

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 7:00 P.M. ON MONDAY, APRIL 18, 2005.

Commissioner Nelson gave the invocation.

The Pledge of Allegiance was recited.

Upon Roll Call, those present were: Mayor Robert J. Benton; Commissioners Rufus Alexander, Christine Coke, and R. Duke Nelson; City Manager Dennis Beach; City Attorney Robert Schwerer; and City Clerk Cassandra Steele. Those absent: Commissioner Edward Becht.

Motion was made by Commissioner Alexander, seconded by Commissioner Coke, to excuse Commissioner Becht from this meeting.

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

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Mayor Benton proclaimed April 17 - 23, 2005, as "**National Public Works Week**". Mr. Gary Ferch was present to receive the proclamation.

Mr. Gary Ferch, Director of Public Works, said he would like to repeat what he usually says each year, but he really means this from the heart. He wants to thank the City Commission for all their support in what they do for their Public Works team. He hears such positive things out of the community from all the Commission that they say good things about their team and how hard working they are. They all just love to hear that and they try to strive to make that happen. And a very heartfelt thank you to the City Manager for all his support in all these years, the help and assistance he gives them.

Mayor Benton said he wants to say again, and he has said it several times in the last six months, but he thinks their Public Works Department's highest point in the time he has been living in Fort Pierce was after the two hurricanes. Because instead of being home with their families, they were out cleaning the roads off so they could get the power turned on. He will tell them, the roads were in really bad shape and the trees down. Even the State roads, which FDOT is supposed to take care of, like A-1-A, the Public Works guys went through and cleaned it up and did one heck of a job. They won't forget that. Everybody should give their Public Works people a pat on the back because they went beyond the call of duty. Everyone really appreciates what they have done.

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Mayor Benton proclaimed April 30, 2005 as "**Arbor Day**". Paul Williams was present to receive the proclamation.

Mr. Paul Williams, AS/Urban Forester, said he invites them all to the Arbor Day celebration that is going to be April 30th at Heathcote Botanical Gardens as part of their May Fest. He invites the Mayor, City Commissioners, City staff, and the public.

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City Clerk Steele read the following resolution:

RESOLUTION NO. 05-25

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA REQUESTING THE **FEDERAL COURTHOUSE** TO BE CONSTRUCTED WITHIN THE CITY OF FORT PIERCE BE NAMED IN HONOR OF ALTO LEE ADAMS, SR."

WHEREAS, ALTO LEE ADAMS, SR. was born on a farm in Walton County, Florida, in 1899. He grew up in a large family and left the farm to attend the University of Florida Law School; and

WHEREAS, ALTO LEE ADAMS, SR. moved to Fort Pierce, Florida, on January 5, 1924 and lived in Fort Pierce and practiced law, representing anyone who needed counsel regardless of race or religion; and

WHEREAS, ALTO LEE ADAMS, SR. was appointed a judge for the Ninth Judicial Circuit Court and two years later appointed to the State Supreme Court by Governor Fred P. Cone (D) and served there until 1951, his last two years as Chief Justice. While on the Supreme Court, he wrote a number of opinions supporting property rights, free trade, the separation of power between State Constitutional Offices, and other opinions that became Florida law and matters of concern to this part of Florida. Alto Lee Adams was the first person to receive the Heritage of Knowledge award from the University of Florida and he was the first graduate of the University of Florida law school to be sent to the Florida Supreme Court; and

WHEREAS, ALTO LEE ADAMS, SR. devoted his time to many business interests, including the development of some of St. Lucie County's early citrus groves, the Adams Ranch, and Bass Motors; and

WHEREAS, returned to the Florida Supreme Court in 1967 at the specific request of Governor Claude Kirk (R); and after mandatory retirement in 1968, was recalled many times to the circuit bench around the state to help clear crowded trial dockets; and

WHEREAS, the people of Fort Pierce desire to honor this outstanding and prominent citizen who lived in Fort Pierce until his death in 1989.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Fort Pierce, Florida, to humbly request that the proposed Federal Courthouse to be constructed in the City of Fort Pierce be named in honor of ALTO LEE ADAMS, SR.

BE IT FURTHER RESOLVED that a copy of this Resolution be presented to the family of Alto Lee Adams.

IN WITNESS WHEREOF, this Resolution has been duly adopted on this 18th day of April, 2005.

/s/ Mayor Robert J. Benton III ATTEST:

/s/ Cassandra Steele, City Clerk

(CITY SEAL)

Commissioner Coke said just one point. She is wondering if in the last paragraph they shouldn't change "humbly request" to "respectfully request".

Motion was made by Commissioner Nelson, seconded by Commissioner Coke, that Resolution No. 05-25 be amended by changing the word "humbly" to "respectfully"; and that Resolution No. 05-25, as amended, be adopted.

Commissioner Nelson said one further thing. He thinks the Adams family or at least a portion thereof is in the audience. They ought to give him a chance to stand and be acknowledged; and if they can convince him to say something, let him say something. Alto Adams, Jr. is in the back of the audience with his lovely wife.

Mayor Benton said he was going to present him with this Resolution once they adopted it, then see if Mr. Adams would like to say a word.

Those voting in favor of the adoption of Resolution No. 05-25, as amended, were: Commissioners Alexander, Coke, Nelson, and Benton. Those opposed: None.

Commissioner Nelson said to make sure this gets in the right channels, he is assuming that the City Manager is going to be routing this to the General Services Administration? Also representatives Hastings and Foley and Senators Nelson and Martinez. They will constitute the key players from this area to put this forth through the rest of the Congress and it is no easy task. Just recently there was a courthouse named after some very fine individual in Arlington, Virginia, that took quite a bit of the Senate's time and deliberate debate on that one. So this individual, who represents so ably the quality they want in their people to foster for their youth and others who come behind them, has in fact done a tremendous job and brought great credit to this City, this State, and of course to some extent this Nation. He is honored to have the opportunity to vote in favor of this and he certainly wants it to be passed at the Congressional level.

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

Letter from Steve McGinn, Florida League of Cities, thanking Fort Pierce Police Officer Caleb Gillette for his participation.

Letter from Peggy Anderson, Lincoln Park Academy, thanking Chief of Police Eugene Savage for his kindness and assistance.

Letter from Kathleen Fredrick, A.E. Backus Gallery & Museum, thanking Director of Public Works Gary Ferch for his contribution and support.

Letter from Rodney Doss, Office of the Attorney General, in appreciation of the outstanding work and quality service by Fort Pierce Police Investigative Assistant William Hicks.

Letter from Marlene Hadden expressing gratitude to Fort Pierce Police Officer Atilano Garcia for his dedication, patience, and caring.

