They need leadership that can bring the City of Fort Pierce together, that can transcend districts and different communities. They have come a long way. He was born here in Fort Pierce. He remembers when they were children they used to use derogatory statements to address each other. Now they are able to sit down in Granny's Kitchen and have breakfast together, go to Little Jim's to have lunch together. All of that has been threatened because of leadership. No, they are not dealing with a race issue here, this is a leadership issue. Race is not the problem, it is the leadership. Mr. Recor has stated repeatedly recently in the last few meetings that he believes he is doing the right thing. But his actions has proven that his right thing is not the right thing. Was it the right thing to do to shred documents of evaluations? Was it the right thing to do to lay off eight police officers unjustifiable? Was it the right thing to do to make it difficult for Little Jim to be a productive small business? Was it the right thing to do to pay directors and a city manager to give leadership over Community Services? They got paid to be the leaders and they did not lead. Yes, there were concerns within that department, no one has denied that. But there needed to be leadership action, policies and procedures needed to be put in place. When the going got tough, instead of standing up and being a leader, Mr. Recor threw the crew under the ship. He asks Commissioner Becht and Commissioner Sessions, if someone comes to their firm and has a complaint, do they blame it on the paralegal? If someone comes to a car dealership, does Commissioner Perona blame it on the oil changer? Does Commissioner Alexander blame it on the pallbearer? No, they stand up and take leadership, take responsibility, because that is what leadership is about. The phone is ringing and it is ringing loud. Fort Pierce wants a credible leader, a leader that can lead with professionalism and a leader who cares for all Fort Pierce citizens. There is no human more human than another human. They can do better and they need to answer the call and get better leadership.

Minister Phillip Peak, 1306 Avenue E, said he is the President of the Black Churches United, an African-American faith-based non-profit community investment corporation. Its purpose is for the social, economic, education, and political empowerment of the African-American community. He comes on behalf of Black Churches United in a state of humility to say that in regards to the City of Fort Pierce and the cutting of the **Community Services**, to reconsider. He has problems sleeping at night because he knows the great impact that the cutting of these services would have on their community. Downpayment assistance, housing repair, new construction of homes, wheelchair ramps and bars for senior citizens, foreclosure assistance, hurricane shutters - that would have a tremendous dire impact on the African-American community. So he comes in a state of humility, he respects each and every one of them, and he asks the Mayor and the City Manager to please respect the wishes of their community, of their people.

Mr. Bo Riggins, 4949 North A1A, said a couple of meetings back, Commissioner Becht made a statement on public television that on weekends **Little Jim** sells 100 hamburgers at \$5-plus per weekend. Is that correct?

Mayor Benton said they use this forum for comments. It is up to the Commissioner if he wants to answer. Normally they don't debate. Does Mr. Riggins want to make a statement?

Commissioner Becht said he is not going to be baited tonight.

Mr. Riggins said he stated that publicly and that is false. That happened one time in the past year, that was for a charity event that Commissioner Becht happened to be attending. What he should have been bringing up was the hundreds of windy cold days that absolutely no one walked through the doors and they didn't make one dime of profit for those days. Furthermore, he understands they asked for the profits and losses. He understands some of them are on board with them and some aren't. He rents businesses and facilities, he is a business owner. It is absolutely no one's business what their profit and loss is.

Ms. Marjorie Harrell, 2804 Dunbar Street, said she hates being here, but this is her community and her grandchildren are growing up here, so she has to talk to them. This is the fiftieth year of the anniversary of the civil rights sit-ins for justice, equal rights, and equality. And here in the City of Fort Pierce, they have to start all over again, sitting in again for justice. She and Commissioner Becht talked and she understands the thing that bothered him the most was that more people did not get assistance out of the two houses that City employees received. She respects that. One was for \$130,000 and the other was for \$250,000. The young lady who received the \$250,000 emailed her as she came in and said her blood pressure had shot up and she couldn't move at that time. So she is going to tell them what Ms. Knight asked her to reiterate to them. There was a private meeting set up by Christa Razem, the Grant Writer, with Mr. Recor. Immediately after that meeting she came to her and said she is going to get a house. She knew that she was going to get one before Ms. Jenkins, who was Assistant

Director of **Community Services Division**. Ms. Jenkins wouldn't let her fill out the paperwork because she was on a grant program and she knew that the grant was about to end, and how would she make the house payments? Serena Knight said she was going to get her a house, that she had the meeting with Mr. Recor, Ms. Razem set it up. At the end of the meeting, Mr. Recor said she could get her house, consider it a nice gift. Ms. Knight said to Mr. Recor, she would have a mortgage, it is not a gift. That is the facts. The only thing she is saying is that Mr. Recor has told people that met with him one thing; and then the minute they left, he turned on that. So how do they believe, how do they trust in him? Mr. Recor is telling them that the programs are under Jon Ward's tutelage now and nothing is going to change. But how can they believe him when he lies to them over and over? Their parents beat them and they beat their kids for lying, because they were taught - if you lie, you will steal. Mr. Recor has done both and then lied about the stealing. So somewhere along the way, he did not get the beatings that he should have gotten so he learned to be a better person, a person who is credible and believable. They are not mad at anybody, they are not angry with anybody. They still believe in the politics of hope. Tonight she says to Mayor Benton, Commissioner Becht, and Commissioner Perona... She is not calling Commissioner Alexander and Commissioner Sessions, because Mr. Recor said he had him three Commissioners who support him in what he does. Mr. Recor was not going to talk to Commissioners Alexander or Sessions. It is a sad day when the Commissioners elected to represent a district... What is the use of Commissioner Alexander or Commissioner Sessions sitting there when what they think don't count?

Mayor Benton said earlier there was a comment made about eight police officers. He thinks that was a cheap shot. Mr. Recor gets direction from this Commission. They had a reduction in revenue coming into the City. This year they are looking at an additional 10% or 12%, which means over 50% less revenue into the City in three years. Raising taxes is not an option. So they have had to do more with less. That is why the eight police officers, that program was discontinued. Raising taxes is not an option. But even though they were eight police officers less, last year Fort Pierce recorded the lowest major crime in 36 years. So the community deserves a pat on the back. But those are the facts. Before they get started, he would like to ask the Commission if they would like to take the Little Jim Bridge Lease Agreement after the Public Hearings? There are a lot of people here for that. (The Commissioners agreed.)

The next item on the Agenda was Public Hearing on Appeal filed by Ursula Freeman of a decision made by the Fort Pierce **Historic Preservation Board** to Deny a **Certificate of Appropriateness** for Demolition & New Construction of a building located at 714 South 10th Street (COA 09-70).

Ms. Leslie Olson, Historic Preservation Officer, said this is an Appeal of a COA for demolition and related new construction in the Oakland Park Historic District for a building located at 714 South 10th Street. This is a contributing structure in the Oakland Park Historic District. It is frame vernacular with

knee braces. The applicant qualifies for CDBG funding through St. Lucie County. St. Lucie County has requested permission to demolish the structure and build a new structure. (Ms. Olson displayed a drawing.) This is a structure that was designed for the City of Fort Pierce to use for historic infill. So the issue is not whether or not the new construction is appropriate. The issue is, it is an historic structure within a historic district. It can be rehabilitated; or it can be demolished and rebuilt. But either way, all of the code related issues, including lead based paint, will be taken care of. Commissioner Sessions asked what are Staff's recommendations?

Ms. Olson said when there is an Appeal, Staff looks to see whether the Historic Preservation Board properly considered the criteria for demolition found in the Code. The HPB did use the criteria in the Code. For demolition, they take a look at the historic district, how it contributes to the historic district. The Board did properly consider that, they used the criteria for demolition, they had findings of fact based on that. They properly considered those issues.

Commissioner Sessions said he understands her reference to the Historic Preservation Board. But what is Staff's recommendation?

Mr. Matthew Margotta, Community Development Director, said when it comes to an appeal, this is a quasi-judicial matter. Staff actually is not placed in a position to make a recommendation on an appeal. Staff will be glad to let the Commission know their findings and that is basically what this is. If it was worded as a recommendation, it might be incorrectly stated. But all Staff is able to do is determine that the Historic Preservation Board did properly make its decision. However, the appeal is before the City Commission and the City Commission has the authority to affirm, modify, or reverse the decision of the Board.

Commissioner Sessions said he is referencing Page 10 of the Staff Position Report (dated February 22, 2010), Final Staff Position. It says Staff recommends...

Ms. Olson said her recommendation is based on whether or not the Board properly considered...

Commissioner Sessions asked would she read it for him?

Ms. Olson said Staff recommends deny the appeal of the applicant as the Historic Preservation Board properly considered the criteria of Chapter 23 of the Code of Ordinances, affirming the decision to require rehabilitation of the historic structure.

Commissioner Sessions asked so her recommendation is to deny?

Ms. Olson said right, based on the Code.

Commissioner Sessions asked other than making reference to the Code itself, did she take into consideration any other factors?

Ms. Olson said yes, and the Historic Preservation Board did as well. On Page 6 of the Staff Position Report, it says the HPB considered the Code criteria in Section 23-49(a)(b)(c)&(d) and considered the concerns of the applicant as far as lead-based paint and code-related issues.

Commissioner Sessions asked is it true the way that house is situated that it borders this Historic District?

Ms. Olson said yes, that is part of the reason it makes it more significant to the Historic District. It is located at the southwest entrance into the Oakland Park Historic District. It is generally located at the intersection of Georgia Avenue and 10th Street where the roundabout is, just north of Glidden Park. There are two contributing structures at that intersection. There is a two-story colonial that is in the process of being rehabilitated by a new owner. Then the next home to the north is this home. So it does make it more significant because of its adjacency to another contributing structure and the fact that it is located at the entrance.

Commissioner Sessions asked so that is significant to warrant some special attention in light of the other houses that it actually borders that are not in the district itself?

Ms. Olson said that is true.

Commissioner Sessions said he noticed there was an Alternate Recommendation. Ms. Olson suggested some things could be done to the new structure that would align the applicant's new house with the houses within the Historic District. Correct?

Ms. Olson said yes. This is a good time to address that issue. This particular structure was designed for a very narrow lot, a 40-foot wide lot. Because of that and what they were designing it for as a CDBG project, they wanted to do as much cost-cutting as possible while not having any negative design impact on the Historic District. So for that project, they would put all of the money up front, because you can't see the sides of the house because it is such a tight lot. So for this particular structure, they put all of the design work up front. The window placement and the trim type, as well as the exterior wall fabric, is not particularly appropriate when you see the sides of it. So the conditions she listed under Alternate Recommendation addresses those issues.

Commissioner Sessions asked if in fact the appeal is denied, where does that leave the applicant in terms of having the home full of lead?

Ms. Olson said St. Lucie County is prepared to help this applicant, whether it is demolition with new construction, or rehabilitation. Under those standards, the entire structure will come up to code, all lead-based paint on the interior and exterior will be removed and abated from the building.

Commissioner Sessions asked is that something she has in writing?

Ms. Olson said that statement was made at the Historic Preservation Board meeting, it is in the Minutes.

Commissioner Sessions asked who made that statement?

Ms. Olson said the St. Lucie County Community Services Manager.

Commissioner Perona asked even though it is more money to rehab the house than to knock it down and rebuild another one, is the same amount of money available to the applicant? Is there any difference in cost?

Ms. Olson said that would be an excellent to ask St. Lucie County Community Services, because it is their ball game entirely. However, they did state at the HPB meeting that rehab is a perfectly acceptable option.

Commissioner Perona said if it was his house, he would be rehabbing it, because the assessed value is \$27,000, which means Ms. Freeman is not paying a whole lot of ad valorem tax with homestead. He talked with Jeff Furst (St. Lucie County Property Appraiser). If she did \$100,000 worth of work to a \$25,000 home, as long as she didn't change the footprint, it wouldn't change the tax. But if she knocked the house down and built a brand new house, then she would be taxed at 80% of that permit price. If it was him, he would be looking at rehab really close as far as a financial issue.

Ms. Olson said that brings up another good point. When someone does work to the Secretary of the Interior's standards for rehabilitation and gets a Certificate of Appropriateness for the work, they can also get a Historic Preservation tax exemption for Fort Pierce ad valorem taxes. That would be another option.

Commissioner Perona said Ms. Freeman's appeal mentions all the costs, that a new house would be more efficient and things like that. He redid a home on Indian River Drive that was built in 1920. He thought about knocking it down. But the money he spent on it, the efficiency of that house, it has survived almost 100 years and probably survive another 100 years. He really doesn't think the appellant is looking at the main issues here. It is possible she could be raising her taxes to \$1,000 or \$1,200 a year versus little or no taxes.

Commissioner Sessions said he did point that out to the applicant and she understood that and is willing to make those sacrifices.

Commissioner Becht asked she understands she is going to pay higher taxes?

Commissioner Sessions said yes. It is a sacrifice she is willing to make.

Commissioner Becht said in the background materials, Ms. Olson mentioned the house is full of Dade pine. Some houses can be rehabbed and they can salvage the Dade pine. That is not a

condition of the alternate recommendation.

Ms. Olson said that would be an excellent condition to make.

Commissioner Alexander said this is about the third report they have received. He does not know how long this young lady has been battling back and forth. But in no place does he see Ms. Olson put health and safety and well-being of the children in front of a dollar. That is the only problem he has with the whole situation. They brought that issue up about how much it would cost to renovate that house, no one wanted to take that charge, they said it would be better to take the house down and replace it. Ms. Olson just stated the County would do the entire rehab on that house no matter what the cost would be?

Ms. Olson said that is what was said at the Historic Preservation Board meeting.

Commissioner Alexander said that is not what he got from the person from the County.

Ms. Olson said she would like to address the health and safety issue. Actually the Historic Preservation Board's very first point in their motion to deny did address the health and safety. They made the motion to deny based on the fact that whether she rehabs this structure or builds new, all code related issues - including lead-based paint - will be abated. Neither Staff nor the Historic Preservation Board has ever taken the position that the health and safety of the applicant is not important.

Ms. Jessica Parrish, St. Lucie County Housing Manager, said if it is the wish of the Board to do a rehabilitation, they can fund it. It is better for the applicant to have a newer home, it alleviates a lot of stress, because when they go into rehab... This is just the base price. Once they get in and uncover everything within, it could go upwards by 20% in change orders, and then the property owner will have maintenance as it goes on, that is what they get with older homes. With a new home, the maintenance cuts back substantially for the homeowner, which is why they traditionally do newer homes for houses that have outstanding rehabilitation costs.

Commissioner Alexander asked even taking into consideration that she may have to pay more taxes, she still thinks that is a better...?

Ms. Parrish said with this house, the addition on the back was not permitted. That whole entire addition on the back is going to have to come off and be permitted. So she will be adding square footage to this house and her taxes will go up regardless. Obviously it will go up higher if she has a newer structure than if they just replaced the addition on the back. But she is willing to make that sacrifice.

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

Ms. Ursula Freeman, 714 South 10th Street, said she has been

going back and forth with this. She doesn't have any problem about the taxes going up. But when they start digging in something as old as her house is, it is not a guarantee how much it is going to cost to do it. She would rather start fresh and get a new house, then they know what they are working with. As of right now, they don't. She would rather have a nice house. She has six grandkids that are in and out of her house on an everyday basis. She didn't even know that much lead-based paint was in her house until the City did the inspection. When they found out how much it was going to cost to get all that lead out of her house, they dumped it on the County. The City is not paying for this, the County is. But the City holds the permit, so without that permit the County can't do anything. She wants to know how they can sit there and say what can be done to her house if they are not funding it.

Mayor Benton said for the record, he has spoken with Ms. Freeman on this, she was in his office one day and he got the whole story.

Ms. Freeman said the people that serve on the Historic Preservation Board, they are not doing their job. They are basing their feelings on personal feelings. When that guy told her she is taking taxpayer earned money to get a new house, he shouldn't have said that to her. First of all, she pays taxes too, so technically that is her money too. So the people they get to serve on this Board, they are not doing right.

Ms. Marjorie Harrell, 2804 Dunbar Street, said she is a member of the Historic Preservation Board. She was appalled during that meeting when the statement was made by some of the members that they were not going to let somebody get a house from taxpayer dollars just because she wants a new house. That was wrong. One thing about this, if a new house is built, the plans come before the Historic Preservation Board. What the County has agreed to do is to make sure the outside of the house looks just like it does now. It will still fit into the decor of the neighborhood because it will look just like her old house. She will have a new house on the inside with bathrooms big enough to go into.

Commissioner Perona asked how did Ms. Harrell vote on that when it came up in front of the Board?

Ms. Harrell said she voted to demolish it because the house is rotten, it is full of lead-based paint. She watches This Old House. A lot of times when they are remodeling an old house, they have to tear it down to the frame anyway and build all over again. When they get into it, they find all kinds of problems that they don't see until they tear it apart. Sometimes it costs a whole lot more to remodel it. If they are into old things, fine. It is just a matter of choice. The neighborhood was worrying about the decor, that all the houses look similar. They say the same thing about City Hall, there are those who don't like it sitting here because it is modern. But what are they going to do? What they need to do is give this woman a house that will take her grandchildren, some of them live with her, and her great-grandchildren into the future of Fort Pierce

and make them happy.

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

Motion was made by Commissioner Alexander, seconded by Commissioner Becht, to approve the Appeal by Ursula Freeman of the Historic Preservation Board's decision on COA 09-72 (Demolition of 714 South 10th Street); and approve building a new structure with the conditions related to new construction design.

Commissioner Becht said in light of what Ms. Olson said, he would like to the extent possible they attempt to recycle whatever can be recycled. That Dade pine, there is a market for it. So there may be money hidden in her house that she doesn't know about.

Commissioner Sessions said he knows Ms. Freeman has been here on several occasions leading up to this point. He is going to support the motion that has been made with regards to the appeal. Ms. Freeman's life has not been all peaches and cream. This young lady has withstood the test through many hardships, ups and downs, and roadblocks. There are individuals out there that have been in her situation that have been products of the Housing Authority in repeated cycles. When he sees the turnaround she has made and what she has done to go out and fulfill the dream of buying a home, he has the utmost respect for her in terms of her endeavors. He would hope they would be able to support the motion that has been made. He looks forward to seeing that new home and collecting some taxes on it. She wants to pay those taxes, he is looking forward to it. But what is right is right. When they look at the poisonous base of that home and what her children are inhaling, they should do right.

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

Mayor Benton said he thanks Ms. Freeman for her patience. He knows she was in front of them a couple of times. The first time, he had no clue what she was talking about. But they have a process to go through and he apologizes for the length of that process. Hopefully they can all visit her when this new house is finished.

Ordinance No. L-113 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE **6120 GLADES CUT OFF ROAD** (APPROXIMATELY 330.14 ACRES GENERALLY LOCATED BETWEEN INTERSTATE 95 AND THE FLORIDA TURNPIKE AND NSLRWMD CANAL #102); DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF."

was placed on second and final reading and read by title only.
(Property Owner: St. Lucie County - St. Lucie County Landfill)

Mayor Benton declared a Public Hearing on Ordinance No. L-113 in session and asked if anyone in the audience wished to be heard.

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

Commissioner Becht said at the first reading of the ordinance, Mark Satterlee (St. Lucie County Growth Management Director) appeared at the last minute and said the County was requesting that the City wait. In deference to the County, he told Mr. Satterlee if the County has any legitimate reason why the City should not proceed with the annexation, please put it in writing and get it over to the City. Have they received anything in print from the County asking the City to delay this?

Mr. Matthew Margotta, Director of Community Development, said no, they have not.

Motion was made by Commissioner Becht, seconded by Commissioner Alexander, that Ordinance No. L-113 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. L-113 on second and final reading were: Commissioners Alexander, Becht, Perona, Sessions, and Benton. Those opposed: None.

Ordinance No. L-114 entitled, "AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; **AMENDING THE FUTURE LAND USE DESIGNATION OF PROPERTY LOCATED AT 438 NORTH 19TH STREET**, FROM NC, NEIGHBORHOOD COMMERCIAL LAND USE, TO RME, MEDIUM DENSITY RESIDENTIAL LAND USE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE." and Ordinance No. L-115 entitled, "AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; **REZONING PROPERTY LOCATED AT 438 NORTH 19TH STREET**, FROM C-2, NEIGHBORHOOD COMMERCIAL 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 second and final reading and read by title only. (Applicant: LaKenya Ruffin Taylor)

Mayor Benton declared a Public Hearing on Ordinance Nos. L-114 and L-115 in session and asked if anyone in the audience wished to be heard.

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

Motion was made by Commissioner Becht, seconded by Commissioner Perona, that Ordinance No. L-114 and Ordinance No. L-115 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. L-114 and Ordinance No. L-115 on second and final reading were: Commissioners Alexander, Becht, Perona, Sessions, and Benton.

Those opposed: None.

The next item considered was Director of Community Development to present proposed Lease Agreement with **Little Jim Bait & Tackle, Inc.**

Mr. Matthew Margotta, Director of Community Development, said back in December, Staff proposed some terms for a Lease Agreement they were working on for the Little Jim Fish Camp. Some of the terms have been re-looked at by Staff and discussed with Mr. & Mrs. King and their attorney. His presentation is on the proposed lease that is in their Agenda packet. A couple of things he wants to make the Commission aware of. The Commission does have the ability to look at these terms, discuss those tonight to determine whether they agree with the terms staff is proposing, and make any recommendations for changes if they would like. After the December meeting, staff met with the King's to try to find a middle ground. They may recall some of the terms of that Lease Agreement, basically that the base monthly rent would end up somewhere around \$2,600 a month, and then also some additional revenue based on the sales from the site. There were also terms dealing with time and some of the improvements on the property. Overall for this lease, staff was using a format that they use when there are other leases they work through. For the current proposed Lease Agreement, here are the terms. The basic duration of the lease is a 5-year term followed by one 5-year conditional renewal. The base rent would be \$1,600 per month through July 2010 and then \$2,00 for the remainder of the first year beginning in August; and then on the anniversary of the lease, based on the Consumer Price Index, that rent would be adjusted. The tenant would be responsible for taxes and insurance. And finally, the tenant proposed approximately six site improvements that should increase sales and revenue.

Commissioner Sessions asked the tenant pays taxes? Could he elaborate on that?

Mr. Margotta said the property is owned by the City and the City pays stormwater fees. There are other taxes - sales tax, maybe an excise tax, there might be an ad valorem tax that somehow gets applied to it because it is a commercial property. So any taxes that would be applied to this property would be the responsibility of the tenant.

Commissioner Sessions said so that certainly is something that they need to consider in terms of the monthly rent. He doesn't have a hand on what those taxes are?

Mr. Margotta said the stormwater fees are around \$450 a year. Tracking several years, he has seen \$435 to \$453. The sales taxes and such, he doesn't have a grasp on.

Commissioner Alexander asked why July 2010?

Mr. Margotta said he was just looking at about six months or so.

Commissioner Alexander asked the rent went up from \$1,000 a

month previous?

Mr. Margotta said when the King's came before them, at that time...

Commissioner Alexander asked how long ago was that?

Mr. Margotta said almost two years, March 2008.

Commissioner Alexander asked so it went up to \$1,600 two years ago? And now he is going to cut it short at July 2010. So why, if he is being fair, didn't he just run it to the fiscal year? Who came up with July?

Mr. Margotta said he did not actually come up with that date. Commissioner Becht said for the record, he didn't either.

Mr. Margotta said however, the intent there was to let the lease continue into the summer basically to...

Commissioner Alexander said just to be levelheaded and fair, they should start at the fiscal year. But he heard Mr. Margotta say, whatever taxes. He doesn't know what taxes is going to be applied to this lease at a later date?

Mr. Margotta said ad valorem taxes.

Commissioner Alexander asked how much is that?

Mr. Margotta said unknown. It is not even applied right now.

Commissioner Alexander asked there is no calculations, nothing he can come up with?

Mayor Benton said he does not believe there is ad valorem taxes on the property. He thinks it will be on the improvements to the property.

City Manager Recor said the provision has to do with in the event the County Property Appraiser determines that any portion of the activity is taxable, the lessee would be responsible for that. Right now, they do not believe that it is currently being assessed any kind of property tax by the Property Appraiser. But in the event that changes as the business grows, the lessee would be responsible for that. That is what that provision is intended to address.

Commissioner Alexander asked they do carry insurance, right? So that is nothing that is being added, that is just part of the conditions?

Mr. Margotta said correct, that is part of the terms and conditions of this lease. He will continue his presentation. Finally, the tenant is proposing several improvements, which is on Schedule A and Schedule B of the proposed Lease Agreement. The items on Schedule A would be completed during the first term of the lease. Staff is proposed that is within the first three years. The intent is to show that the tenant is making

improvements to the property they have said they are going to do. Schedule B has one item, that the tenant proposes to add a deck, kind of an outdoor feature for the site, an upstairs to the current building. The tenant can do that at any time during this lease; however, the way this lease is worded, that has to be done certainly during the second term. Staff met with the King's and their representative this morning. There are a couple of corrections to the Schedule A. On Schedule A, Item (c), it talks about two gasoline stations and one waste pump out station to be placed into the site. Actually, the site really supports only one gasoline station right now. So Staff would recommend that be changed from two to one. As for the proposed pump out station, this site doesn't really serve a lot of boats that even have pump-outs. This is not a feature they would normally accomplish. So the idea of a pump out station here, Staff is going to recommend they strike that from Schedule A. So Item (c) comes down to the tenant installing one gasoline pump. Item (e), Staff added a provision that the tenant would connect to the FPUA's sewer system. That was based on some earlier erroneous information, they thought a sewer line was running right down in front of this building, but that is not the case. They would be subjecting the tenant to running a sewer line out to the road, across the Little Jim Bridge, and down A1A in order to connect to sewer, and that seemed excessive. If at any point the improvements to the building are going to cause a sewer connection, they will have to deal with that. But right now, the notion of connecting to the sewer line is just excessive, so Staff recommends they strike Item (e) from Schedule A. So Staff's recommendation is for the City Commission to approve the proposed Lease Agreement as presented with the amendments to Schedule A. Alternately, the City Commission does have the ability to re-look at the terms and conditions of this proposed Lease Agreement. Or they can reject this proposal altogether; although at this point, since it has been nearly two years, the Purchasing Department says they would have to send out another RFP (Request for Proposals).

Mr. Robert J. Gorman said he is here on behalf of Little Jim Bait & Tackle, Inc. He wants to thank City Staff, particularly Mr. Margotta and Mr. Recor, for spending many hours with them to discuss the lease as it has evolved over the past number of months. Each side has openly indicated why they are taking certain positions. He and Mr. Schwerer had a late afternoon telephone conversation on a couple of legal issues in it as far as the legal description, which has a couple of issues. There are probably two main issues that keep them from presenting the Commission with an agreed-upon lease this evening. The first is the term. Looking at Schedule A, this is pretty much staff that Little Jim has proposed doing almost immediately upon getting a final Lease Agreement. They want to get the fuel pumping operation back in there, but they have been hesitant to invest the \$10,000. Schedule A, Item (a), the tenant agrees to remove a dangerous eroding boat ramp and put in additional parking in that area. One of the things that had been previously in there for a longer term under Schedule B has been moved to Schedule A - if they can find room - to construct an additional five boat slips. But what is left on Schedule B, the big item, the secondary level of approximately 1,200 square feet thatched roof

upper deck, that is going to cost six figures to put in. The term of the lease as proposed, five years with an additional five years, doesn't allow for recouping of that investment, that cost. After the hurricanes, the King's came in and out of their own pocket rebuilt the docks, worked with the Army Corps. That was a very significant investment they have yet to recover. But no business, especially in the current economy, is going to go put in another \$100,000 to \$150,000 on an improvement when they will only have an economic life of five years. They can't do that selling bait, tackle, a few hamburgers, and things of this nature. What the King's had been proposing from the beginning was an overall 20 year terms. At first, a 20 year straight term. No, that was rejected. Then a 10 year term with 5-year additions. The City's concern is - and they understand it - if they give the King's a lease, that they are going to do something initially, show the City a good faith effort up front. So an initial 5-year term would be perhaps okay. But a single 5-year renewal and then it all ends up in the hands of the City, that cannot be accepted by a businessman. The businessmen on the Commission understand, they can't recoup that in five years, particularly with the levels of rent proposed. So what the applicant is proposing is a 5-year initial term to do the work with additional two 5-year terms, or a 10-year term with two 5-year renewals. The latter would be preferred. And with the condition that within the first five years, the improvements on Schedule A be completed. And within the first seven years, the Schedule B item be completed. The other issue that is primary is the amount of rent. When they started this process in the Spring of 2008, the rent at that time he believes was about \$1,100 or \$1,200. And yet, they are looking here in just over two years going from \$1,100 or \$1,200 to \$2,000 as the economy is faltering, almost a 100% increase. He does not know how many of them have faced a 100% increase in their overhead costs or in their rent in the past two years. Those who are familiar with the rental market know what has happened there - like the rest of the real estate market, it has tanked. The applicant has been paying \$1,600 during this past 23 months while they have been going through this, because that is what the City said they wanted, even though there is no written lease. What the applicant is willing to do is continue \$1,600 a month for one year, \$1,800 a month for a year, and then go to \$2,000 per month, and hold it there. The CPI (in Paragraph 3(c) of the proposed Lease Agreement)... Previously in the last lease on Little Jim Fish Camp was a 3%, not tied to CPI. But the CPI called for in here... Unfortunately since he got this he hasn't had a chance to check into it as opposed to what this area would be overall. It calls for the Miami-Fort Lauderdale Consumer Price Index. He is kind of scared of that. It seems any time he has gone down there, every month or two prices have gone up dramatically. He does not think that really fits for this area, particularly for rents today. The CPI is nice to grab hold of; but in the current situation, it really doesn't tell them much of what is going on with real estate. They are not going to see increases in real estate prices or the rents associated with those that they see in their overall cost of living in this area over the next few years. That is unfortunate for those with a lot of real estate, but that is a fact of life he thinks they all realize. So what he is proposing is maintaining \$2,000 per

month for the first five years, a 10% increase from that for the second five years, to \$2,400 for the third five years, and \$2,750 for the last five years. And a provision, should in any year the CPI increase by more than 3%, that there would be that bump at that time. As far as the other provisions, he and Mr. Schwerer have agreed to sit down and discuss. The City doesn't have insurance on anything out there. It is going to be the applicant who will be investing and putting in the improvements. The King's have been told that in the current buildings or structures that are there... Number one, they all know they cannot insure docks. But for the minor structures there, they can't find a market for it. But when they do put the second story on, because it will have to be in code compliance, it might be that there will be a market, and that is going to be a significant investment. Both the applicant and the City have an interest in that. So they are going to work out a provision that the applicant will be paying for the insurance and they will pro-rate it over time. The City's interest in it is growing, because at the end of the term it is the City's. In the meantime, the applicant has got some protection against casualty losses for their investment. Because of the location of the structure, the location of the land, and the nature of it, it is non-conforming. So if there is a loss that is greater than 50% of the value, under the code it probably can't be rebuilt. So both the City and the applicant basically will have lost out at that point. There is one provision which he thinks they can work out with Mr. Schwerer, Mr. Recor, and Mr. Margotta; and that is under Paragraph 8 (Use of Premises), Section (1) referring to Rules & Regulations, the applicant had wanted to limit and control individuals from bringing beverages and food from off-premises. The City has written in "the dining area" only. One of the problems with that is, the King's already have a 2-COP. The Lease Agreement proposes that they could apply for and get a full service liquor license. But at the present time particularly, they have had an instance where an individual comes off a boat carrying an open container of hard liquor. Their license is only for beer and wine. But under Florida Statute 562.02, the licensee is responsible and must prohibit anybody on the business premises or within the business from having even possession of an alcoholic beverage that isn't within the class of license that they are authorized to handle. So they need to be able to have regulations that will cover people throughout the demised premises - the parking lot, the building, the dock area, etc. Anybody that deals with a liquor license is going to have to have that protection. They expect when boaters come in that they are going to have a cooler of cold ones, hopefully coming in to replenish that, and they are going to have food. That isn't what the King's want to regulate. What they don't want is for people to tie off at the docks and then having their own little party, and them not being able to control the situation and protect it. Or, in the instance of someone coming up with their scotch and soda or rum and coke or a margarita in an open container. He thinks the City has open container laws anyway. But that could end up shutting down their business, something like that. Again, these are matters they can all discuss. That was first raised today concerning that Florida Statute.