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

Commissioner Coke said she would like Item 8h (Police Department Hurricane Shutters) removed for discussion.

Commissioner Nelson said he would like some verbiage on Item 8e (Architectural & Engineering Services for Indian River Veterans Memorial Park).

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

- a. Approve the Minutes of the Regular Meeting on April 4, 2005.
- b. Approve **Cooperative Research Agreement** for the Public Safety Technology Center between the University of Central Florida and the Fort Pierce Police Department to allow cooperation with other law enforcement agencies to identify persons committing crime through the use of information stored in various law enforcement records systems.
- c. Approve continuation of Agreement with **Siver Insurance Consultants** for professional consulting services for 2005-2006 with the same terms and conditions as the current contract.
- d. Accept lowest and best bid from Culver Trucking, Inc. for **Trash Hot Area Pick-Ups** for a total not to exceed \$50,000 (for period April 7-20, 2005). Bid No. 5508
- f. Authorize purchase of three 2005 **Ford Taurus** vehicles for the Police Department

Service Aides from Sunrise Ford in the amount of \$33,604.95; and approve appropriation of funds from Police Department Grant Account. Bid No. 5472

g. Approve increase in the amount of \$6,500 to Blanket Purchase Order for **Public Works Fleet Maintenance** for purchases from Genuine Parts Company.

i. Authorize piggyback Florida State Contract for the purchase of a Toro **Greensmaster Triplex Greensmower** for the Indian Hills Golf Course from Weso Turf Supply, Inc. in the amount of \$21,605.63. Bid No. 5460

j. Authorize piggyback Orange County School Contract for the purchase of a John Deere **Fairway Mower** for the Indian Hills Golf Course from Nu crane Machinery in the amount of \$35,092.80. Bid No. 5460

k. Approve Agreement for Professional Services for redesign of the Fort Pierce **City Marina** with Tetra Tech, Inc. in the total amount of \$577,027.00. Stage 1 (Reconstruction - \$234,400) and Stage 2 (Expansion and Enhancement - \$342,627). RFQ 5477

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The next item considered was Item 8e, which had previously been removed from the Consent Agenda: Approve ranking of firms for Architectural & Engineering Services for **Indian River Veterans Memorial Park**; and authorize negotiation of a contract beginning with The RMPK Group.

Commissioner Nelson said this is a project he is quite a bit involved with and he is concerned with more or less trying to ascertain whether or not they have a time line for this activity and they have in fact clearly defined their boundaries there. And are they considering some of those things he received from public input regarding what they want their architects to design for or design toward? To what extent are they involving the public in this?

City Manager Beach said they are in the process, depending on the action of the Commission tonight if this is approved, they will negotiate a contract with the top ranked engineering firm and the terms or at least the details of what they will be doing will be negotiated within that contract. If there are some specific issues the Commissioner wants to ensure are included in that, please get him something in writing and he will see that is part of the contract discussions and contract negotiations.

Commissioner Nelson said he has written several memos on this. He is not talking about putting a tank out there or an Apache helicopter.

Mayor Benton said good. They have them on North Beach now (UDT/SEAL Museum). They don't need any more.

City Manager Beach said this process they use for this design will be brought to the Commission on a number of occasions. Whether or not they involve the public in that process is a different discussion. They can involve them at the same time it is brought to the Commission for discussion or they can have specific meetings on this subject that the public is invited to. But the process itself is typically putting together some conceptual proposals, proposing that to the Commission, and they all either saying yes, move forward with this, or let's make adjustments here, here, and here.

Commissioner Nelson said let it evolve the way they normally do things. But if by chance they can find any of those memos he has written regarding this, based on some public input, he would certainly appreciate it. Because the design in the end becomes the City's effort as opposed to the architect's effort or the individual's effort.

City Manager Beach said yes. And the point he wants to make is that there will be more than one opportunity after this for the Commission to have input to what is done there.

Commissioner Nelson said okay.

Motion was made by Commissioner Nelson, seconded by Commissioner Alexander, to approve ranking of firms for Architectural & Engineering Services for Indian River Veterans Memorial Park; and authorize negotiation of a contract beginning with The RMPK Group.

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

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The next item considered was Item 8h, which had previously been removed from the Consent Agenda: Approve ranking of firms for Police Department Hurricane Shutters; and authorize negotiation of a contract beginning with EZ-Lock Shutters Corp.; and approve appropriation of funds from the Police Department Grant Account. RFP 5483

Commissioner Coke said she is in full support of this, but she would just like them to investigate further one option. She noticed in the last few weeks there have been several news articles and things on television about all these cities in the middle of the Country that have little or no threat to homeland security that are getting hundreds of thousands of dollars and they are absolutely wasting the money. She thinks there is the beginning of a public outcry for it. And at this juncture, maybe not for this particular project, but she thinks for a lot of things that the Police Department needs, there is going to be a movement towards financing that through the homeland security. Because she watched one special for an hour the other night and it was beyond her comprehension some of these things that the Federal Government had paid for in a little towns that nobody has ever heard of. So she thinks they need to at least open that door again and try and do it.

Motion was made by Commissioner Coke, seconded by Commissioner Nelson, to approve ranking of firms for Police Department Hurricane Shutters; and authorize negotiation of a contract beginning with EZ-Lock Shutters Corp.; and approve appropriation of funds from the Police Department Grant Account.

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

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The next item on the Agenda was Public Hearing on Application for Certificate of **Public Convenience and Necessity** submitted by Jamie A. Vicent for **Paradise Photography & Limousine Service, Inc.** to operate one vehicle (limousine not exceeding ten passengers) in the City of Fort Pierce.

Mayor Benton declared a Public Hearing 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 Coke said she assumes that arrangements have been made that this will not be parked in a residential neighborhood; or if it is, it won't have signage on it.

City Manager Beach said the address that is on the application is 5300 Stately Oaks Street. He doesn't know that a discussion has occurred relating to parking within a residential area and he doesn't know that is prohibited as a part of the ordinance. He knows they have in the past placed conditions on granting these permits that they would not do that.

City Clerk Steele said they can go ahead and place conditions, but their business location

is 2310 Okeechobee Road. It is commercial zone.

Commissioner Coke said okay. She just always likes to make sure, especially this type of business, that the operators are very aware of the fact that it needs to be contained in a commercial zone, not a residential zone.

Motion was made by Commissioner Coke, seconded by Commissioner Nelson, to approve a Certificate of Public Convenience and Necessity for Paradise Photography & Limousine Service, Inc. to operate one vehicle (limousine not exceeding ten passengers) from 2310 Okeechobee Road, with the condition that the vehicle needs to be contained in a commercial zone, not a residential zone.

Commissioner Nelson asked how many of these type vehicles do they have in service today in this City?

City Manager Beach said he doesn't know the answer to that off the top of his head.

Commissioner Nelson said they are trying to determine whether or not there is a need for this service and it appears they certainly should have that type of data. Is the applicant here?

**Mr. Jamie Vicent** said his residential address is 5300 Stately Oaks. What he wants here is to augment their photography business with the limousine service. For example, for brides they offer the full package. It is not going to be run as a taxi type service. It is going to be kind of like a package deal, such as an occasional night out on the town. It is going to be kept at the commercial property exclusively. So it would be kept at 2310 Okeechobee Road, which is C-3, Commercial Zone.

Commissioner Nelson asked how many of these type vehicles or companies do they have in the City of Fort Pierce to his knowledge?

Mr. Vicent said to his knowledge he believes there is only one which is Celebrity One Limo. It is not a taxi either. He believes they are a limousine service. He doesn't know how he can differentiate between a taxi service and a limousine service by definition. He doesn't know what the difference is.

Commissioner Nelson asked does he propose to have these at this business establishment? Which is it, a residence or a business?

Mr. Vicent said it is a business address. It is commercial property.

Commissioner Nelson said it is going to be stored there at night?

Mr. Vicent said it will be stored there at night.

Commissioner Nelson said his competitor is who?

Mr. Vicent said it would be Celebrity One Limousine, compatible with that as far as that particular service. What they can do is they can augment their particular photography business with offering a service to the bride or for those clients that need a limousine service as well. So in other words, like a one stop service type.

Commissioner Nelson said he is not familiar with that outfit he mentioned there, but he thinks Commissioner Alexander might know of another limousine service that he uses from time to time in that area.

Commissioner Alexander said he uses them all.

Mr. Vicent said hopefully he will use his too.

Commissioner Alexander said it is in much demand, he will tell them that. He gets gray hair sometimes trying to get a limousine service. But it is a viable business and there is room for everyone.

Commissioner Nelson asked would he guestimate how many in the City now?

City Attorney Schwerer said there is an attachment in their package that shows how many are licensed. There are, according to the City Clerk's records, taxis and automobiles for hire in the City of March 2005, there is four companies and one has not renewed, so a total of five vehicles. Those are the ones that have filed their licenses with the City. There may be some operating out of the County, but they are not in the City.

Commissioner Coke said everybody knows that she doesn't like to disagree with Commissioner Nelson. But she will point out to him that if the gentleman is looking to open a business, she doesn't think it is their place to tell him whether or not it is a viable business or whether or not he can be successful. If somebody wants to come in and open 43 shoe stores in Fort Pierce and the 44th guy comes along, good luck to him.

Commissioner Nelson said he doesn't know. By law the Commission is required to certify there is a need for these type things. That is where he is coming from.

Mayor Benton said more competition.

Commissioner Nelson said that is part of his task is trying to figure out do they need it.

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

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The next item on the Agenda was Ordinance Nos. K-333 through K-346, **Annexing** various properties into the City Limits.

City Clerk Steele said she has a series of ordinances regarding annexations. She will read them all and then they can hold the Public Hearing.

Ordinance No. K-333 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **4950 SOUTH U.S. HIGHWAY #1**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: H. D. Midway, LLC - Walgreen's)

Ordinance No. K-334 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **4900 SOUTH U.S. HIGHWAY #1**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED

PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Square Treasure Foods - Wendy's)

Ordinance No. K-335 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **810 MIDWAY ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: White City United Methodist Church)

Ordinance No. K-336 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY GENERALLY LOCATED **TO THE WEST OF AND BEHIND 4221 SUNRISE BOULEVARD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Theodore Capper)

Ordinance No. K-337 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **4220 SUNRISE BOULEVARD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Robert Laws)

Ordinance No. K-338 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **2006 HARTMAN ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Tommy & Caroline York)

Ordinance No. K-339 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT

**1803 SOUTH 37TH STREET**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Allie Walker)

Ordinance No. K-340 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **3402 PETERSON ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Patricia Williams)

Ordinance No. K-341 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **5001 SOUTH U.S. #1**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: S & S Rentals LLC)

Ordinance No. K-342 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY GENERALLY LOCATED ON THE **WEST SIDE OF SOUTH OCEAN DRIVE, NORTH OF 3RD STREET (SURFSIDE PLAZA - UNIT 1, BLOCK 8**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: James Gallagher)

Ordinance No. K-343 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **3425 & 3535 DEBERRY ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final

reading and read by title only. (Owned by: First Haitian Church and Maxwell & Gadola)

Ordinance No. K-344 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **2107 SWAIN ROAD AND THE ADJOINING PARCEL TO THE SOUTH**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Kirtut LLC)

Ordinance No. K-345 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED IN **INDIAN RIVER ESTATES BETWEEN WEATHERBEE ROAD, SILVER OAK DRIVE, AND MIDWAY ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Kraaz & Kraaz Finance, Inc.)

Ordinance No. K-346 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTIES LOCATED IN **WESTGLEN SUBDIVISION ON THE EAST AND WEST SIDE OF WESTGLEN DRIVE AND PROPERTIES ON THE NORTH AND SOUTH SIDE OF HICKORY LANE**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Westglen Property Owners - Glendale Commons)

Mayor Benton declared a Public Hearing on Ordinance Nos. K-333, K-334, K-335, K-336, K-337, K-338, K-339, K-340, K-341, K-342, K-343, K-344, K-345, and K-346 in session and asked if anyone in the audience wished to be heard.

**Ms. Marcia Baker** said she lives on Seaway Drive. Some years ago and the last several meetings, she has raised the issue of reapportionment based on the additional properties that are being annexed into the City. She has furnished to two of the Commission members the rule for the City of Fort Pierce that mandates that the City Commission change the voting districts for the City based on population. She understands that this has been farmed out to the St. Lucie County at Gertrude Walker's Office. She would like to call the Commission's attention to, as far as she knows, when all of these annexations have been considered and all the impact statements and everything else, one glaring failure has come to her attention. The effect of the population changes on the Voting Rights Act has

not been taken into consideration. In her little reading of the ordinances for the State of Florida and of the Voting Rights Act, it is obligatory on any governmental panel that is doing anything that would change in any way voting patterns, or as they say, affect of vote dilution, to have an impact statement and to have this considered in their annexation. Let her just read a brief thing here from the United States Code which is the Voting Rights Acts 1973 and it has come to be known as the "results test" because it seeks to measure the effect of vote dilution: "A violation of Subsection A of this Section is established, if based on the totality of the circumstances. It is shown that the political processes leading to the nomination or election in the state of a political subdivision are not equally open to participation by members of a class of citizens protected by Subsection A of this Section in that its members have less opportunity than other members to participate in the political process..." etc. In other words, it doesn't take an overt act, it takes a set of circumstances that has the effect of diluting minority votes in this case. Now the City Commission and the City of Fort Pierce has possibly two choices in this. They can add a third district in Fort Pierce and increase the membership of the City Commission or they can annex the areas of Fort Pierce that have not been considered for annexation yet and which have a large minority population. Failing to do one or the other will put the City in a Catch-22 position. They can either be in violation of the regular voting rules of one person/one vote, equal districts; or in violation of the Voting Rights Act. In either case, unless something is resolved and some attention is paid to this problem, the City has a possible liability to be sued by all sorts of organizations for all sorts of things. She has raised this issue a couple of times in the past couple of years and now it is gotten to the point where really something should be done.