Commissioner Alexander asked how do they control what a person has in a cup?

Mr. Gorman said it is difficult.

Mayor Benton said they have a situation too, because they are basically surrounded by a County park. People park in the park and might come in to buy something. So they have seen it many times. They just have to control their property and what people are bringing onto it.

Commissioner Becht said he wants to clarify a couple of things. First, he does not have a Bertram, probably never been in a Bertram. Reference has been made in the newspaper about one Commissioner having control over this Commission. That is ridiculous. His fellow companions up here would resent any implication that one Commissioner would have more power or control than any other Commissioner. What he has attempted to do - and he thinks it is consistent with the rest of the Commission - is get a fair use of the property. Somebody has said "best use" of the property. That was not his term in the recent comments he has made. What he has been looking for is a fair return to the citizens of Fort Pierce, the taxpayers, the people that own the property. That has to be fair also to the King's. More than two years ago, he met with the King's and they talked about the potential that this property had. He felt they were as excited as he was about things that could happen on that property without changing the character of the property. Some of those things are incorporated into what they are proposing here. A gentleman commented earlier about not having to turn over their profit and loss statement. They have other leases for City properties where those have to be turned over or they an audit the property. He drafts leases regularly for landlords that require percentage rents when that is part of the lease, where the tenant has to turn over his financials, his profit and loss statement. He had been to Little Jim Bridge Fish Camp when he was 13 or 14 years old and was in there regularly. When did the King's take over?

Mr. Gorman said he believes it was shortly after the September 2004 hurricanes.

Commissioner Becht said it is somewhat surprising to him that they have not had any discussions - Mr. Gorman has not called him, the King's have not called him. So he has had no communication with the proposed tenant. So tonight he is hearing for the first time changes to this lease. He does not want to delay this, he really does want to get it over with. But he is surprised that they wouldn't have at least called or sent an email or fax, saying this is something they might want to do. But let's see if they can get through it. The only improvement listed on Schedule B is the construction of the 1,200 square foot thatched roof upper deck. He expects that to be a big ticket item. Under the lease as drafted, what is the penalty if they don't construct that, if any?

Mr. Margotta said there is no penalty.

Commissioner Becht said so as far as he is concerned, they can scratch that, because there is no penalty for it. If they want to build it, they will build it. The King's will decide whether that is beneficial to do within the 5-year term or not. That puts the onus on them to make a business decision, which they are more than capable of doing. So that addresses Mr. Gorman's term question. The dollar rents are troublesome to him, which is why he was pushing for financial data from the King's, so they could get an idea of what is fair to them and what is fair to the taxpayers of the City of Fort Pierce that own this property. There has been some resistance to providing comprehensive information. Some information has been provided, but not what he would call comprehensive information. So that information has been withheld from the City. His observation from the aerial photograph is that there are 20 boat slips there. He asked Mr. Kubitschek to call and find out what the rental rate is over there. There is a hodgepodge of boats in there, so it is kind of hard to estimate. But if they estimate \$150 per slip, that is \$3,000 a month. Understand, with him sitting up here not knowing Mr. King's business, when he looks at that and thinks that is probably a reasonable return on those boat slips in that condition, where those are, the tide, access, parking, etc. When Mr. King comes back and says he can't pay more than \$1,600 or \$1,800 a month, when his eyes tell him he is probably getting \$3,000 a month off boat slips alone...

Mr. Richard King said with 100% occupancy.

Commissioner Becht said correct, with 100% occupancy, so that is a variable. But even with those numbers, if he only had 10 slips rented at \$150 per month, the lease at \$1,500 is paid just off of the boat slips. He does not have Mr. King's data, so he does not know what the real numbers are. His problem is, before the King's took over, he went in there and the little girl rang up the sale and she rang it up on a calculator. There was a cash resister sitting right next to her, but the sale was rung up on a calculator. So he does not know what the real sales are. Again, that did not happen while the King's had ownership, it was before 2004. So as he is sitting here today, he need to know what the King's best offer is so that he can make a decision. And if it is what Mr. Gorman says, then he is not sure that is fair to the taxpayers. He thinks what Staff has proposed - the 5-year term with the second 5-year term - and eliminating the obligation to build the 1,200 square foot upper deck, and just limiting the improvements to those captured in Schedule A, he thinks that gets them through the next 10 years. It puts the King's in a position where it is not in an economic decline, it gives them a chance independent and free of whatever financial arrangement they had with Roberta Miner, they are not encumbered with whatever that was, and they will have the facility for 10 years. And at the end of 10 years, they won't have to deal with him, which may be a benefit to them; but the King's can come back and show what they have done in the last ten years with great pride, saying they are good tenants and ought to be given this 10 year lease after that. But he thinks it is too risky, with what they have seen happen over there in the last six years, to go with a long term lease under these circumstances. So that is where his head is. He does want to

be fair and he promises he will be fair with them. If they don't get through this tonight, if it is delayed, please call him or have Mr. Gorman call him and they can talk about what is fair.

Commissioner Perona said he sold Mr. Gorman's parents cars and thought that was a great accomplishment, because they are very good at what they do. He is new to the Commission, only been here two months, and his goal is to have this thing done before he gets off. He is hearing all of these things that have happened before and he is not familiar with it. Thinking about it as a car deal, they are down to really close bare bones stuff that really needs to be worked out between the two. The biggest item he has, one of the confusing issues, is he has heard Little Jim Bridge Fish Camp described several times as old Florida - it has its own character, its own flavor - and then all of a sudden he hears of all these great improvements that are going to cost six digits to put in there. He agrees with Commissioner Becht, if he was leasing this thing right now and he wanted to fit that old Florida-themed fishing camp to today's economy, he would give up on some of those things. He does not think anybody up here is going to quibble about \$200 here or there. He thinks the term is a big issue. They are in a tough economic time right now, the City is making decisions right now for those times, which might be five years or ten years. So this fits in with that. That is the strongest issue he has, the term. All the other stuff - insurance, taxes, etc. - those are things that can be worked out that are commonsense. So he does not see there are any deal-breakers out there. They need to come to terms as far as what is good business. They need to come to terms as to what can get this over with. They are closer than anybody really believes. He has faith in Mr. Gorman because he was so good at getting his parents a great deal on a car. His biggest issue is the term of the lease. And it is because it needs to reflect the times. They need to represent the City of Fort Pierce and the taxpayers, make sure they are going a great job. He can do that with these 5-year increments. The rest of it is small potatoes and these guys need to work that stuff out.

Mayor Benton said he would like to see them get through this tonight. He has had several meetings with the King's and Mr. Gorman. A longer term commitment would be fine with him. In his opinion, dealing with DEP and the Army Corps, he has a feeling that those improvements might not be allowed by those guys. It would not bother him one bit because he likes Little Jim the way it is today. It has been almost like that for his lifetime, old Florida. He is afraid of what it could be. But he has no problem with the terms he has seen in front of him tonight. He would have no problem at least extending the second 5-year term to a 10-year term. In the first five years, if the King's have lived up to the Schedule A improvements to the property, then he thinks they will have made their commitment. Being in business, he knows they have given 99 year leases to people that make a big commitment. They are looking at possibly 20 years here, so he does not think that is too much to ask for, especially if the King's live up to their end of the bargain. He can remember years ago when he was sitting in the audience and Mayor Dannahower was sitting in this seat and Roberta Miner

was sitting at the table. They have been through this many times. He thinks they would all like to see this resolved so the King's can continue doing business. He had thrown some numbers around, because during all the meetings they had he never really got any numbers out of anyone, so they had to start somewhere. The only reason he had talked about increasing the rent in July was because normally in the winter months everything at Little Jim, especially in a cold year like this, is slow. Usually the best months are in the middle of the summer. So he figured if they get a hit in the rent, it would probably be better off to digest that in the summertime. He would hope they could send something to the City Attorney to come back for being finalized on a Consent Agenda. But in two years, this is the most effort they have gotten through and he hopes they can get through it tonight. He is looking to the Commissioners to give their opinion.

Commissioner Sessions said so they can move forward with this, he is willing to step to the plate. The 5-year lease followed by a 5-year conditional renewal - is that acceptable?

Mr. King said he would prefer to have at least a 5-year with a 10-year. He would prefer to have the 10-year with the 5-year.

Commissioner Perona said they can remove Schedule B, the requirement to build the 1,200 foot structure.

Commissioner Sessions okay. Would that be acceptable?

Commissioner Perona said if they remove the 1,200 square foot structure that was anticipated as an improvement. Because that was the objection to that.

Mr. King said what he asked for was 10-year with 5-year. Commissioner Perona has said if they remove the 1,200 square foot improvement and he agrees to that...? That is fine with him.

Commissioner Perona said that would be just Schedule A, as amended, and removing Schedule B.

City Manager Recor said so that would be the 5-year and 5-year.

Commissioner Perona said yes.

Commissioner Becht said 5-year and 5-year.

Mayor Benton said no, he thought they were at 5-year with 10-year.

Commissioner Sessions asked is he willing to accept 5-year with 5-year if they remove Schedule B?

Mr. King asked was it 5 and 10, 10 and 5, or 5 and 5? He is confused.

Commissioner Sessions said he is confused too, but he is trying to get a consensus here so they can move forward.

City Clerk Steele said Commissioner Sessions stated originally 5-years followed by a 5-year conditional renewal.

Commissioner Perona said yes, that is what he heard.

Commissioner Sessions asked is that acceptable?

Mr. King said he would like to have 5-years with 10-years at least. But 10-years with 5-years is actually what he wants.

Mayor Benton said he could live with 5-years with 10-years. Because if in five years he makes those improvements, that is good faith; and then he would get ten additional years.

Commissioner Alexander said he can go along with that.

Commissioner Sessions said he will go along with that.

Commissioner Alexander said he wants to make sure for the record that on Schedule A, Item (e), the utility improvements, that is crossed out.

Mayor Benton said right. Also under Schedule A, Item (c), they are only talking about one fuel tank and they are scratching out the waste pump-out station. So basically Schedule A is Item (a), Item (b), Item (c) with just the one gasoline station, and Item (d), the five additional boat slips.

Mr. King said he does not know if Item (d) is possible.

Mayor Benton said that is something that DEP makes the call on. They have scratched out Item (e). They scratched out the second gas pump, the waste pump-out station, and the utility improvements because of the cost.

Commissioner Sessions said they have three that agree to 5-years and 10-years.

Commissioner Sessions asked what are they going to do with the rent? He is going to say no to that if they are going to modify the rent. So is the rent going to stay where Staff recommends? Or are they going to capitulate on everything?

Mayor Benton said he knows the King's would like the first year at \$1,600, which is what they are paying now, the second year at \$1,800, and the third through the fifth year would be \$2,000. In his opinion, they would discuss the rent after the fifth year, because the economy could be a lot different and they would have a different facility there. For him, it would be hard to go past five years on rent. He does not believe it would be unbearable. That is his opinion.

Commissioner Becht said he does not understand what he is saying.

Mayor Benton said because they are looking at a 5-year lease with a 10-year renewal, he thinks they will be looking at

renewing the lease after five years. And if Mr. King has done what he has said he is going to do, then they renegotiate the rent. The first five years, he would agree to the \$1,600 the first year, the \$1,800 the second year, and \$2,000 the third year through the fifth year.

Commissioner Alexander asked is this the fiscal years?
Mr. Margotta said it would have to be calendar years.

Mr. Gorman said yes, 12-month periods.

Mayor Benton said it could start when they sign this contract. At this pace, it could be June 1st. To him, it is when they actually sign the contract and then they go by the calendar year.

Commissioner Sessions said okay.

Mayor Benton said if they can sign this contract by April 1st, then starting April 1st of 2010 until April 1st of 2011, the rent would be \$1,600 a month. From April 1st of 2011 until April 1st of 2012, it would be \$1,800 a month. From April 1st of 2012 until April 1st 2015, it would be \$2,000 a month. After April 1st of the fifth year, then they renegotiate that part of it per the King's living up to the Lease Agreement, Schedule A. But because of the economy, he might run into some issues.

Commissioner Perona asked the Mayor is abandoning the CPI in the first five years, right?

Mayor Benton said right.

Commissioner Sessions said okay.

Commissioner Becht said he is definitely not in favor of that. That is not being fair to the taxpayers, that is what his problem is. He got a lot of calls from taxpayers who aren't here tonight that expect him to do his job.

Mayor Benton said he knows there has been discussion in the past about comparing this to some of their other holdings. The history here, the City found out out of the clear blue sky that it owns this property. He believes all the improvements were made out of the King's pocket. A lot of the other properties the City owns, either the City made those or the people who lease the properties have made those. This is unique and a little different. He has to look at everything in perspective, that is what he is trying to do. It has been two years. He is trying to get through something here. He thinks the public is going to be happy with what they have got. Hopefully it is a little piece of old Florida they can keep for a long time.

Commissioner Becht asked does the Mayor understand he is giving the King's more than what he had said he would do? Mr. King has said he would do more than what the Mayor is re-doing the rent at.

Mr. King said but he is getting less.

Commissioner Becht said it is 15 years without having to build the 1,200 square foot tiki deck. How is that less?

Mr. King said the RFP was for a 20 year term. Their last offer was 10-years with two 5-year renewals, which is 20 years.

Commissioner Becht said that was Mr. King's offer.

Mr. King said no, that was the offer that Staff made to him in the January meeting.

Commissioner Becht said he talked to Staff and there is some dispute as to what that was or was not. They need to figure this out, but please remember the taxpayers.

Commissioner Perona said he is trying to get clear what happens at the end of the first 5-years.

Mayor Benton said at the end of five years, they renegotiate the rent. They will hope the economy in five years has picked up. This has been negotiated before up on the third floor of City Hall. This is the first time they have ever had to sit in front of the public and renegotiate.

City Attorney Schwerer said they need to fix the rent for the renewal. The tenant needs to know what they are going to pay and the City needs to know what they are going to pay. They can't say they are going to agree in five years to what the rent is going to be. They are giving them an automatic extension, so they all need to know what they are going to pay. So pick a multiplier or a percentage or something, but don't bring it back to this table to negotiate. He thinks Mr. Gorman would agree with him.

Mayor Benton asked after five years, what number do they want to put in here?

City Attorney Schwerer said they had in the Lease Agreement a CPI with a minimum of 3%. They agreed to that technically, but wanted to use a different CPI. That is fine. But now the Mayor is saying no escalator, no increase.

Mayor Benton said no, he is saying after five years. He is thinking between the third and fifth year, if these improvements are being made, then...

City Attorney Schwerer said if they do those improvements within the first five years, they get an automatic 10-year renewal. In that ten year term, they are going to have to fix the rent. He is telling them to fix it tonight. They don't want to come back in five years.

Mr. Gorman said perhaps a high/low, they would agree upon a fair market value rent that shall be an increase of a minimum of x% not to exceed x%. If they are talking about a CPI with a minimum of 3%, they would be expecting over the five years a maximum of just over 15% when they kick in the extra. He would

suggest they talk of something between 10% and 20% at that point in time. The economy and situation will dictate where they parties reach an agreement at that time.

Mayor Benton said he has put something on the table and is looking for somebody to add to it or change it.

Commissioner Perona said it is the 10-year renewal that gets him. The 5-year lease gets them through the economic situation; and then five years after that, to take an appreciable benefit from that, it made sense to him and he could live with that. Now they are out ten years from now. They are looking at the toughest times right now to determine what the rent is going to be five years from now. That is a little farfetched. People will ask, why did they give away that place? That is why he thinks it needs to be revisited on a little bit quicker basis.

Mr. Gorman said the Mayor is talking about five years. The question is, how do they determine the range they basically find themselves negotiating within? That is why he came up with the 10% to 20%. He is just trying to toss ideas out.