Mayor Benton said years ago she might have had a point; but he thinks today this community, racially or whatever, the whole City is most diverse. In fact, what they are annexing tonight when they look at Westglen Drive, it is probably migrant workers. So when they look at the shift in this City, they are probably the most racially diverse City around that he knows of. And it is a lot different than it was when he was a child. Years ago the community was split down the middle, maybe at Orange Avenue. Today, the whole City... The beach might be a little different for certain reasons, but everything else looks close. Most of what they are annexing, at least to the south, they have been going for industrial areas, not so much residential.

Ms. Baker said Indian River Estates is not what she would consider...

Mayor Benton said they are not annexing Indian River Estates.

Ms. Baker said some portions of that. They have Portofino Shores area which is in the process.

Mayor Benton said no, that will never be annexed. They will never go north of Airport Road.

Ms. Baker said in any case, Mayor Benton may be absolutely correct, but what she is saying is that nobody knows. The possible effect of these annexations has not been subject to any kind of scrutiny when it comes to the Voting Rights Act and it is mandated that should have been done. She doesn't know what the racial mix or the ethnic mix is of these areas that are being annexed. She doesn't know what the population count is. She doesn't know whether any studies have been done in terms of minority representation in these new areas that are being annexed and built and particularly the new housing developments. She thinks they should find out and have a study made so that they don't get a surprise at the end of the thing when it comes to election time and nothing has been done and nothing has been investigated.

Mayor Benton said the only thing, maybe instead of having... Basically it is set up with two districts now. Maybe eventually there will be four districts, east and west maybe. He

doesn't know.

Ms. Baker said something should be started.

Mayor Benton said he thinks soon with annexations and with the development that is coming, he is sure they will have to look into it soon. He just knows they haven't had a lot of annexations until recently. So they will see.

Commissioner Nelson said Ms. Baker appears to have somewhat of a point there. But the issue before them now is in the area of trying to annex these properties as indicated by the ordinances read. But she has a point from the standpoint of what the law requires and after having had these census data taken that they do undergo some reapportionment. He pointed out in their last Commission meeting that they did in fact in prior years shortly after the 2000 census commission the County to review what their posture was with respect to the probability of having it redistricted. Have they been able to ascertain to what extent they have worked on that project? Should they set up a special workshop or something to address it? He would hate to have them at the last moment address whether or not they have been in fact complying with the law.

City Manager Beach said they are researching that subject. They have found some of the documentation regarding when this action was taken. It was actually in 2001 that the City Commission agreed to work jointly with the County on identifying these districting issues. They are now trying to find the right staff people at the County who actually worked on it. That issue is about four years old. From his knowledge, they didn't receive any feedback from the County after that decision was reached and after they agreed to do it. That is what they are trying to find now. When they do that, they will share that with the City Commission and let everybody know where they are.

Commissioner Nelson said the person who was in charge of it at one time has since departed from the County. It was Dennis Murphy. But another source would be the Election Supervisor's office who had to feed in certain information.

City Manager Beach said if they will recall, there was a specific computer program that St. Lucie County had acquired to assist them with this redistricting effort. They were doing it not only for St. Lucie County, but they were doing it for Port St. Lucie and offered to do it for Fort Pierce. They simply have to find out what the results were.

Commissioner Alexander said he has a dilemma about the annexations as they are doing it. He spoke to this Commission concerning this before. He can understand this is a volunteer effort that they have with their annexation agreements. But his concern is, he wasn't born here, but he was raised here and there is nothing anyone can tell him about this community that he doesn't already know. There might be some particulars or specifics he may not know; but when he sees areas such as Sheraton Plaza and Paradise Park and Sunland Gardens, when he knows 90% or the majority of it or 100% of it is African-Americans and they are not in the City limits. They know that the County brought up to the table about the way the City was snaking their way to the airport and they wanted to skip over these communities. Now there has not been an effort prior to then nor since then. The thing is, he does know that they have some voluntary properties out there that would volunteer for annexation. He hasn't seen this City of Fort Pierce go after any of that property. Everything is done in the south County. Now he personally takes offense to that because he knows the people who live in those areas are having the same problems with some of their City services, but they can't open their mouth about it. When he says open their mouth, a vote would matter. Again, all this is wonderful, he supports annexation to the City of Fort Pierce 100%; but again, when he looks at the overall picture - he asked for a map to be placed in his office so he can observe as they do these things - still it is like a ghost section over there. He has heard it is the poorest part of the community. So what? Those homeowners, if they didn't pay their taxes, they would not own properties, someone

else would own them. He urges this community and this City Commission to be fair about it. He has asked on several occasions about this area in the northern section that the City needs representation from those areas because they have a vast majority in those areas as being African American and minority. Now that may be inclusive of all minorities, but he does have concerns that they can only focus themselves in one area of this community, and it is past for that now. If the City is going to be a viable entity to this community, when they get ready to grow to the west and to the north, he heard them mention that they will never get to that part, but never say never because they have a box. They have a box that they live by and they have fought for. Again, he just looks at the numbers of people in those three areas which are within a mile in diameter that sits outside of the City limits. They should be within the City limits. He is not going to be argumentative about it because he brought it up on several occasions and he sees it is being put on the back burner every time. Again, he is going to support City growth, but he is still going to point that finger at that northwest section and say that they need those communities into the City of Fort Pierce. Ms. Baker is absolutely right. And if they don't address it now, it is going to come to haunt them later, because he knows certain organizations sitting back sharpening their tools to fight with the City of Fort Pierce about that. That is what he has to say about that. Again he expresses that the City hasn't even ventured to go that way. And he sees the County laying pipes and sewerage and all as they speak. If they can do their part, he doesn't know. They tell him it never will go past the canal behind Garden City. But they already have a proposal for a project to go in there. It was annexed into the City immediately. But why can't they...? That area is not destitute. They have living families there.

City Manager Beach said they have had this discussion a number of times. They annex where they have voluntary annexation agreements and that is what they continue to do and he doesn't know anything else to say about that. They can desire to annex anywhere they want to desire to annex, but they are not going there unless the people in that area agree to be annexed. They don't have that at Paradise Park and they don't have that at Sheraton Plaza. They do not have annexation agreements that this City can act on and he doesn't want to say any more than that about that. But what they have here is a series of annexation ordinances related to annexation and a person gets up out of the audience and gets them sent off in a totally different direction of what they set out to do here.

Commissioner Alexander said he is not being sent out in any direction. Because when they tell him there is not volunteer annexation out there, how were they are going to the airport if it wasn't there in the beginning? How are they going to get to the airport if it didn't have...?

City Manager Beach said he thinks they have shown that on maps. Through very specific annexation agreements that exist throughout there.

Commissioner Alexander asked if they volunteer annexation, why haven't they addressed those? He won't get into a debate on this.

Mayor Benton said let him make a suggestion. They have discussed this. Maybe at their next meeting they can have on the Agenda what they can do in these three areas and those areas north of the City limits, especially going to Airport Road. There is Sheraton Plaza, where they have a lot of development going on there. Let's do a mail out. They did it in Orange Blossom Estates, he believes. Let's send letters to people and ask them, do they want to voluntarily annex into the City limits. And he thinks they will get an idea then. What would a mail-out cost? There are probably less than 1,000 homes.

City Manager Beach asked in the interim, what do they do with these 14 annexation ordinances on the Agenda?

Mayor Benton said they need to move forward with this. But he thinks it is something that they could at least come to some kind of conclusion because they have discussed this for

years. Just like Orange Blossom Estates and Greenwood, there are certain areas that have City services and were lucky enough not to have to sign an annexation agreement and don't want to pay those additional taxes. He wishes he was one of those, but he is not.

Commissioner Coke said she would agree wholeheartedly that they need to do something about those areas in bringing them into the City. She knows it is beyond comprehension that they don't have annexation agreements. She thinks rather than just doing the mailing, where they say to people "Would you like to annex" and the City will charge them taxes, she thinks they need to have some kind of community meeting where they educate the people. Let them know that they are going to charge them taxes, but their utility rate then goes down because they don't get charged that prime fee that they charge. She thinks if they have a town meeting in that neighborhood where people can come and find out about it. Let's put the effort forth, they as the Commissioners, to try and go there and talk to people and be available to answer questions and see if they can't get the annexation agreements signed by the people who live in that community. And if they can, then let's move forward as expeditiously as possible.

Commissioner Alexander said absolutely. Just one last thing on that. Be sure that they tell or give them the truth and they don't give them no misinformation. Because first thing they will say they are getting double taxation. Now they know they can't double taxation anybody. But they think about the surcharges they have alone on the utilities for sewage and water alone. He knows Mr. Beach and he discussed this before. Because there is not that much of a difference that their taxes won't rate double or triple. But that is because they did a little looking into it. Commissioner Nelson told him he had done that many years ago. But again, the people have the understanding that they are going to be double taxed. That is enough on that from him.

Commissioner Nelson said he thinks Mr. Beach made a slip of the tongue there when he referenced no agreements in the Paradise Park area. As a result of putting water out there some years ago, the people who have water all had to sign the annexation agreements. It was in the Sheraton Plaza where they got in there with the Federal program and they didn't sign, similar like that in Orange Blossom Estates. They have to deal with certain parameters with respect to what the law requires in this annexation from the standpoint that if the voting is possibly affected and they have so many people out there, they have to have a referendum and all that kind of business. As he alluded to earlier, they are dealing primarily with these ordinances annexing these properties that they have cited and he thinks they need to move forward with those right now. But they need to probably schedule this as a special agenda item or incorporate it in a workshop which is long overdue so they can thoroughly review where they stand, what input they have coming from the County, and then develop a course of action to further address this problem. He concurs that it does in fact have some potential impact that could be negative in the electoral process if they are not careful and that would put them in dire straits. There are many options that they can take with respect to resolving it. It is just a question of choosing the right one. They can annex the thing in the City, they can redistrict and add more people and all that kind of stuff. But they need to thoroughly review this. Does Mr. Beach have on his calendar something about a workshop or something that is going to incorporate this in the near future or what?

Mayor Benton said let's talk about that later. They are in the middle of a Public Hearing. They will put that on the agenda soon. But let's get on with the Public Hearing.

**Mr. Steven Ball**, Land Planning Systems, Inc., said he would like to speak on Ordinance No. K-345. Mr. Kraaz is here to talk on that. He also sent a letter on April 8th and requested a reconsideration. They are here to give the Commission some more information.

**Mr. Hans Kraaz** said he is representing Kraaz & Kraaz Financing Inc. He wasn't here at

the last meeting. But he is here requesting what they didn't receive at the last meeting. Is that procedurally correct?

Mayor Benton asked is he looking not only for annexation but rezoning?

Mr. Kraaz said that is correct.

Mayor Benton said that is something they are going to have to address, he is sure. Does Mr. Schwerer want to address that?

City Attorney Schwerer said his recollection is, based upon the Public Hearing that was held before, the Commission voted to amend the Ordinance to only allow the density and future land use to be the equivalent of what the County provided and not to increase it. So there is no real reconsideration. They can ask for the Commission to reconsider that position on second reading, with the understanding he thinks also the Commission said they did not want to consider any simultaneous land use amendments that were being proposed. As he understood it, this property has a certain density and certain zoning and future land use as assigned by the County. As proposed, it was coming into the City for two actions: One for voluntary annexation; but then secondly, he believes Mr. Trias indicated that there was a simultaneous petition to increase or change the land use designation or zoning or whichever, he doesn't recall. The Commission voted not to accept the application to change the land use at the same time as the annexation and would only allow the annexation to occur if it came in at the same designation as the County currently assigned it, giving Mr. Kraaz the right to withdraw it at this meeting. In other words, if he did not wish to have that zoning or that land use that they placed in that ordinance, he has the right to withdraw it. Now whether he wants during this Public Hearing to ask the Commission to reconsider that action, how much time they would devote to that is solely up to the Commission.

Mr. Kraaz said that is what he is asking. Mr. Ball sent in a letter on April 8th, asking the Commission to reconsider what they asked for the first time.