Commissioner Becht said the problem is, that next negotiation is for ten years. That is what his and Commissioner Perona's problem is. When they are stuck with a ten year term, they don't have to worry about the variables as much. As he has said, in ten years the King's would have demonstrated that they are the capable tenants he believes them to be, they would have done the improvements. Then they would come in and negotiation whatever it is they want to do. At that time, if they have massive amounts of improvements they want to do and they want to talk about a 20-year term, they can talk about it. But they can't even talk about that in today's terms because they couldn't go to the bank and borrow the money because nobody has got the money to lend or take the risk. So what they should do is get the City and the King's through the next ten years of hard times, they can get a decent return on the improvements they are doing over this 10-year term, they are going to make money on the gas when they put the pumps in, and if they can get the 5 boat slips in, they are going to make money on the slips over the next ten years, if DEP will let them put the slips in. And in ten years, they have a track record. Then at that time they negotiate a real lease in real world terms. Not at the bottom of the market with nobody really knowing what can be done or where to get the money to do it with.

Mayor Benton said by no means when he said after five years to renegotiate the lease did he mean that they were going to set something in stone. He is sure there will be different people sitting up here. Wise minds will determine what the rent should be. Is there anybody here that is a landlord that is giving a 10-year lease right now? He doesn't know of too many. He is just saying that after five years they will take a look at it. He has no problem with putting limitations on it. He is not saying they are going to negotiate that ten years and pay so much. He is just trying to get through the five years right now and get a lease out there and get these people back to business.

Commissioner Perona said the Mayor got the train off the track when he changed it from a 5-year renewal to a 10-year renewal. He would rather see a 10-year and it be over with, rather than have an extension. He thinks the 5 and 5 made a lot of sense. They pulled the 1,200 square foot improvement off the Lease Agreement. He thinks the tenant was agreeable to that. He thinks they could have moved forward on that. And all the other provisions could have gotten worked out right away. They have a responsibility to the people of this community. If it was up to him, he would put them in it and they would be driving over the curb right now. But they have a responsibility. He does not mind cutting some of the terms the King's have clearly mentioned that would be a hardship for them, he is ready to work with them on that. The thing is, the 5 and 5, it would be easier to get through that period of time, and the economy hopefully will be bolstered by then and they can really get into some serious discussion.

Mr. King asked but at the end of the two 5 and 5, where are they at? Are they back with an RFP? Then he is right back where he was two years ago.

City Manager Recor said throw in the optional additional five years and that is what they would be renegotiating for, based on their performance.

Mayor Benton said they have three who have agreed to a 5-year with a 10-year renewal. So can they get three to agree to the rent for that five years.

Commissioner Alexander said he can agree with the first year being \$1,600, the second year being \$1,800, and the third year through the fifth year at \$2,000.

Commissioner Sessions said okay.

Mayor Benton said that is three. After five years, they renegotiate the rent? They have got limitations on it, they are not going to continue it at \$2,000 for the next ten years.

Commissioner Perona said it is a five year lease; because if they don't like the term at the second ten years, they walk on it. The way it is written now, with the 5 and 5, they had at lease the option to continue that lease with some type of increase that was reasonable over a ten year period. With this proposal, at the end of five years if they have to renegotiate the amount... What if it is triple the amount and Mr. King says no way? Then that lease only lasted five years. It is not fair to Mr. King, it really isn't. That just doesn't make any sense to him.

Mayor Benton said then they should put some numbers in like Mr. Gorman said, that it can only go up so much.

Mr. Gorman asked how about applying a CPI at that time, starting a CPI with a minimum and a maximum? It would be applicable for the sixth year, measured on the CPI for the fifth year, with a minimum of 2% and a maximum of 8%, or whatever. The City is

concerned that values are going to go up and rents are going to go up. That is standard in commercial leases. He thinks it is just a question of which CPI they look to, how they define it, and then caps on it.

Mayor Benton said he thinks they will find they are very limited on what they can do with that property, he thinks they are about at the max now.

Mr. Gorman said he didn't get a full written appraisal; but one appraiser told him that \$1,600 was really pushing it.

Commissioner Becht said he had an appraiser tell him that just off the marina the City could make \$2,000 a month and just abandon the uplands. So if Mr. Gorman wants to introduce hearsay, let's introduce hearsay all the way around.

Mr. Gorman said if they only have 20 docks and Commissioner Becht thinks they are going to make \$2,000, or \$100 per dock, after putting a manager down there and security and etc., he does not know how they are going to do that.

Commissioner Becht said he has already talked to Mr. Kubitschek about it. It can be done.

Mayor Benton asked do they want to put in there that after the fifth year they would go by the CPI?

Commissioner Perona said the CPI is really nothing if they start putting increments in there. Fourteen years from now, the rent could be \$2,200 per month, while everybody else would be paying three times that amount, and then they have done a disservice to the community. It gets really sketchy when they get out past that ten year mark.

Commissioner Sessions said Mr. Gorman has suggested a 10% to 20% increase. Is that okay?

Mayor Benton said he could live with that.

Mr. Gorman said after the five years. Yes, an increase at that time.

Ms. Rita King said after the five years, yes. Because when they calculate it out, it is going to be about the average of the way it would go up anyway if they did it on a regular percentage basis.

Mayor Benton asked does the City Clerk have that? Do they have three that agree to that?

City Clerk Steele said first Mr. Gorman said fair market value rent not to exceed x% - 10% or 20%. Then it went to apply the CPI for the sixth year based on the fifth year with a minimum and maximum. Which one?

Mayor Benton said they are cutting the CPI out.

City Clerk Steele said so after five years, negotiate a fair market value rent not to exceed 10% to 20%?

Mr. Gorman said of the fifth year annual lease amount.

Commissioner Becht asked then what are they doing from the sixth year through the fifteen year?

Mayor Benton said in the sixth year, when that is negotiated by the guys sitting up here, they will have guidelines and...

Commissioner Sessions said they know they are within the 10% to 20% range increase.

Commissioner Becht said no, they are missing his point. What Mr. Schwerer told them and what Mr. Gorman would tell them is, if they don't have parameters, they don't have a lease. That means the lease effectively ends for the King's and for the City at the end of the fifth year. So what he is trying to find out is, what are their intentions? Not in the sixth year, because they have said what they want to do in the sixth year - they want to do this range of 10% to 20% - and he thinks the King's and Mr. Gorman is agreeable to that. What he is asking is, what are they giving away in the seventh to the fifteenth years? What are they doing then? Is it set from the sixth year through the fifteenth year? Or does the City have a chance of getting a CPI after that?

Mayor Benton asked how often has this lease been in front of them? It seems like about every five years it resurfaces.

City Attorney Schwerer said he thought they had the lease provisions acceptable with the CPI increase with a minimum of 3% after the second year. Now they are getting into formulas that are going to be very difficult to understand how to do. This lease he thought was agreeable based on conversations with the King's and their attorney. They were just complaining about paying the \$1,600 versus the \$1,800 and then paying the \$2,000 by July. Everything else was agreed to. The increases were agreed to. The Commission is up here negotiating a contract all over the board. Staff spent weeks trying to go through this contract.

Commissioner Sessions said that is the problem, they are not getting anywhere.

City Attorney Schwerer said Mr. Gorman said tonight he had two issues - one was with the term and one was with the amount of the rent for the first two years. He didn't have a problem with the CPI, except for using the Miami-Fort Lauderdale number. He didn't have a problem with the automatic increases. So they have taken this lease that the Staff has worked on for the last three weeks and turned it on its head. He can't follow it.

Commissioner Sessions said but they are saying they are not going to accept that.

City Attorney Schwerer said no, that is not what they are

saying.

Mayor Benton said they wanted more time.

City Attorney Schwerer said they were talking about the term and the amount during the first two years, that is it. They wanted a 10-year versus two 5-year terms. They didn't want to pay the \$2,000 until the second year. That is the only thing they had a problem with. Now the Commissioners have turned it around and changed it, and it affects other provisions in this lease.

City Manager Recor said let's get back to the original terms that were contemplated during the negotiation. The elimination of Schedule B should be attractive to the King's because they are not on the hook for that improvement. This goes back to their initial Monday shut-in meeting where they sat in the conference room and said they were not going to leave this room until they have a fundamental agreement on it.

Mr. King said but that was shot down. They spent 3-1/2 hours and they all walked away from that meeting not complete.

City Manager Recor said they were almost there. So if they go back to the original 5-year term with the 5-year renewal, giving them the opportunity to perform.

Mr. King said but at that time it was a 10-year, a 5-year, and a 5-year.

Mayor Benton said he thought they had three Commissioners agree to several things, except for the terms for the sixth year through the fifteenth year. So what language should they put in there for the sixth year through the fifteenth year, so they can get this done?

City Attorney Schwerer said the Mayor has lost him. He heard them say the first five years was going to be fixed. Then the 10-year renewal, they were supposed to start a new rent amount in year six.

Mayor Benton said he is saying there could be an increase of between 10% and 20%, which is the recommendation from Mr. Gorman, and he thinks they were digesting that. They were looking for Mr. Schwerer's opinion on it.

City Attorney Schwerer said Staff would have to run the numbers as to what that really means to the City.

Mayor Benton said right, but that doesn't have to be done for five years.

City Attorney Schwerer said if the Mayor is asking for his recommendation tonight, he can't give that to him without running those numbers. He does not know what the rent is going to be in year six. If they say 10%, it is going to go up \$200 a month.

Mayor Benton said they can worry about that in year six, because

the King's have to come back and show that they have performed during those first five years.

City Attorney Schwerer said but the King's want to know that they have a 10-year lease. The King's don't want just a 5-year lease. The City needs to know what they are going to pay for that 10-year period and the King's want to know that too.

Commissioner Becht said what troubles him with this type of negotiation is they have five Commissioners trying to create a consensus, which is government in the sunshine, which at times isn't the way a lease negotiation would go. So the King's have the Commission at a disadvantage, because they have to make a decision out here in the open. What has happened, it is like a shell game. Mr. Gorman has said they want more time in the second option period. The first five years is okay, but they want more time in the second option to do the tiki hut, that was their objection. What he suggested, the City would eliminate the tiki; and then there should not have been an objection to the five year term. But there was an objection to the five year term because Mr. King wants a longer term, and it is not just because he has to do the tiki, he just wants a longer term. Now what three of them have done here is, when Mr. King offered to do the tiki in the second 10-year period, they have now eliminated that from the lease. He does not say that critically. The reason he says that is they are negotiating here and, in his opinion, they are not comprehending everything they are doing because they are doing it this way. The Mayor wants to get it done and he is driving this boat really hard tonight. He is frustrated too. He shares the Mayor's frustration and they have both yelled at Staff for months, asking when are they going to have this done? But to do it this way? He is not sure this is the wisest way to do it. They have to think it through and they have to have feedback from Staff on what they are doing and what it means. He is troubled by the way this just took place. The King's were willing to put the tiki in; but then everything moved around and he doesn't have to put the tiki in. That is just one little thing they missed tonight.

Mayor Benton said he doesn't think they would have had to do this if in two years everybody sitting here could have figured this out. They are not building Torrey Pines. They are looking at a fish camp with some dock slips. It just irritates to him that at the beginning of their meeting under Comments from the Public how many of the public are disgusted with it. If the professional people they have asked to negotiate this haven't been able to do it, then maybe three of the Commissioners... They have taken this far enough. The changes they have made tonight, at least three of them, aren't going to break the City. They are going to be better off than they were before. The few dollars they are talking about isn't going to change things. Let's get through it. The Staff time that has been taken on this, it has gone nowhere. He thinks tonight they have accomplished more than they have in two years.

Ms. King said she knows this has been a long time negotiating. She can understand where the Commission is coming from, looking

at the money. But they have been held in limbo for 23 months. Now they are saying if they don't get the right amount of increase of money, it is not going to be fair to the City. What about on their part? They went in as a good faith citizen and put the money they put in that place. There is nowhere in this lease that it has asked for them to be reimbursed for anything they put into that place or even be compensated for that. In 23 months, they haven't had a chance to recoup what they put in the first three years. So when they are talking of five years and three years to make more improvements, and then they don't want to give but five, they have to see where they are coming from on the ten because they need enough allowable time to make back some of the money that they have invested in this property.

Commissioner Becht said he agrees. The problem with this process is when they have a shot at appealing to the five Commissioners rather than dealing with Staff. Staff gave them a recommendation. Staff said they have a deal with the King's. Mr. Gorman stood up and said they had two little problems. Now all of a sudden they have opened up five or six different terms of the lease that could get renegotiated. He just does not like the process.

Mayor Benton said let's see if they can get this going further. They have agreed on a couple of things. He thinks they are stuck on what they are going to do with the rent after the fifth to the fifteenth year. Is there language that three of them agree to so they can get through this?

City Manager Recor said the first five years are covered. Years six through ten, there has been a spread of 10% to 20% discussed. That is a 2% to 4% average per year. If they accept the same term for years eleven through fifteen, they can put the same escalator provision in. It is going to go up between 2% and 4% from years six through fifteen. That covers it, that gives the specificity they are looking for.

Mayor Benton asked do three of them agree to that? It appears the King's agree to it. He will go with it.

Commissioner Alexander said he agrees.

Commissioner Sessions said okay.

Mayor Benton said he thinks they are there. Is there anything they have missed?

City Manager Recor said they have to decide what escalator is appropriate? Is it 10% or 20% or 15%? If it is 20%, then the increase is 4% per year.

Commissioner Sessions said that is reasonable, 20%. So they are at the 2% to 4%. Is that okay?

City Manager Recor said years eleven through fifteen, it is 4% per year.

Commissioner Becht said Mr. Gorman's comment on the CPI was dead

on. There is a U.S. CPI that blends high places with low places. So a U.S. CPI would be more appropriate. What doesn't make sense... What he thought Mr. Gorman was saying was they would take the CPI Index for years one, two, three, four, and five, and take that CPI on April 1st of 2010 and take five years from now the CPI on March 30th of 2015, and they add those up, and that tells them how much the rent is going to increase. That is specific, there are no vagaries with that. What Mr. Gorman has done has said, whatever that number is, if it falls below 10, the rent goes up 10%. If that number goes above 20, then the rent does not increase more than 20%. It is variable in there, but it is tied to a specific index. Does he make sense to Mr. Gorman?

Mr. Gorman said he understands what he is saying. It isn't precisely what he said, but it definitely fits within the same pattern.

Commissioner Becht said so that takes the vagaries out. And that takes some of the risk out for the King's and it gives certainty to the City. Assuming three Commissioners are going to agree to that and he doesn't know if the King's do or do not agree to that. But that would give the specificity Mr. Schwerer was looking for. That is what he thought they were talking about. That sets the rent for the sixth year. What happens in the seventh year? That is what he doesn't understand. The King's were willing to sign a lease with a CPI increase in it every year, as long as it was tied to a broader-based CPI. Now they are saying they don't have to do that, they are going to change that, and now they are only going to change the rent every five years. There is a benefit to the City of doing what Mr. Gorman said they would do; which is, the annual CPI. What they also had said was it would be a minimum of 3%; and if it is over 3%, it will be whatever it is. This is why this process... They are giving away more than they have to. The King's are telling them they will do more than the City is asking them to do. Are they going to put the tiki back in, the tiki the King's said they would build?

Mayor Benton said it appears to be struck out. This 2% to 4% they are talking about...?

Mr. Gorman said rather than setting lease payments for flat five year terms and then going up 10% or 20%, he thinks it is relatively the same thing, an annual of between 2% and 4%.

Commissioner Sessions said it is back to the same thing.

Mr. Gorman said pretty much, yes. If they are looking at between 10% or 20%, they are looking at between 2% or 4% averaged out. So, do they want a big jump and then level, or each year...

Mayor Benton said that is the sixth year through the fifteenth year. Does the City Clerk have that?

City Clerk Steele asked the sixth year through the fifteenth year, 2% to 4% per year?

Mayor Benton asked do three Commissioners agreed to that?

Commissioner Sessions said yes, annual CPI.

Commissioner Becht said no, he does not agree to that.

City Manager Recor said he thinks a decision needs to be made on 2% or 4%. Staff has been advocating for 4%.

Commissioner Sessions said that would be annually.

Mr. Gorman said a floor to a ceiling of 4%.