Commissioner Alexander said he was on the prevailing side on that vote only because he was a little confused with the issue when it came up with the person coming out from the public with some misinformation. He had spoken to Mr. Kraaz about this issue before he came to the Commission. When he heard the other speculations that came from this individual who he does not know, and he was aware other people did know her, but he didn't know her. For her to say those kinds of statements and he knows that not to be such, so that is why he did not vote against it. So he could take it into consideration of bringing it back. This gentleman who was here last week didn't speak out against whatever was said, so he did not take it into consideration then that he was aware of what was going on. Again, when he thinks it is upon the Commission to make the considerations on any issues about the City of Fort Pierce, right? That is why he is looking at it. And they all know this gentleman here to be such that if he tells them he is going to build a rocket ship, then they expect for him to build a rocket ship. But then he doesn't think they as a Commission should... He is looking at the pictures of the property itself and he thinks that would be beautiful and fitting. He doesn't know. He is just here speaking as an individual. Again, the misinformation that was brought to them at the last meeting starting a snowball, because there were things said about Section 8 homes and 7-Eleven. He didn't think they even built any 7-Elevens any more in this country. But again, it was just information that was brought from the public and he just resents that fact because it was untrue.

City Manager Beach said he is trying to recall the specific action taken by the Commission at the last meeting. His recall is this. The Commission had previously instructed staff not to bring them annexation agreements with upgrades in zoning at the same time. The annexation that they are willing to consider as a Commission, those annexations had to take place within the zoning classifications closest to what St. Lucie County had on the

property. The Commission was not willing - and this is not the first time this has come up - they were not willing to annex a piece of property and upgrade the zoning at the same time. That is his understanding. He would like to ask the City Attorney for information as to whether or not legally they can even do that.

Mayor Benton said he thought they had said in the past, especially like this, that number one, they annex in; but when rezoning comes is when a site plan is put in front of them. And when they are dealing with something that borders the County, normally they like to get a letter of support from the County. Because if it doesn't fit into their land use surrounding that area... He knows they have had a lot of discussion on this out near the western boundaries.

City Attorney said they have and he has had some discussion with Mr. Trias and his staff. They cannot do an annexation agreement Public Hearing simultaneous with a future land use change or change in density. It just isn't going to happen. Legally they have to bring the property in at the same identical zoning and land use that the County has; otherwise, they are going to be in violation of a number of State laws and the DCA as well as the City's own Comp Plan. Mayor Benton is absolutely correct, later on once the property is in and they want to bring a site plan before the Commission and want to show why they are entitled to the additional density or change in land use, then they consider that application, not at the same time as the annexation. Because the property owner has whatever zoning they have in the County. They can build in the County whatever they need to build, or go to the County to change whatever they want to change, right now. They are coming to the City; but before they can do anything on the land use or the rezoning, they have to be annexed. That is basically what the law requires. So that is what Staff pointed out the last meeting is they can't do it. They don't even have a future land use amendment or a rezoning petition noticed as a Public Hearing on tonight's agenda. The only thing before them is an annexation ordinance. So they legally can't proceed...

Mayor Benton said so technically the Commission can't act on this information anyway.

Commissioner Coke said she has just a couple of questions. First of all, she needs to disclose that she spoke with Mr. Kraaz this week regarding this and they talked about the number of units per acre and those other things. She was coming in here this evening with full support, if it was allowed by the City Attorney, that they should consider going back to the original request. She has a couple of concerns with a letter Mr. Kraaz sent. The concern she has is, it says here if this application is denied, it will become a commercial eyesore and everyone else will lose. And there is talk in here of allowing the County to put a water tower on there or several other things.

Mr. Kraaz said he really needs to go through his whole spiel for her to understand that. He hasn't even begun to start.

Commissioner Coke said it sounds like what Mr. Kraaz is telling them tonight is, if they don't go ahead with what he wants the way he wants it, he is going to sell this land to somebody to develop in a way that everybody knows is totally unacceptable.

Mr. Kraaz said he can't explain that unless he goes through the whole thing. He wanted to start off by asking, is he going to be able to present this tonight? The City Attorney is kind of swaying towards no, saying it is illegal. He has a different opinion about that.

City Attorney Schwerer said they could not have Mr. Kraaz increasing zoning or changing future land use without a Public Hearing. They can't have that Public Hearing until... It is not even noticed on the agenda tonight.

Mr. Ball said they are assigning land use to all of these.

City Attorney Schwerer said that is correct. They are coming in at the same and identical one that they are in the County.

Mr. Ball said they applied for an amendment to the land use.

City Attorney Schwerer said that is not what he heard. He is not going to argue the point. He is simply telling this Commission that as a matter of law they can't consider what Mr. Kraaz is asking for. But they did give him the opportunity to withdraw his application and maybe go back to square one and try and do this legally and correct. It came before the Commission at the last meeting out of the blue as an annexation ordinance, but then it was discovered there was...

Mr. Kraaz said it wasn't out of the blue. That is how they applied and that is how they were told to apply.

City Attorney Schwerer said he understands. When he says out of the blue, the Agenda package did not have anything in it. He was not alerted to it. He asked Mr. Trias if they had noticed a future land use amendment or rezoning or anything and Mr. Trias said no. Now let him get back to the point. Mr. Kraaz can withdraw the application and proceed according to what he needs to do. Again, he is not prejudiced by withdrawing this ordinance right now and asking the Commission to withdraw it. It is not being denied, he simply withdraws it. He is only saying that because it is his understanding they have no water or sewer agreement binding him to annex. Is that correct?

Mr. Kraaz said that is correct.

City Attorney said there is absolutely no annexation agreement on there. If they had one, they wouldn't have that choice.

Mayor Benton asked it is vacant land?

Mr. Kraaz said right, it is vacant land.

City Attorney said so they have the right to withdraw this and go back and redo this. There is a method they can do what they want to do, but they have to follow the proper procedures. He could not in good conscience to allow this Commission to continue on a Public Hearing that they have no power to act on.

Mr. Ramon Trias, Director of Development, said he is not going to agree or disagree with the City Attorney. All he is going to say is that the request can be processed and his advice would be to process in several steps. That is what he believes they have decided upon the change they proposed the last time. What happens is that first the property is annexed, then the property is rezoned and the land use amendment can be made. The Commission has the authority to approve an amendment such as that because it is less than 10 acres and perhaps they have the authority to do it in one step. But it is clear this is very confusing and that it would be much preferable to do it in several steps. And that is the discussion he had with the City Attorney perhaps a week ago. To break all this application down into several steps and take it one step at a time. He thinks that would simplify the issue.

Mayor Benton said he thinks what they have done is complicate things because normally...

Mr. Kraaz said he is thoroughly confused, because he came to the City and said this is what he wants to do and he is here.