Commissioner Becht asked why are they abandoning the CPI, where it would be above 4%?

Commissioner Sessions said no, that is what he proposed. They are saying they are willing to accept that, right? So he is not abandoning it at this point.

Mayor Benton said so it is either 2% to 4%, or the CPI.

Commissioner Sessions said they are going with the CPI.

Mayor Benton said strike the 2% to 4%, and it is the CPI. That is what he is hearing?

Commissioner Becht said he goes back to what Staff and Mr. Gorman has talked about. There was a CPI with a minimum of 3%; and if it is more than 3%, it is whatever the CPI is. That is what the King's agreed to.

Commissioner Sessions said they are going to go with the CPI for the sixth through the fifteenth year, no matter what it is.

Mr. Gorman said no ceiling and no floor. Average U.S. CPI from the Department of Labor.

Mayor Benton said right. That covers all the details.

Motion was made by Commissioner Alexander, seconded by Commissioner Sessions, to approve changes to the proposed Lease Agreement between the City and Little Jim Bait & Tackle, Inc., as set out in the record. (1) A 5-year lease with a 10-year renewal; (2) Approve Schedule A, Items (a)(b)&(d), and amend Item (c) from two to one gasoline station and deleting one waste pump-out station, and delete Item (e); (3) Delete Schedule B; (4) Starting April 1st of 2010 until April 1st of 2011, the rent would be \$1,600 a month, from April 1st of 2011 until April 1st of 2012, rent would be \$1,800 a month, and from April 1st of 2012 until April 1st of 2015, rent would be \$2,000 a month; (4) No CPI the first five years; and (5) Average U.S. Department of Labor CPI for years six through fifteen.

Those voting in favor of the motion were: Commissioners Alexander, Sessions, and Benton. Those opposed: Commissioners Becht and Perona.

Mayor Benton said he would like for Staff to bring this back in front of the Commission on the Consent Agenda at their next meeting.

The next item on the Agenda was Ms. Doris Tillman, Main Street Fort Pierce, Inc. to give 2009-2010 Main Street Fort Pierce Annual Overview.

Ms. Doris Tillman, Main Street Fort Pierce, Inc., said she has been with Main Street for 18 years. Normally they do a written presentation every year about their accomplishments. But this year is kind of special for them. Fort Pierce Main Street is a semi-finalist for the Great American Main Street Award (GAMSA). They wanted to reminisce with the City about some of the wonderful accomplishments they have made as a team. Whether they win or lose this GAMSA, the main thing they wanted to stress is what a great partnership Main Street, the City, and the citizens of this community have had. This award is not about Main Street winning it, it is about their community pulling together and making things happen, working as a team. She wanted to remind everyone that they are a great team and that is what has been their success. The City and Main Street Fort Pierce have been partners in rebuilding since 1988. Partnerships are the foundation for success. By sharing with others, they can direct their resources and capabilities to projects they consider most important. It is much easier to do it with teamwork than it is as single groups. The key features they have had success with is being able to pull in volunteers, being able to pull in the community to stretch the dollar a lot further as they do things with the City or for other organizations. In 1995, they restored the Historic City Hall, a \$500,000 project for which they are still paying a \$30,000 note on. But this was an important building to be saved. It was about to be torn down. It was saved and is now heavily used. In fact, tonight there was a wedding in there. Florida Inland Navigation District (FIND) gave the City a grant for \$200,000 and the City was about to turn that grant back to FIND; but Main Street said if the City would let them manage the grant, then they will build the building. Main Street raised another \$150,000 and built a \$350,000 Manatee Center, which the Utilities Authority runs. The first year that it opened, it was only open five months, but it served 75,000 people through its doors in that very first year. The Sunrise Theatre had sat empty. There were all kinds of suggestions - tear it down, use it for storing files. But Main Street bought the building and made it into a \$13 million project, of which the City contributed only \$7 million, and the building was turned over to the City for the community. The historic Platts-Backus house, Main Street is heavily mortgaged on that. It was a great project, they restored. It was the first doctor, the second doctor, and Bean Backus. But more important than anything about this house being restored is what it has done for that neighborhood once they invested the money and restored this building. Two guys bought another building and restored it beautifully. They now have Whimsey Clothing Store. And also the Hill Photography Studio has been bought and the owners plan to restore it. So that neighborhood, which could have easily

gone more downhill or torn up by developers, is now a beautiful neighborhood for the community. In 1994, Main Street - not the City of Fort Pierce - worked with the Treasure Coast Regional Planning Council and did the first charrette. The first night of the charrette there was a blistering rainstorm. People had to take their shoes off to get into the church. All the people came that night and the week that followed. Main Street paid for the charrette and processed the charrette; but it became the guiding light for the City of Fort Pierce when the changes started happening and has been a major thing to turn Fort Pierce around. That charrette lead to other charrettes that improved many other neighborhoods. So the partnership Main Street did in putting that on for the City has been a great tool that changed the face of downtown. In 1997, Main Street did the legwork for the City and the Fort Pierce Redevelopment Agency (FPRA) to do a Marketing Study. In six months, they had recruited 60 new businesses for downtown through this marketing study by using it and not letting it sit on a dusty shelf. With the improvements, the businesses started coming and coming. She is shocked in this economy at the number of new businesses - a gym opened, Whimsey opened, Sentiments opened, a bakery opened. A lot of new businesses opened this year and seem to be holding their own. In 2001, Main Street organized the City of Fort Pierce Centennial and put that on for the City. Friday Fest has been going on for 22 years. It is the longest running street party. She cannot begin to name the number of cities, Melbourne included, that call their street festivals Friday Fest. Actually Clematis in West Palm copied Friday Fest. So it has been a great thing. More than just an event, it was a great economic development tool. At a time when there was only one or two restaurants downtown, once people saw the success of Friday Fest, they suddenly had ten or eleven restaurants downtown. Mayor Enns had come to them and asked Main Street to start Coffee with the Mayor. It was a huge success. Last month they did the first Coffee with the Merchants and had 45 merchants show up. Their next one is tomorrow - 8:30 a.m. in the Historic City Hall. It is very exciting, people are positive about it. It is an educational process to help the merchants and to work with them to strengthen them in these times. Sights & Sounds on Second Street is going through its 21st year. It is an amazing Christmas event. Sandy Shoes Festival is coming up at the end of this month on March 27th, another great way of celebrating and sharing their heritage and bringing people to the downtown. Souvenirs of Downtown, she can't even begin to tell them how wonderful this event has been. It not only brings people to paint in their community, but these artists then see Fort Pierce in a whole different light than they see themselves sometimes. It allows people to walk around and talk to the artists, learn from the artists. It has been a tremendous plus. It is a new event, but they are very proud of it, the success of it. Ghosts of Fort Pierce Past Walking Tour is in its 6th year. Last year they had over 400 people. Maybe that doesn't sound high in numbers; but it is 400 people from other areas that are learning Fort Pierce's history. More than anything, it really has brought people out to share and celebrate their past. They have worked very hard to make their website a successful tool not only for Main Street, but for the downtown businesses. They have all the restaurants and shops on that. They get a lot of

hits from foreign countries and from out of state. If someone is going to the Sunrise Theatre, they can go to the Main Street Website to pick out a restaurant and see the menu and make a reservation, because they have links with that and the Downtown Business Association. It is a great tool for them. Why is Main Street Fort Pierce a semi-finalist for the Great American Main Street Award? Because of teamwork with the community. They could not win this award if it wasn't for the citizens of Fort Pierce and for the City Commission and the leadership of everyone working together. Some statistics they have to report to the State Main Street. So far in total redevelopment for the downtown, it is over \$54 million, 88 new businesses, 404 new jobs, and over 33,000 volunteer hours. Realize, those volunteer hours can be calculated at minimum wage and some at professional wage, which makes it probably about \$250,000 in money saved by all the volunteer efforts. More important, Main Street has done for the City of Fort Pierce \$15 million in projects. This has all been in partnerships with the City and with other organizations and people who have donated back to the community through Main Street. Main Street Fort Pierce is not a donation, but an investment with a large return. She thinks all of them would like to see a 50% return on an investment. Main Street is sticking by the City's side, they are partners.

Mayor Benton said he thanks Ms. Tillman and Main Street for such an immaculate job they have done in the 15 years he has been involved with the City. He thinks Main Street was the leader and the City followed. Main Street brought them to the table when it came to the first charrettes and they learned. They have accomplished a real goal just recently by getting the Downtown Business Association, the Chamber of Commerce, and Main Street all to the table, something they have been working on for many years. If they could get all the businesses talking... Maybe it took the economy to do it. He thanks Ms. Tillman for all her hard work and he thanks all the volunteers, they have a great organization.

Commissioner Becht said the Main Street Board and some of the volunteers are here in the audience.

Ms. Tillman said they wanted to the Commission before the announcement of the GAMSAs. Whether they win or lose, they wanted to thank the Commissioners for all their support, believing in Main Street, and working with them. It just shows them how it has paid off. To be at the national level now with the possibility of winning this Great American Main Street Award is a reflection on everyone in this community.

Commissioner Sessions said while Ms. Tillman is here with her Board, he wants to appeal to her on behalf of Lincoln Park Main Street. That organization is facing a major dilemma. He would appreciate her support in terms of what she could do in order to help bring them out of this. What it all boils down to, as far as he is concerned, is whether or not they are able to overcome major obstacles. They have a major obstacle over there. He would appreciate her support in terms of helping them in whatever ways that she could possibly do so. He is so delighted to see the volunteerism of the Main Street organization, he

thinks that is very impressive and has lead to their success. If they could just share those ideas and concepts with the Lincoln Park Main Street, he would appreciate it.

Ms. Tillman said she would be happy to do some type of workshop or meetings with them. Actually, when LPMS initially started, they had a gathering at her house and did a workshop. Fort Pierce Main Street will always be supportive.

The next item on the Agenda was Mr. Travis Walker, representing IDI Inc., request 60 day extension to finalize Modification of Developers Agreement for Crossroads Commerce Park Building A to be located within the Commerce Park south of Okeechobee Road (SR 70) between I-95 and the Florida Turnpike.

Motion was made by Commissioner Alexander, seconded by Commissioner Perona, to authorize a 60-day extension to finalize the Modification to the Developers Agreement for Crossroads Commerce Park Building A.

Mayor Benton said Mr. Walker is here. He made the rounds and met with him last week.

Commissioner Becht said after meeting with Mr. Walker, he had a chance to talk to Staff. Staff does not think he is going to need 60 days. He has no problem with the 60 days; but he is hoping Mr. Walker is not going to be back making the rounds in the 50 to 59 day period for yet another issue. So let's just get the property deeded over and be done with it.

Mr. Travis Walker, Weiss, Handler, Angelos & Cornwell, P.A., said they have finalized the language for the most part. He has enjoyed working with City staff. They hope to have a finished product by the next City Commission meeting.

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

The next item on the Agenda was Mr. Richard Calise, GLE Associates Inc., representing St. Lucie County, request 12-month extension to approved Site Plan for the Zora Neale Hurston Library Branch Addition at 3008 Avenue D.

Motion was made by Commissioner Alexander, seconded by Commissioner Sessions, to approve a 12-month extension to the approved Site Plan for the St. Lucie County Zora Neale Hurston Library Branch Addition at 3008 Avenue D.

Commissioner Sessions said he wants to make sure he read this right and it seems like they need to come up with something themselves here in light of the impact this library would have on their community. The only problem the County has is that they are unable to staff this, that is the only reason why they are not able to make such a major capital investment. If that is the case, he would hope they could come up with something to get this library up and running, jointly with the County if need be. Staffing it is the only problem, at least that is what he

read in the staff report.

Mr. David Carlin, Assistant Planning Director, said that information was provided to him by the County's representative. They have the funding to build this addition. But with all the recent changes in funding over at the County, what they are apprehensive of doing at this particular time until they get a more clear direction of how the reorganization is going to occur, they would like to postpone construction of the library addition; and it was identified that they weren't going to have the funding immediately available to actually staff it. That is the reasons the County gave to him, that is all the information he has.

Commissioner Sessions asked does staff have any proposals or even considered addressing what the caveat is so that they can move forward? He can't reiterate enough how important this Zora Neale Hurston Library is to get that addition done. That is a major capital investment.

Mayor Benton said he would think the County would ask for volunteers. A lot of library systems have volunteers.

Commissioner Sessions said maybe they should take that ball and run with it themselves personally. That is what he was getting at, volunteers. If they could put some people in that library... It is a major investment.

Commissioner Becht said for an historical perspective, this library got built because a citizen died and left money to the Friends of the St. Lucie County Library, Inc., with instructions that money be used to try to build a library in the northwest section of Fort Pierce. They contacted him and they bought this piece of property. They went to the County and donated the property to the County. At that time, he stood before the County Commission and told them there was a caveat - the County is going to have to build a library within one year, or the property will revert back to the Friends of St. Lucie County Library and they will do something else with it. There, negotiating at the podium, the County said one year is too short and asked for three to five years. The Friends of St. Lucie County Library agreed to five years. The Hurston Library got built there within five years. Now they have to figure out something creative here to push the County to build the addition. He does not know if Lincoln Park Main Street has a volunteer program up and running yet. But if they could get LPMS involved here, they might have a little success story if they could generate the volunteers to man it and make something good happen. That would give LPMS maybe some momentum. He does not know how they would get volunteers, so he leaves that to Commissioners Sessions and Alexander.

Commissioner Alexander said he does not mind carrying it on his shoulders. But he thinks they had the hub of what they need right here in this building earlier tonight - the Black History Makers - the retired school teachers and educators. Not only those individuals, but people are retiring every day from the school system and they know how to handle the children.

Commissioner Becht said piggybacking on that, he would like for them to do more than just talk about this. He would like for them to send a letter within 30 days, if Commissioner Alexander can get them the contact information of who might be able to put the volunteer program together. Because if they don't get the County to build this, they are going to take this money and allocate it somewhere else. It is allocated for this library addition, it needs to be built. Let the County know that somehow they are going to create the volunteer program. Is everyone in agreement to do a letter? (The Commissioners agreed.)

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

Mayor Benton said they don't want the County to spend this money somewhere else, they want to work with them to put volunteers in it. They will have a letter go out saying that.

City Clerk Steele introduced the following Resolution by title only:

RESOLUTION NO. 10-06

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, REAPPOINTING **THOMAS L. KNOTT** AND **MARY P. MINTON** TO THE **CODE ENFORCEMENT BOARD**; PROVIDING FOR AN EFFECTIVE DATE."

Motion was made by Commissioner Becht, seconded by Commissioner Perona, that Resolution No. 10-06 be adopted.

Those voting in favor of the adoption of Resolution No. 10-06 were: Commissioners Alexander, Becht, Perona, Sessions, and Benton. Those opposed: None.

City Clerk Steele introduced the following Resolution by title only:

RESOLUTION NO. 10-07

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, REAPPOINTING **DON BERGMAN** AND **KEN WATERS** TO THE **BOARD OF EXAMINERS OF CONTRACTORS**; PROVIDING FOR AN EFFECTIVE DATE."

Motion was made by Commissioner Alexander, seconded by Commissioner Becht, that Resolution No. 10-07 be adopted.

Those voting in favor of the adoption of Resolution No. 10-07 were: Commissioners Alexander, Becht, Perona, Sessions, and Benton. Those opposed: None.

City Clerk Steele introduced the following Resolution by title only:

RESOLUTION NO. 10-08

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, REAPPOINTING **JAMES MATULA** AND **KEN WATERS** TO THE **CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS**; PROVIDING FOR AN

EFFECTIVE DATE."

Motion was made by Commissioner Becht, seconded by Commissioner Perona, that Resolution No. 10-08 be adopted.

Those voting in favor of the adoption of Resolution No. 10-08 were: Commissioners Alexander, Becht, Perona, Sessions, and Benton. Those opposed: None.

City Clerk Steele introduced the following Resolution by title only:

RESOLUTION NO. 10-09

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, APPOINTING **BERTHA SULLIVAN** AS A REGULAR MEMBER AND APPOINTING **WESLEY TAYLOR** AS AN ALTERNATE MEMBER ON THE **CIVIL SERVICE APPEALS BOARD**; PROVIDING FOR AN EFFECTIVE DATE."

Motion was made by Commissioner Becht, seconded by Commissioner Perona, that Resolution No. 10-09 be adopted.

Those voting in favor of the adoption of Resolution No. 10-09 were: Commissioners Alexander, Becht, Perona, Sessions, and Benton. Those opposed: None.

City Clerk Steele introduced the following Resolution by title only:

RESOLUTION NO. 10-10

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, REAPPOINTING **BRET McCAIN** AND **MARCIA BAKER** AS ALTERNATE MEMBERS TO THE **BOARD OF ADJUSTMENT**; PROVIDING FOR AN EFFECTIVE DATE."

Motion was made by Commissioner Perona, seconded by Commissioner Sessions, that Resolution No. 10-10 be adopted.

Those voting in favor of the adoption of Resolution No. 10-10 were: Commissioners Alexander, Becht, Perona, Sessions, and Benton. Those opposed: None.

City Clerk Steele introduced the following Resolution by title only:

RESOLUTION NO. 10-11

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, REAPPOINTING AND/OR REAPPOINTING MEMBERS TO THE **CITY PLANNING BOARD** AS FOLLOWS: APPOINTING **BOB BURDGE** AS A REGULAR MEMBER; REAPPOINTING **WILLIAM DANNAHOWER, JEREMIAH JOHNSON, & STEVE WEAVER** AS REGULAR MEMBERS; REAPPOINTING **J. ELOISE CUMINGS** AS AN ALTERNATE MEMBER; AND APPOINTING **MICHELLE CALANDRO** AS AN ALTERNATE MEMBER; PROVIDING FOR AN EFFECTIVE DATE."

Motion was made by Commissioner Perona, seconded by Commissioner Becht, that Resolution No. 10-11 be adopted.

Those voting in favor of the adoption of Resolution No. 10-11 were: Commissioners Alexander, Becht, Perona, Sessions, and

Benton. Those opposed: None.

The next item on the Agenda was Commissioner Alexander discussion regarding a change of direction for the City of Fort Pierce at City Hall.

Commissioner Alexander said he comes from a long history in this community. He has known for many years when he stood up to be accountable, as not a child, as not a young man, but an adult. He is a product of the 1960's. He had to go through all kind of turmoil, try to keep a little sanity and do no harm to other. But what he read in the newspaper is troubling to him. He thinks that is where he got that caption about the change in direction at City Hall, from the newspaper. It meant something to him when he read it because he has known for quite a while now that he had a feeling that the City is not going in the right directions. He will not stand by and allow this city to be torn apart by foolishness. They have come so far so long. They still have imaginary lines running through this city, a division. People may not think of it, but when it really comes down to it, they do think of it every day. They think, why this or why not this? He says this because he wasn't born here but he was brought here in the first six months of his life. He was an Army brat. He has been here for many years. He has grandchildren, he has children that is in this community. And he will not let his children be growing up in fear from anybody that just thinks - and he will say this with harsh words - that they are a bully. He won't stand for it. He stands for what is right with this community and with the people of this community when they speak to him. He hasn't had a spare moment in the last couple of weeks because of the issues that they have gone through in this City of Fort Pierce. It is not fair to this community. It is just not coming from his African-American community, he is talking about the community of people in the City of Fort Pierce, because they know he stands for what is right in the city as a whole. He has heard it time and time again, they have all heard it. It was that phone call that he didn't answer that he wishes he did answer. He answered it. He is answering to the people that placed him here, that put him in a position where... He heard Commissioner Becht say - and it makes him feel good - that they have a piece of paradise right here. He won't let an individual divide this community. That is what has come. People walk around here on eggshells like they are afraid of their job at any moment. He wants the one who makes them fear for their jobs fear for his job. He does not say that jokingly because he does not stand for bullies. If they think there is not bullies, he has been tried to be bullied, but he is too big of a person for someone to bully him. He says that without any jokes, believe him, because all they know is Butch and Percy. They said those were the two baddest young men that... He doesn't mean bad. They just did what they felt like. And they had to answer for it because he got whippings every day. His mother would be in prison right now if it was today. His grandfather would have probably died in prison. But he looks at the people that he stands on their shoulders, not as much as his parents, but the friends he has known in the City of Fort Pierce. He graduated from John Carroll in 1967. When he first attended John Carroll, there

wasn't segregation. They at that school was a family. And it still is a family serving families. And he says that to end the conversation that he has, again to preserve. To put on it, Mr. Recor, he is calling him out because his public has asked him to call him out for his resignation. As a City Commissioner, he is asking him for his resignation and that is the end of it. No response is fine with him. So he will make a motion that they dismiss their City Manager.

Motion was made by Commissioner Alexander, that they dismiss the City Manager.

MOTION DIED FOR LACK OF A SECOND.

Commissioner Sessions said he hears the concerns of Commissioner Alexander. He also has received numerous phone calls and received numerous emails, not to mention texts, with regards to what is going on in City Hall. As stated earlier, it is not a District 1 problem, but District 2, the city at large. What they are going through right now in terms of the reconstruction that the community has addressed and brought to his attention, he thinks that the reconstruction of the CDBG division, as he expressed to his staff, at this point was premature in light of the on-going investigations. He tried to appeal to the Commission last meeting that he felt that the Kessler auditors themselves, he had a problem with their investigations and their review, and he felt that their procedures were not thorough, unfair in a sense, did not allow individuals due process as those individuals were accused, and also the fact that there was very limited paperwork to substantiate the allegations. Last but not least, the fact that Kessler had gone to another municipality and taken pretty much the same measures as they did with the City of Fort Pierce; and it was such a negative assessment, that city ended up bringing in investigators to investigate the investigators. This situation he feels warrants it. He feels like as far as the new implementation of this department, it is premature to do so pending the outcome of an investigation of the investigators, in light of HUD already coming through and giving them the green light in terms of what had happened. And the fact that the reorganization itself is proposing that they have Jon Ward... Not to take anything from Mr. Ward, he thinks Mr. Ward is to be commended for what he has done and he has done a fine job. But he does not know whether or not they are setting Mr. Ward up to fail. Because if anybody knows anything about HUD and the federal government, they know they live in a totally different world. They have to be abreast of the HUD laws or they will find themselves in a worse situation than what they are. So he just does not believe that Mr. Ward has the level of expertise to go out and fulfill the job that the City Manager has placed on him. He says this walking a very thin line, realizing that the Charter limits him to a certain degree of authority to instruct and implement how his City Manager runs the City. But by the same token, they are obligated to implement policies. And that is a policy that he can't live with. He can't tell the City Manager who to fire and hire or anything, because then he may find himself in a lot of trouble from this dias. But he will express that the policies up to this point, he is certainly not satisfied with. He thinks

they need to go beyond what they have done. As he stated in the last meeting, they have somewhat a little bit of control as to what the future holds as far as the CDBG and the City is concerned. And if they don't take this into their own hands and make sure that there is a policy put in place, then they are going to regret it later. He hears what Commissioner Alexander is saying. He is going to appeal to the City Manager as well, he has the same concerns. At least from this day forward, he is expecting something to come back in terms of reconsideration of what has taken place at this point as far as a policy is concerned.

Commissioner Becht said the smart thing to do here would probably be to not weigh in. He is not going to do the smart thing. They have some issues, the community has some issues. How they deal with the issues is going to be a testament to how strong a community they are and how many bridges they have built across the divide, the invisible line he was talking about earlier. People have approached him and he has approached people to try to bridge that gap so that they could have discussion, they could have communication, and they could have clear communication. It is an emotional issue, but not emotional discussion that ignores facts and ignores what needs to be done, because things need to be done. They need some major healing. There are people in this community that can help with that. And there are people in this community that can exacerbate a problem beyond what the nature of the problem is. So he calls upon the leaders to be leaders at this time. And he calls upon Mr. Recor to get facts out as readily and quickly as he can get facts out. Because he thinks there are some facts that... As they stumbled through what they are trying to deal with, there was a perception that monies in the CDBG program were being misappropriated, were not going where those were supposed to go. That was the perception. In their responsibility to the taxpayers, they had to make sure that they stopped whatever that might have been. The Commissioners can't do that, their City Manager has to do that. As Commissioner Sessions pointed out, they can't reach below the City Manager and change employees. That is a good policy because it eliminates jobs changing below the City Manager every time there is a change on the Commission. So that is a good thing. A lot of people don't understand why the Commissioners can't just go into Mr. Recor's office and tell him to do this or that. It is that policy of preventing political change every time there is a change on the Commission of anybody below the City Manager. If they understand that policy, they will understand some of the frustration that the Commissioners have. The Commission made it clear at the Workshop to Mr. Recor that at least three of them or maybe more were not comfortable with a complete elimination of the programs. He thinks there was some sincere concern in the community that they were stopping this program that helped the people, their grandmother, or their friends to get a house or to improve a house. He does not think that is what has happened and that is not what he intends to happen. Commissioner Sessions almost cross-examined him, he felt like he was on a witness stand, to the point of what was his position on this? His position was and is that when Mr. Recor and his Staff establishes a fair and just means of getting the CDBG monies out

into the community... His comments were, he needs this money to get out in a fair and just manner. He realizes that most of this money is going to go to minorities. He realizes that most of this money is going to go to District 1. He accepts that, that is what needs to happen, that is the way the cookie is going to crumble. If somebody thought he wanted the money to go more to District 2, that is not what he was saying. What he was saying and what he thought they had agreed on was that the manner of distributing the monies, the distribution center, was broken and it needs to be fixed. How it is fixed? They establish policy, they don't establish the specifics of it. That has to be left to the City Manager and his Staff. He calls upon the City Manager to try to get that straightened out as fast as he can. But understand, the City Manager has to get with the Commissioners - and not all of them are available immediately - for direction on where it is supposed to go. So that is what the City is going to try to do. They are going to try to get a clear and fair and just system of distributing the CDBG monies out into the community. In his opinion, there are not three votes for this to get changed so that it goes just to infrastructure. So that concern he thinks can be allayed. But they need civility on both sides of this discussion. He will press his City Manager to be more civil than he has been. He hasn't been in any meeting where Mr. Recor hasn't been civil; but he has heard that Mr. Recor has been perceived as being a little rough. He would ask him to work on that. But he still thinks there is enough good qualities in Mr. Recor that they can salvage what they have in this good man, if they will help the Commissioners work with him. He asks them to be civil when they deal with him.

Mayor Benton said in the last few meetings he has had a lot to say, so he thinks other people have said their piece tonight. He has a feeling, like Commissioner Becht, the healing will take place. It was just a few years ago they received a plaque as the best run City in the State. He hopes one day it will be that again. Unfortunately when the economy is tough, some people will lose their jobs. They will have over a 50% cut in revenue in three years, which is almost unbearable for any organization, especially government. And raising taxes is not an option. So they are going to do the best they can with what they have. They are sensitive to the community. But they have a tough job. He has been involved with the City for 15 years and he knows most of these people personally, so it hurts. But they will get through it. They have a different group that is looking at this closer; and as soon as they make their findings, they will know a little bit more, that is what he is hoping.

Commissioner Sessions asked in terms of what the pending investigation is, could they be abreast of that?

City Manager Recor said he received an unannounced visit from the Office of Inspector General who is coordinating the investigation. He understands the FBI has set up several interviews over the next few weeks. He expects that the Agent will be reporting back within the next few weeks.

Commissioner Sessions asked in light of that, would Mr. Recor

feel that it is somewhat premature to reorganize the organization pending the outcome of that investigation?

City Manager Recor said his position and that of staff has not changed since their initial meeting last Monday and Tuesday when they shared the organizational chart with them. The criminal investigation is a separate process. They all have their fingers crossed that there aren't any criminal charges filed. But he thinks it was clear in the end that they needed to change the way that they were delivering the service immediately, notwithstanding the results of a criminal investigation.

Commissioner Sessions said he stated earlier his concerns regarding the makeup of the reorganization Mr. Recor proposed. Does staff have anything they would like to offer to address that? Do they have the same concerns as he does, or is he on his own? With all due respect to Mr. Ward, he just does not think he has the ability to take this from the starting blocks and run with this ball like they need. He was under the impression that even some of the part-timers that were laid off were probably more qualified to take this and run with it. He just has some concerns about that and he does not want to see the program fail. It is very hard right now to get funding. The northwest section is probably unfortunately the most dilapidated section, which happens to be his District. So he does not want them to be dealing with a situation where they could potentially lost any funding. With Mr. Ward trying to take this baton and run with it - again, he walks a thin line and he does not want to exceed his authority here - he has some major concerns about that.

City Manager Recor said he doesn't have any more confidence in any individual than he has in Mr. Ward and his program administration abilities. He looks forward to the opportunity of effecting some positive change in the manner in which they have delivered this service. A year from now, if they haven't made a significant change, then hold him accountable for it. He was the Deputy City Manager for three years, he has been the City Manager for nearly two years now, and he is making the decisions he feels are important to move them forward. But he hears them. He thinks they have left the door open for additional analysis in terms of staffing needs. In the event that additional staffing needs become apparent, they will likely lean towards temporary employees as opposed to full-time employees where they are paying retirement and benefits and so forth. But they have absolutely left the door open for additional staffing needs if Mr. Ward determines that he needs the additional resources.

Commissioner Sessions said again, they can't afford to lose a penny of that federal money out that. They just need to have the right team aboard to make sure that they get each and every penny that they possibly get. He can't reiterate that enough, how important that is. They need to make sure that Department is equipped to go out and further the direction of this Commission; and that is, to continue with the type of services that it has provided up to this point, not infrastructure.

City Manager Recor said he understands.

The next item on the Agenda was Director of Finance recommendation to transfer \$565,000 from Solid Waste Fund to continue the FPRA Community Policing Grant (\$315,000) and the Sunrise Theatre (\$250,000) budget shortfalls.

Ms. Gloria Johnson, Finance Director, said the Commission has a request to fund the Community Policing Grant that was budgeted to be funded from the FPRA and the Sunrise Theatre transfer. As they are aware, at their last FPRA meeting they were having some cash flow problems. These are two areas in which these expenses are continuing to accumulate and she has bills that have to be paid. She is requesting that they transfer some excess funding from Solid Waste to cover some of these expenditures. They may not need to transfer the entire amount. If there are some management decisions made by the end of the year, they can perhaps not transfer it all. They just need to have some funding to transfer to cover the salaries of the seven people in the grant program and also to cover some of the contracts the Sunrise Theatre has, the shortfalls.

Mayor Benton asked how might this affect Solid Waste? He knows they have hit that fund before. His concern is, when it comes to repairs or new trucks, is Solid Waste going to be okay?

Mr. Nick Mimms, Director of Public Works & Solid Waste, said yes. He did have an opportunity to speak with Ms. Johnson this morning and are both assured that they will continue their operation, will continue to do their job, and will do it effectively.

Mayor Benton asked if they were to approve this request, what would it leave in the Solid Waste fund balance?

Ms. Johnson said this would be transferred throughout the remaining of the fiscal year, so much every month. If it is not needed, they won't transfer it. But at the end of the fiscal year, it still should leave the Solid Waste fund with about \$1.8 million in reserves, even with the transfer.

Commissioner Becht said they have moved some money. They had what they thought were reserves in the Marina fund and took monies out of that. Do they have the funding in place complete the Marina improvements, between the insurance money they got and the FEMA money they think they are going to get and the money they have in the bank?

Mr. Dean Kubitschek, Marina Manager, said no, they do not.

Commissioner Becht asked what is he short? He thinks it is somewhere between \$2 million and \$4 million.

Mr. Kubitschek said he thinks it is approximately \$2.2 million to make that \$6.5 million back up. As well as, they have off-site mitigation. They don't have a firm figure on the off-site mitigation that is going to be required, but it is going to be around \$1.3 million to \$2 million.

Commissioner Becht said he thought that the most likely way for them to make up the shortfall for the Marina construction was they were going to take Mr. Mimms reserves and move it from Solid Waste over to the City Marina fund.

Ms. Johnson said at their last Workshop, after talking with Mr. Kubitschek, he said from the reserves from Solid Waste that he would need at least \$900,000 for the first year for the mitigation at the Marina.