Mayor Benton said he is sorry for that. These things do happen. And all he knows is, all the 16 years he sat on this Commission and/or the Planning Board, normally what they saw

was annexations and then a few weeks or a few months later they would see somebody come in with a site plan and a rezoning request at the same time. And that way the public has input. In this case, because they have so much that is fringing County, especially a residential neighborhood down there, the Commission wants input from those folks. Because they have enough problems with the County right now. They don't want to do anything that would impact them in a negative way.

Commissioner Coke asked has Mr. Kraaz met with City staff regarding this project?

Mr. Kraaz said yes, he has.

Commissioner Coke asked what did they tell him? To annex in and then change this and then apply for a future land use change? Where did the City staff direct them to go, or how to get to their end result?

Mr. Ball said they were advised that they could do it all at once, that technically that was possible. He did some research. Florida Statutes, Chapter 163.3187 has procedures for this.

Commissioner Coke said when it comes to the legal procedure she is going to rely on Mr. Schwerer. Her concern was that she wanted to know where they misdirected him, if they misdirected him. Because she thinks this Commission has an obligation to go to the fullest extent to try and accommodate people if the fault lies with them some place along the line.

Mayor Benton said what he is seeing is two Planners playing attorney when the City Attorney is telling them his thoughts on this, so it makes it difficult.

Mr. Kraaz said he is not a stranger from off the street. He has done a lot of business in the City. He has dealt with all the Commissioners, the City Manager, everybody. When anybody has asked him to do something, he has done it. He is to this point because this is what he has been told to do. For him to come up here right now and they say he has done everything wrong, it is very offensive to him, it has wasted his time, and it has wasted a lot of his money. He doesn't think it is right. He is here today to ask what he asked the first time. It came to a big dissertation. He is here back again. What is he supposed to do? Tell him his correct steps which are legal. If he reads the Statute his Planner has given him, he has done everything correct. The City Attorney is telling him he did something wrong. What does he do from here?

City Manager Beach said he doesn't think the City Attorney is telling him he did something wrong. What he is saying is, this is not the legal process to accomplish this. The Commission has two alternatives tonight. They can either annex this property, and Mr. Kraaz can go from there and start the rezoning process and change in land use; or he can withdraw his application. Those are the two options that are available to him this evening. If he would state his desires to the Commission, then they can move forward. They can annex the property and Mr. Kraaz can start the process for rezoning. The idea or the possibility of annexing this tonight and getting it zoned the way he wants it zoned is not on the table. That is not going to happen.

Mr. Kraaz said okay. So he will ask that it can be annexed. He guesses they will... They have already done the applications for rezoning. So do they do it again?

Mr. Trias said the ordinance before the Commission is a proper ordinance that assigns zoning and assigns a compatible land use. That is what they have. If they look at the last page of the ordinance, it has the RL and he believes it has R-1 as the zoning. If they take action on that, then the property is annexed without any question or any legal issue. After

that, the applicant can go ahead and rezone it or submit a site plan if he would like to do that. That is one option they have tonight.

Mr. Ball said Mr. Beach is suggesting they need to reapply for the land use and the zoning and have another hearing.

City Manager Beach said that is his understanding of what the law requires.

Mr. Ball said if that is their direction, then with their approval they would continue the hearing processes and come back again for their consideration.

Mayor Benton said save this stuff until the next time. Several times he has apologized up here. He doesn't know. Because to him, if anybody comes in the door, they should be given the proper procedures that either the Commission has talked about or what they feel legally. This isn't the first time this has happened that someone has, he doesn't know, misled folks and misguided people. He doesn't know what, but they need to do something about it because it is wasting the applicant's time and the Commission's time.

Mr. Kraaz said he has put a site plan together and architectural renderings and a number of other things. To address the question at the beginning of the conversation, this property doesn't work at five units an acre for residential. All he was trying to state is that the County has tried to buy a piece of this property to put a large water tower. That would slice the property up; and the other property would end up, if they look at the zoning in there, what Commercial Neighborhood is, they will end up perhaps with a liquor store, a convenience store, a communications tower. So he didn't want to say if he doesn't get this, this is what is going to happen. What he is saying is, there is a good possibility financially for whoever does it. This is all about business. That is what is going to happen on that property. And it is not going to work. His parents live in Gator Trace and his best friend lives across the street. And he takes real offense to anybody coming to this Commission and saying they heard that there was going to be Section 8 housing. They can get a hold of him anytime as anybody knows; and if anybody has any questions about what he is going to do, they can feel free to call him any time. He always does good work and he will do whatever the City asks him to do to do things procedurally correct. Whatever they want him to do, he will do it.

Commissioner Coke said so they will go ahead and annex this; and then Mr. Kraaz can submit his rezoning application.

Mr. Kraaz said he wants to hear about the land use. Does that coordinate with tonight's hearing or not?

Mr. Trias said the land use that is being assigned by the ordinance is RL, which is not the land use that the applicant requested originally, but it is compatible with the Commission's opinion of what should happen. Now what the applicant should do is apply for a rezoning after the annexation is completed, which may be next week or whenever. That is probably the easiest way to deal with this.

Mr. Kraaz said he doesn't have a problem with that.

City Attorney Schwerer said let him also point out, under the Comprehensive Plan Act - and Mr. Kraaz and his consultant have it, but what they need to do is read further - the City Clerk needs to prepare a very particular and special notice for a Comp Plan Amendment. That has never been done. There has been no notice published in the paper for that. Would the City Clerk verify that?

City Clerk Steele said that is correct. She has never received any paperwork or anything from the Planning Department that said Mr. Kraaz was going to have a Rezoning or a

Comprehensive Land Use plan change.

City Attorney Schwerer said that is the problem.

Mr. Kraaz asked is that his responsibility?

City Attorney Schwerer said technically he needs to make sure that the application is being put forth in the proper steps. That is why they do the annexation first.

Mr. Kraaz said okay, if he tells him he has to do that, that is what he will do.

City Attorney Schwerer said now he applies and goes back in the process so she can advertise both for rezoning and a comp plan amendment. That is the process he needs to follow.

Mr. Kraaz said he apologizes for taking up their time and he will do what the City Attorney asked him to do and hopefully they will see them back here soon.

Mr. Ball asked can they apply for the land use and zoning together?

City Clerk Steele said yes.

Mayor Benton said he thinks they owe Mr. Kraaz an apology. Because he thinks they have been through this several times and there is a procedure to go through and that procedure should be on paper for everybody who walks through that door.

Mayor Benton said this is a Public Hearing. Is there anyone else who would like to address the Commission on this Ordinance?

**Ms. Arlene Goodman** said she has done some homework.

Mayor Benton said just for the record, for some of the Commissioners that don't know her, she was an Aide for one of the County Commissioners for many years. She is also a Homeowner's Association President down in White City.