Commissioner Becht said he did hear her say her expectation is that the \$565,000 will get drawn out of the Solid Waste fund over the remainder of this fiscal year, which means it will all be gone by September 30th, if there are no adjustments. It would be his wish that the Army Corps of Engineers and whoever else is holding them up would grant the permits so they could start this project and put people to work. Mr. Kubitschek could conceivably need that \$900,000 in this calendar year.

Mr. Kubitschek said he understands the project has been elevated to the Corps of Engineers in Jacksonville. They still have no time frame. Even if they got their permits, it would have to finish the final design and engineering of the project and also put it out for bids.

Commissioner Becht asked when is he going to need this money?

Mr. Kubitschek said as this thing lingers on, he would say next fiscal year - October 1st on - to be realistic about it.

Commissioner Becht asked the first quarter of 2011?

Mr. Kubitschek said that is possible.

Commissioner Becht said everybody has their hands in Mr. Mimms little reserve. Once upon a time, Mr. Kubitschek was able to create a reserve, and he thinks he will again once they get the Marina built and up and running. But right now, they are riding Mr. Mimms back. So if they hit his reserve account to the tune of \$1 million in the first quarter of 2011 for the Marina and they hit it for \$565,000 before October 2010, now how does he feel?

Mr. Mimms said basically within the revenue stream they receive, their Solid Waste operation and their Public Works operation can do the job it needs to do. It is up to the Commission to determine exactly how much of the reserve funds they currently have will be utilized for other reasons. As long as they can establish a budget for them to effectively perform their duties, he is fine. He trusts Ms. Johnson and her judgement, and they speak regularly.

Commissioner Becht said Mr. Mimms has a budget. If he needs to replace trucks next year or big ticket items like that, Ms. Johnson is not going to know that, Mr. Mimms is going to have to tell her that. What he is trying to do is have that discussion tonight, rather than Mr. Mimms coming to them in October and

saying he probably shouldn't have committed that \$1 million to the Marina because three of his trucks went down or whatever.

Mr. Mimms said as a matter of fact, at their February 5th Strategic Planning Workshop, he believes Ms. Johnson mentioned the lack of capital purchases. They are currently working on a vehicle condition report. They are researching every vehicle within the City's fleet to check their condition in order to give a report to every Department Head. Public Works has the worst fleet at this time. But they are still maintaining it

Commissioner Becht said he thinks Chief Baldwin might disagree with that, because he thinks some officers are out there driving 10 year old vehicles. One Lieutenant told him he has 180,000 miles on his car; but as long as it runs, he is okay. He appreciates Mr. Mimms attitude of teamwork. But if they are cutting him to the bone and he is not going to be able to do what he needs to do, he needs him to tell him that.

Mr. Mimms said he will speak up.

Commissioner Becht asked so Mr. Mimms is okay with this \$565,000 and at least \$1 million in the first quarter of 2011 because they are going to get Senator Nelson back involved and whatever they have to do to get the Marina going.

Ms. Johnson said this is just a stop-gap, a bandaid. They won't transfer it unless it is needed. But the people in the Police Department's grant, they do need to pay them. She has been talking with Mr. Recor, who may have some other plans whereas maybe some other things are going to happen and they won't have to transfer it. But they do have these people whose salaries are continuing and they have to pay them, and this is the only source right now.

Commissioner Becht said they have the seven funded positions in the Community Policing. This is the last thing he wants to see cut, particularly when he is expecting the crime to go up, to have less Police Officers out there in the community. But they have to find funding. They are robbing the piggybank and the piggybank will go dry. It is a bandaid and he is very uncomfortable about using a bandaid. But here in March, he doesn't know that she has a Plan B.

Ms. Johnson said this transfer, instead of \$315,000, it may be \$100,000. It depends on how they plan to address the shortfalls they have. They have to start addressing the shortfalls, that is what her conversation with the City Manager is now. If something happens where they have to cut back on people or implement some other type of cost-saving measures, they may not have to transfer this money from Solid Waste.

Commissioner Becht asked why would they make this decision tonight if the decision on the Community Policing could be made at the FPRA's Special Meeting that is set for March 16th?

Ms. Johnson said because right now she has \$100,000 worth of bills that the Sunrise Theatre has given her. She doesn't know

if they are going to be able to fund that from FPRA. According to Mr. Schwerer and the Bond Counsel, they may not be able to transfer from the Bond Fund to cover Policing Grants and the Sunrise Theatre, this may not be an eligible expense.

Commissioner Becht said what is troubling him is, it seems like a discussion that should take place when they have all their assets in one place. What is the situation with the FPRA budget after they get the updated figures and they get the 3-year prognosis from Ms. Johnson, Mr. Ward, and Mr. Recor? He is expecting the three of them to get on the same page and tell him what they think they can do and should do, and where the three of them disagree. He expects three intelligent people to disagree at times. But he wants to get those recommendations. What he is leery of is making a decision just out of the general budget that has will have ramifications in the FPRA budget. As a matter of fact, this sort of solves some of the FPRA budget problems; but he is not sure he wants to solve it this way. He hasn't heard what his options are through the FPRA budget.

Ms. Johnson said this can be a small bandaid or a big one. They can use it all, or they can use just a little bit.

Commissioner Becht said but Ms. Johnson is saying she needs \$100,000 today for the Sunrise Theatre.

Ms. Johnson said right now, the Sunrise Theatre is about \$40,000 short and she got a request in for additional bills today. The Sunrise Theatre may make up part of that. She will not transfer it unless they need it. The other issue is, she has to make someone aware that they are short in these areas and they have not addressed the issue yet. She needs to have a revenue source to pull from to pay these things until someone addresses them. So knows they are working on it. And if they work on it and find additional revenue sources from some other place, she can always send this money back. She can transfer it back to Solid Waste, just as she transferred it from there.

Commissioner Becht said he like that noble gesture; but that isn't his experience in real life. Once they rob the piggybank, it doesn't go back.

Commissioner Sessions said what he is hearing is her request is a necessity to offset the budget for the Sunrise Theatre.

Ms. Johnson said right, the definitely need some funding for the Sunrise Theatre. The Sunrise Theatre and the Community Policing cannot be funded from the bond issue.

Commissioner Sessions said he has confidence in what she is saying. Her state of urgency, he doesn't want it to be come his emergency later. So at the least, he is willing to go along with that request.

Ms. Johnson said remember, they may not need to transfer this amount of money. If they come up with other things to address the shortfall, they may not even have to transfer a third of it.

Commissioner Perona said they are talking about bandaids and there is not permanent cure after the bandaid gets put on because they don't know what is going to happen after that. They have already robbed Peter to pay Paul. This thing just seems like it is going to escalate on and on. What are they doing? They are just getting it over the next little hump. But they don't have any funding down the line. It is always going to be these types of issues - they owe the money, how are they going to pay it? He thinks they really need to deal where they are going from this point. Instead of a bandaid, let's cure the immediate problem and then take care of the long term problem as soon as they possibly can.

Ms. Johnson said this is what they are trying to address. If someone can tell her how she can pay these Police Officers, she would be glad to do it. Right now, this is the only source she has that she can pay them from.

Commissioner Perona said he understands that. But the fact it, it is going to come to a conclusion and they are going to have to make a decision on all these issues. He would rather be dealing with that now, rather than talking about how they are going to get through the next five months and then have to deal with it.

Ms. Johnson said she and the City Manager are setting up a meeting now to discuss some of these issue and the shortfalls.

Commissioner Perona asked what minimally does she need now to get through the present situation?

Ms. Johnson said as far as the Police Grant, the cost is about \$45,000 a month for salaries and benefits. The Sunrise Theatre, she couldn't tell them. She knows the Theatre is in its season right now and has a lot of contracts going on, but they do have revenues coming in also. Right now, they are only about \$40,000 short. But they do have a lot of shows that are coming up in March and it may address most of the issue.

Commissioner Becht asked will \$250,000 get her through 30 days?

Ms. Johnson said definitely.

Commissioner Perona said he thinks they need a resolution on how they are going to go from now on within the next 30 days. He would rather be dealing tonight with a figure that gets them out of the problem right now and let them solve the problem in the next 30 days as to what happens in the future, so they are not back at the trough again looking for another \$500,000 or \$1 million six months from now.

City Manager Recor said the Special FPRA Meeting has been scheduled for March 16th. He has one-on-one meetings scheduled with each Commissioner to go over the detailed financial analysis for the FPRA. At the same time, they are establishing an executive committee - Mr. Mimms, Chief Baldwin, the Finance Director, and himself. He opened it up to all Department Heads that were interested, but Mr. Mimms and Chief Baldwin have the

largest departments and are obviously going to be affected. If they will recall last year, it was about April when they had their first discussion about decisions that they needed to make in that current fiscal year to anticipate the projected budget gap. He saw the projected budget gap for the first time this afternoon. It was much higher than what he expected it to be. So now they have to have this discussion in March.

Commissioner Alexander said when Ms. Tillman was here earlier, he heard her make the comment that over \$50 million was poured into downtown. How much of that was the Sunrise Theatre?

Mayor Benton said he thinks it was \$7 million for construction.

Commissioner Alexander said the Sunrise Theatre has a shortfall of what - \$700,000? So \$250,000 of that is going to leave \$500,000.

Mayor Benton said they are going to have to start doing business a little differently.

Commissioner Alexander said the comment he read in the newspaper about Mr. Nelson talking about an internal auditor, he wasn't talking about just one department, he was talking about the City as a whole. He thinks they need to look into that.

Mayor Benton asked how long is this going to fund the Police Officers? Did she say \$45,000 a month?

Ms. Johnson said right now they have a little over seven months.

Mayor Benton asked then they don't know where they go from there?

Ms. Johnson said it should take them almost to the end of the fiscal year.

Commissioner Perona said Ms. Johnson is looking for some immediate relief. And they need to get to work on what they are going to do for the rest of this year and talk about next year.

Motion was made by Commissioner Perona, seconded by Commissioner Becht, to authorize transfer of (up to) \$250,000 from the Solid Waste Fund to continue the FPRA Community Policing Grant and the Sunrise Theatre budget shortfalls.

Commissioner Becht said they are going to have to lean on Ms. Johnson, Mr. Ward, Mr. Wilkes, and Mr. Recor to come up with options for meeting the current funding, this fiscal year for the next seven months. The Commission has tough decisions to make. They may have to seriously revamp Community Policing, they may have to seriously reevaluate what they can and cannot do with the Sunrise Theatre. He talked to John Wilkes today, his program is not done on a weekly basis, he has commitments three, four, or five months out keeping programs in the theatre. They are going to have this FPRA Workshop on March 16th. Before then, Ms. Johnson, Mr. Recor, and Mr. Ward are going to come up with what they can agree on as a direction for the FPRA in the

next seven months, or disagree. But he is going to have all of the resources of the City in the discussion. He is going to have FPRA funds and general funds and reserve funds and marina reserve funds and whatever else, all on the table at the same time. Mr. Mimms had already thought through the Marina's need for \$1 million in the first quarter of 2011. But he just wants to make sure that those things are thought about before he makes a decision. So if that is the process they are going to go through, they are going to be making major decisions in the next 30 days, he is reluctant to solve the Sunrise Theatre and the Community Policing issues tonight with these resources before he has the global picture of all the other issues that may need to be solved. So he would like to commit the minimum dollars necessary to get them through March and that may be less than \$250,000. If they can get through March with less than \$250,000, at the end of March he expects the City Commission and the FPRA Board to give direction to its Staff on how they are going to get through the next seven months; and that would be preparatory to getting ready for the next fiscal year, which will be even worse. Can she give them a number less than \$250,000 that will get them to March 30th?

Ms. Johnson said she could, but she truthfully does not believe it is going to take them through... Even with the \$250,000, she will not transfer it unless she needs it. She is not going to transfer more than what it costs to cover the salaries. If the Sunrise Theatre is short, she will only transfer what is necessary. That is the way she does everything. She never transfers it unless she needs it. She does not transfer the entire amount at one time.

Commissioner Becht said what he doesn't need to happen is the Chief seeing this guillotine on its way down, him running in for extra funding; and he does not need for Mr. Wilkes to rush this into March because it may not happen in April. But Ms. Johnson will be the judge of that.

Mayor Benton said Ms. Johnson has said it is \$45,000 a month for Community Policing and right now the Sunrise Theatre needed \$40,000. So he thinks \$100,000 will get them through the end of the month.

Ms. Johnson said no, they have another check run.

Commissioner Perona said he will amend his motion to say up to \$250,000.

Commissioner Becht said he accepts the amendment.

Commissioner Sessions asked what about a disbursement of the \$250,000 - are they talking about part of it going to the Sunrise Theatre and part of it going to Community Policing?

Ms. Johnson said she will only transfer what is needed. Community Policing has zero dollars, so she knows she has to fund that. The Sunrise Theatre, she will transfer it as needed. Not in excess of the \$250,000.

Commissioner Sessions asked what is her assessment of Community

Policing for one month?

Ms. Johnson said it is about \$45,000.

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

The next item on the Agenda was Chief of Police request approval of a contract with American Traffic Solutions (ATS) to provide Video Red Light Camera Enforcement Services.

Chief of Police Sean Baldwin said they have in their packet a contract which has been a long time coming. It wasn't an easy process, but it was extremely thorough. He would like to hit on a few points and then there is something the City Attorney needs to discuss. First he wants to thank Mr. Schwerer's office, they worked diligently on this matter. It too far too long, but the result is tremendous, especially when comparing where they started with the proposed contract and where they are now. He believes they probably have one of the best contracts being proposed in the State of Florida. It was difficult for ATS, because there were some business decisions there; but he appreciates their cooperation.

Commissioner Becht said in their packet the Chief gave them a printout of the Circuit Court decision that is not binding outside of the 11th Judicial Circuit (Richard Masone v. City of Aventura, Case No. 09-12736-CA-09). Fort Pierce is in the 19th Judicial Circuit. But the opinion issued by the Judge in that situation, he relied heavily on the fact that in that ordinance the police officers were not reviewing the video or having any participation in the issuance of the ticket. The situation with Fort Pierce's ordinance, which the Chief helped draft way before this opinion came down, their Police Officers will review the video and will decide whether to issue a ticket or not. He talked to Mr. Schwerer. It was his opinion, as expressed to him, this opinion has no application to Fort Pierce, because they are not in the 11th Judicial Circuit and also their ordinance has the curative measure that made the Aventura ordinance fail. He wants that on record so the public knows, if this contract is approved tonight, they are not being stupid, their ordinance already has the cure in it that the City of Aventura's ordinance does not have in it.

Chief Baldwin said it goes beyond that. Their ordinance actually allows him to use either civilian or sworn officers to review the notice of infraction. In light of what has happened, administratively he will require a Police Officer review until they work through this issue. Also he wanted to point out to Commissioner Becht, because this was one of his demands, that they have very clear language in the contract that allows them to separate from this contract should there be a legal decision that impacts their ability to carry on with the program in the City of Fort Pierce.

Commissioner Becht said he also put in there "shared defense". It is a shared defense on a pro rata basis. He has no idea what

that means.

Chief Baldwin said that is the best they could do. On a pro rata basis, that is as far as they could get. The points the Commissioners asked for, those were the most contentious ones. He knows by Mr. Schwerer's signature on the contract that he is comfortable at this point with the contract.

Commissioner Becht said he compliments staff. Sometimes staff is aggressive and he is fond of them being aggressive. But he does not know how Chief Baldwin got ATS to agree to a lien on their equipment if they don't meet their obligations on this shared defense or indemnification or anything else. So that was quite a coup in his opinion.

Chief Baldwin said he has got to give the credit to Mr. Schwerer and Ms. Emerson. Commissioner Becht has probably shortened his presentation and he appreciates that. But beyond the contract issues, he just wanted to point out to the Commission and to the public that since they first had the debate about the ordinance, there have been another 16 counties and cities across the state that have implemented the red light video enforcement, most of those choosing ATS as the vendor. In his estimate, there is somewhere over 70 jurisdictions in the State of Florida that are doing this and he believes 58 are with ATS. Commissioner Becht talked about the Court decision. Commissioner Alexander is always concerned and interested about the progress here, but once again this year both the House and Senate have submitted companion bills that would resolve any ambiguity that there may be in the law about a local jurisdiction's ability to run these red light video programs. He has reviewed the text of both pieces of legislation, those are identical and absolutely resolve any questions about the legal issue. The only question left is - and he does not expect this to be resolved until April - what piece is the State going to take out of their pie? Right now as the legislation is written, it is half - 50%. He does not think that is fair. The local governments have had to burn all of the resources and go to contract with the vendors and work all those issues out, so they obviously have carried much more than half of the work. But that will be worked out through legislation. They may recall, this is the very reason why the legislation died last year, because the House and the Senate could not agree on what that share was. At any rate, Staff is prepared to move forward cautiously, under the watchful eye of the City Attorney, if they can get this contract approved.

Mayor Benton said he has been a big supporter of this from day one. He wishes these were already operating. To him, it is a public safety issue. His concern is, they are having police officers look at these, is that also in court? He does not know how many cases and how much litigation across the state. Are they clear with what they are doing, that there is no litigation against this, or is it the other way?

Chief Baldwin said this is being attacked on several fronts, so there is obviously some risk involved in this. But their contract allows them to get out of this business if it becomes legally necessary to do so.

Mayor Benton said he supports this, he wants to get the cameras out there to slow people down and make them stop at red lights. His concern is, six months or a year from now if they have collected... He saw some pretty steep numbers. But if they collected maybe \$200,000 and all of a sudden there has been a class action suit and the ruling goes against the cities and they have to pay that money back, he would feel better if that money was in an account. And until some direction is set, which he would expect soon... He would like to get a record of what decisions and when. He just has a problem if they have to return a lot of money.

Commissioner Becht asked if they approve this tonight, when will the cameras go up? Then there is a 30-day wait period before the first ticket would even go out. So when do they reasonably expect for the first ticket to go out?

Chief Baldwin said ATS is prepared to go to work, have been actually begging him to let them go to work. The Police Department is prepared on their end. But at best, he would say it is going to be 90 days. They have to go through the engineering process, the site survey process, and then a 30-day warning period. And he hopes that this legislation issue is going to be resolved by then.

Commissioner Alexander asked if the State makes a decision that it is 50% of what the Chief budgeted for this year...?

Chief Baldwin said hopefully all of the Commissioners can go to bat with the local Representatives and Senators. He thinks the 50% is unfair. It will be decided by law, what the percentage is going to be. He thinks that the State would do far better to lower that and let all these jurisdictions continue.

Commissioner Alexander said but his budget has already been reduced 50%, from October 1st when he first came to them with the budget.

Chief Baldwin said he is absolutely right. They have lost the first six months of the fiscal year, yes.

Commissioner Alexander said then they are talking about losing another three months. So they are only actually getting three months of this year.

Chief Baldwin said he wished he could have solved that problem, but he couldn't. He was really to go in September, but...

Commissioner Alexander asked is there a state law that you can turn right on red?

Chief Baldwin said yes, you absolutely can turn right on red after stopping. One of the things he liked about ATS's product is it allows the Police Officer to determine when a violation is going to be issued. In other words, the Police Officer will actually determine if the right turn on red was a violation or if it was complying with the law. If you stop and then turn

right, it is not against the law.

Commissioner Becht asked could he walk him through the flow of dollars? Does it have to be this way? If he understands the process correctly, when they get up and running, the officer will approve the issuance of the citation, but the citation will actually be issued by ATS, and then the money will come into ATS and then ATS will remit to the City whatever their share is under the contract. Is that how the money flows?

Chief Baldwin said no, it is actually a little bit more secure than that. According to their contract, the proceeds go into a "lockbox". The account is in the City's name, so ATS doesn't actually touch their money.

Commissioner Becht said he was concerned, because it looked to him like it went to ATS and then ATS would remit it to the City. The Chief is saying, that is not what is going to happen?

Chief Baldwin said that is not exactly the case. According to the contract, it goes into a lockbox or an account where the City has direct access to their money.

Commissioner Sessions said he sees that the City Attorney, who was somewhat leery, has now changed his whole perspective. He had some reservations and has now changed his position? A lot of that stemmed from the legality of a lot of this earlier when they first started this conversation. The City Attorney did go on record as having a lot of reservations in light of the pending litigations on this issue. What is his position now?

City Attorney Schwerer said this Contract under Paragraph 6.1, Termination, allows them to stop this program at any point where they believe there is legal jeopardy by a Court decision. They have reviewed all of the litigation that they could get their hands on to determine what is the method and the issues of attack. All of the cases attacked this on the grounds that it is preempted to the State. Which means under Chapter 316 only the State can issue tickets. This isn't a ticket, it is a code violation. So they are comfortable to the extent that ATS has agreed to install the equipment and they are going to have a period of about 90 days, and at the end of that 90 days if they believe there is legal jeopardy, they have the ability to stop the program from being initiated, with the permission of the Commission, and ATS agrees with that.

Mr. Brad Swanson, Business Development Director for American Traffic Solutions, said that is correct under this very stringent contract the City has negotiated with ATS. It is a much asked-for provision these days, they call it the state-enabling legislation clause. It also applies to the legal status as well. That upon passage of legislation, a city or county may choose to move forward with full enactment of their program. And of course, moving forward in advance of that is at the choice of the city as well. But that singular clause is what allows them that ability to look out to the horizon at their go-live date of issuing citations. Yes, that enabling clause allows them to look out over the horizon and decide if

they want to move forward. It is the paid citation that is the trigger for legal culpability, for lack of a better word. But based upon their time lines, they are going to have a very clear view at that point as to whether to go live and issue those paid citations. But their warning period and their enactment period will have them well clear of the legislative session as well as the appellant action.

City Attorney Schwerer said because they were able to negotiate some very strict built-in safeguards in this contract - which is vastly different from the original contract that was proposed - and because of the status of the law, he is comfortable in recommending they go forward. Staff has the ability within 90 days to bring it back to the Commission if the Legislature doesn't act and they now have some potential jeopardy out that. The case in Aventura is now at the 3rd District level. They are looking at the briefs and the briefs are close to making a decision that would preclude them from enforcing it. They have at that point in time the opportunity to pull the plug and present to the Commission the reasons to do that, and ATS agrees with that. So they are not going to get into something where there is a point of no return. They will be able to not go forward. If the Legislature does not act and the Aventura case is still in limbo, they will have that discussion as well. There is 80 or 90 municipalities out there that are actively collecting on this. He thinks that the Legislative will be forced to do something, it has to happen.

Commissioner Sessions said he appreciates what the City Attorney has done in order to narrow the scope of the contract, that would certainly appear to be in the best interest of the City if in fact they are going to move forward. That is the question here, moving forward. Nevertheless, from his perspective he still has some reservations with regards to implementing such a policy that he feels is going to be an imposition or a burden on the citizens in light of the economic times, to enforce more police authority on their citizens which will result in placing an economic burden on them by having them to pay for these tickets, he just does not feel the timing is right. When they look at what is going on in the surrounding municipalities that don't have it, it may even serve as a form of discouragement in terms of inviting people to their city in light of that red dot in the middle of all of the other surrounding cities where they happen to be the one that says when you step in the City of Fort Pierce, you better be extra careful. He just has some reservations. He is not in a position to support this ordinance today as he was in the beginning, simply because he just does not feel that the situation from a safety standpoint warrants an imposition of placing fines on individuals in light of these economic times right now.

Commissioner Perona said he understands there is a warning period, they have 30 days, and that starts on the first camera. So if it takes two weeks to get the fifth camera up, they only have two weeks to a warning period, it isn't per intersection, right?

Mr. Swanson said correct, it is in conjunction with a holistic

public affairs campaign.

Chief Baldwin said they will have a public relations campaign that will go along with this. There is a 30 day warning period. He anticipates that all five of their cameras - which doesn't necessarily mean five intersections - will go live at the same time. If that doesn't, he will be happy to work out a warning period that goes beyond that. He wants to be fair about this. He knows there is some money involved; but his whole side of this is to get people to stop at the intersections, that is the whole point.

Commissioner Perona said he saw a program, he can't remember where it was, but during their warning program they handed out 2,400 warnings.

Chief Baldwin said part of their program is that ATS has to do that free of charge to the City or to the violator. They have to provide that actual notice in the mail that says 30 days from now this will be a citation.

Commissioner Alexander said he heard the Chief say they are going to put up five cameras. He thought it took at each intersection on going one way and another going the other way.

Chief Baldwin said the way this works, it is five approaches. They can do more or they can do less.

Commissioner Alexander asked any approach should be two cameras, right?

Chief Baldwin said one camera. One camera can cover three lanes. For instance, at U.S. #1 and Avenue A, to fully cover that would take four cameras because there are four different approaches.

Commissioner Alexander said he sees the cameras in other cities and those are on top of the light on both sides, one going one direction and one going the other direction.

Chief Baldwin said if they want to cover the north and south approaches, it will take two cameras.

Mr. Swanson said the cameras Commissioner Alexander is seeing above the intersections, those are what the counties and cities use to monitor traffic flow. Cities and counties will ask a company like ATS to attack the most dangerous approaches at intersections. They may have two approaches that might funnel into a neighborhood. At the 5:00 o'clock rush hour, that may be the most egregious traffic red light violations traveling perhaps into a neighborhood. But they may have slow mph traffic coming out of that neighborhood. So to attack the most dangerous red light running intersections, the highest rate of capture and deterrent on folks who are running these red lights, might be the only place to put those cameras, at the most dangerous infraction points, but not coming out of the neighborhood where people are traveling at a safe miles per hour. So the reason they talk about approaches is that it

allows greater flexibility to a city to position their infraction deterrent at the most run direction of a red light. Not all approaches to an intersection are equally as dangerous. They have no minimum or maximum. They believe in whatever the city calls for.

Commissioner Alexander asked is he saying five cameras is going to create \$400,000 a year for the City?

Chief Baldwin said that is their estimate. Hopefully as the years go on, it will create a whole lot less than that because people will learn to slow down.

Motion was made by Commissioner Perona, seconded by Commissioner Becht, to approve the Exclusive Agreement between the City of Fort Pierce and American Traffic Solutions, Inc. for Photo Red Light Enforcement Program.

Commissioner Becht said if the Legislative does not act, then he does not know what he is going to do; but he is leaning towards opting out. That is what they are allowed to do under the contract, correct?

City Attorney Schwerer said with that case pending, yes.

Mayor Benton said he will be going to Tallahassee. If anyone wants to join him, the Florida League of Cities is having their Legislative Action Day on March 24th.

Commissioner Becht said it seems to him that the best thing that could happen is that the 3rd District could certify the question up to the Supreme Court and the Supreme Court could interpret this such that they don't need legislative approval. In that event, the State can't get 50% of their revenue.

Mayor Benton said with the budget shortfall, the State is going to be doing everything it can to squeeze a few dollars out of everyone.

Commissioner Sessions said he still does not believe the imposition of fines to the drivers within their jurisdiction is the right approach to trying to offset and supplement their budget. He realized as they progressed in time and got more desperate in terms of trying to figure out a way to offset their budget that they would be dealing with this without any options for the most part. But still he is not backing off of his position. He just does not feel it is appropriate. He sees what they are trying to accomplish, they have some budgetary problems. But imposition of fines by a police authority and giving tickets for red light cameras, he does not think is the answer.

Those voting in favor of the motion were: Commissioners Becht, Perona, and Benton. Those opposed: Commissioners Alexander and Sessions.

The next item was the Consent Agenda.

City Clerk Steele said before they consider the Consent Agenda, please correct Item 24(e) to read: "...contingent upon payment within six months."

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

- a. Approve purchase of **Ammunition** for the Police Department from Florida Bullet, Inc. in the amount of \$40,838. (Sole Source - ATK - Speer & Federal)
- b. Approve Change Order No. 2 to Contract with Dickerson Florida Inc. for **State Road A1A** Improvements - Phase IIB (South Bridge to Bayshore Drive) in the amount of \$80,000 for additional water and sewer utility relocation.
- c. Award bid for Fiber Optic Connection and Upgrades to City Hall's **Traffic Closed Loop System** to Precision Contracting Services, Inc. in the amount of \$30,325 for recently completed U.S. #1 FDOT Project.
- d. Accept proposal by Culpepper & Terpening for CEI (Construction, Engineering & Inspection) Services for **Oleander Avenue and Sunrise Boulevard** Sidewalk & Bike Path Improvements in the amount of \$147,350; and rescind prior CEI contract awarded to C&T under RFQ 5833. Ref. RFQ No. 5978
- e. Reduce Code Enforcement Lien in the amount of \$22,500 against **810 Citrus Avenue**, owned by Steven W. Nicely, to \$500, contingent upon payment within six (6) months.

City Manager Recor said the Special FPRA Meeting is set up for March 16th. They do plan on having a comprehensive financial picture for the Commission when they sit down and have that discussion. They are working with two dates for the Joint Meeting with the St. Lucie County Board of County Commissioners, either March 29th or 30th, for a half day Workshop. They have two issues they know of for sure - the TCERDA Interlocal Agreement and the Port. He will be distributing copies of the Port Master Plan, so they have the most accurate and up to date information. Would they like to have an afternoon session in advance of that Joint Workshop? He does not know if all of them have been given the opportunity to provide input on the TCERDA Interlocal Agreement or if they are familiar with the latest iteration. So he would suggest they have a strategy session to sit down and brainstorm on it.

Commissioner Becht said he would like to do that, if they have two hours. Not only TCERDA, but the Parks MSTU, if they could hit both of those in the same two hours.

Mayor Benton asked why don't they do that right before they go into the meeting with the County?

City Manager Recor said that is what they did the last time, met right before it. He will have Ms. Robinson begin to put it

together.

Commissioner Sessions said it has been a real interesting evening. They had one of their colleagues question the ability of the **City Manager** to further run the City of Fort Pierce. Commissioner Alexander stated that his main concerns were the fact that their City Manager was in a position where he was bullying people, so to speak. He just hopes that if nothing else is picked up here tonight, that their City Manager carefully examines his approach in terms of how he handles his affairs. Because to have something like this to take place tonight would certainly raise some question in his mind about his ability, at least from the perspective of the individuals that have the authority to retain his services. There is no room for gestapo tactics in City Hall. A meek and humble spirit will go a long ways. They are servants of the citizens of the City of Fort Pierce, so they need to keep that in mind and try to better themselves from that perspective. He just wanted to send that message to their City Manager.

Commissioner Becht said recently in The Post and on TV, West Palm Beach was bragging about their **waterfront**. They spent somewhere in the neighborhood of \$12 million to create a waterfront. Fort Pierce has a waterfront that was purchased and created a long time ago and they have managed to preserve it. He likes ending meetings on a high note when he can. They have done the right thing with the waterfront. Having West Palm Beach brag about the fact that they have created one to the tune of \$12 million with an annual operating budget of about \$750,000, he finds it comforting that maybe every now and then Fort Pierce does the right thing.

Commissioner Alexander said he has always said this City is like a string of pearls. They just need to be smart growth.

Mayor Benton said the word they got a week or so ago was good news on their **crime rate**. They all thought with the economy what it is, they would see a spike the other way.

Chief of Police Sean Baldwin said the Mayor is sort of stealing his thunder. The Police Department is working on a report to put the statistics together. Crime in the City of Fort Pierce in 2009 compared to 2008 is down over 11% overall. Even more importantly, violent crime is down 34%, which is absolutely astonishing. So they have done good. He will be presenting that more formally.

Mayor Benton said for some reason, this community just doesn't always hear this. So he will be saying it over and over again, as the Chief will be, and he hopes everyone up here does. So many times they hear even themselves imply this is a crime-ridden city. Somehow they have to realize that things are a lot better than it used to be. There is a big reason for it. It is not just the Police Department - it is the public, the churches, a lot of the programs they have done. They all should be proud and the community should be proud. He couldn't be prouder of the efforts of this City.

Regular Meeting

March 1, 2010

There being no further business, Mayor Benton declared the meeting adjourned at 11:15 p.m.

Adjournment.

ATTEST:

CITY CLERK

MAYOR COMMISSIONER