Ms. Goodman said yes.

Mayor Benton said she knows a lot about zoning issues.

Ms. Goodman said first, Commissioner Alexander, she takes a little bit of offense...

Commissioner Alexander said he does too.

Ms. Goodman said ...at what he claimed that was said at two weeks ago meeting.

Commissioner Alexander asked what was that?

Ms. Goodman said she is telling him that she is the lady he said he doesn't know anything about that came in here and told him some things that were not true. She came here stating to all of them... She also resents being walked away from when she is speaking and that is not a gentlemanly thing to do.

Commissioner Alexander said he has to go to the little boy's room. He is sorry she has a problem with that. (Commissioner Alexander temporarily left the meeting room.)

Ms. Goodman said he may go anywhere he pleases. But she resents that, because one of the things she said up front was that she had heard on several occasions, not from just one person, that this is what this gentleman intended to do. She was never told who the

gentleman was that was going to do this. The only thing she can come to the Commission with is things she has heard; and ask them, how can they deal with them? (Ms. Goodman gave copies of maps to the Commissioners.) On many occasions in the White City area over the last 20 years people have tried to put Section 8 housing into White City very close to single family dwellings. And many of them in the White City area have gone to County Commission meetings stating this is not what they are looking for to build their community. And that is why she came to them with what she had heard; and she told them, this is what she had heard and she has a problem with it. She had the opportunity to talk to Mr. Kraaz this past week; and he also told her, and insinuated as she is assuming they just heard also, that if he didn't get what he wanted on this piece of property, that he too would allow it to go just the way it was and he read to her what was allowed in commercial neighborhood designation with the County. Under permitted uses from A through H, there is absolutely nothing in there that is offensive to their area. Under conditional uses what might be, actually there is nothing in there that would be what they consider intrusive or abusive to their area. If somebody wants to put in another car wash and laundromat, she doesn't care, let the economy drive it. If someone wants to put in another convenience store with a gas station, she really doesn't care. She does not like being told or it being insinuated, "If you don't do what I want you to do, then this is what I am going to do, because I really don't care." She has a right to speak out against what she thinks is inequities and she will continue to do so as long as she lives in this County which she expects to do for a long time. What she did do is go to the County and got the maps that they have in front of them tonight. She found out this is a CN zoning and has an RU land base which would allow, if this man wanted to do so, to come to the County tomorrow or any other day he sees fit and ask for his five units per acre; or he could come in and request more than that. For the County also states under its residential areas under RU that this classification is predominant residential land use category in the County. This residential land use category provides for a maximum density of five dwelling units per gross acre and it would need central water and sewers. That he can get from the City. Under the residential medium, it does go up to R-9. The residential high, it then does not exceed 15 dwelling units per gross acre. This is a very small piece of property, just a hair over five acres. And to put 76 units - part of what he told her on the telephone - in there with no amenities whatsoever other than the City water and City sewage, it is going to be extremely tight. They have Silver Oak Drive, which is a substandard millings road right now that does need to be brought up to standard. They need to look at, if they are going to allow him to go into any higher density or build anything in there, where are they going to direct the traffic - on an excessively busy Midway Road or excessively busy Weatherbee Road. Across the street from there, she went into Gator Trace today to see what backs up to that. The golf course is part of it. There were 18 homes that back up to that. She has color coded the map to the best of her ability along with the help from the County to let them see what is already in there. Indian River Estates is all single family dwellings that are down in there. If the gentleman wants to come into their neighborhood and be a good neighbor, then don't try to shove down her throat in two or three statements that he is going to come in and he is going to do as he sees fit or he is going to sell it to somebody else, which he has already told her he just may do, to let somebody else come in and develop it into God knows what. She is sorry she brought God into that, He shouldn't be here for that. Anyway, under the areas and the height requirements and open spaces the County has got today, is this gentleman in a special flood hazard?

City Attorney Schwerer said he doesn't mean to interrupt the speaker; but does Ms. Goodman understand that the City is proposing only to annex this property in the identical zoning that is currently in existence in the County?

Ms. Goodman said yes.

City Attorney Schwerer said they are not increasing it. Mr. Kraaz is not allowed tonight to present any site plans or rezoning requests. That is going to come at a later date. What she is talking about with the uses, those come when he applies. And it would be premature

for her to be discussing what he might be doing before a Public Hearing is actually held and brought before the Commission. In other words, wait until he proposes to do something; because he is legally entitled to annex as long as he comes in at the same level and that is what the Commission has done. When he files for his rezoning or future land use, they will have a Public Hearing; and at that time the public will have all the comment about the project. He might even have a site plan they could be looking at too. So perhaps maybe what she is talking about should wait until that point procedurally for the Commission, so they don't hear from her and not the applicant, because they don't know what the applicant is going to do. Mr. Kraaz doesn't have anything before the Commission yet.

Ms. Goodman said nor did he know when she was talking to him last week on the telephone. At that particular time he told her he had no site plan.

City Attorney Schwerer said all he has is the same zoning the County has right now, if this ordinance passes, because they haven't even voted on it yet.

Mayor Benton said the right time would be when he does apply for a rezoning and a site plan.

Ms. Goodman asked then they will hear this at a later date?

City Attorney Schwerer said yes, they will.

Mayor Benton said he thinks that would be the proper time for this presentation probably too.

Ms. Goodman said she thinks part of her problem here was that she came down here to talk to them is that she felt she had been demeaned in some sort of way. She apologizes to Commissioner Alexander because he doesn't know her from Adam's pet rooster; however he will, because when she comes to them to speak to them, she will have all her ducks in a row and they will know that she does know what she is talking about.

Commissioner Alexander said that is fine. He just wanted to let her know his mother raised a gentleman and not someone being disrespectful.

Mayor Benton said just for the record, he thinks when it comes to Section 8 housing, he thinks people get a certificate. They have to apply for a certificate. And he believes they can take that certificate and move anywhere they want and he doesn't think the landlord can say no. So really there is nothing they can do. If somebody has something for rent and somebody has a certificate, he believes they can move in. They don't see Section 8 projects like they used to see.

Commissioner Alexander said they live in Port St. Lucie.

Mayor Benton said they live all over the County.

Commissioner Nelson said one correction to that, as he happens to have experience with the Housing Authority. It has to be an agreement on the part of the property owner in order to accept the Section 8. It is not an automatic thing. He doesn't have to take it.

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

Motion was made by Commissioner Coke, seconded by Commissioner Nelson, that Ordinance Nos. K-333, K-334, K-335, K-336, K-337, K-338, K-339, K-340, K-341, K-342, K-343, K-344, K-345, and K-346 be passed on second and final reading.

Commissioner Nelson said he just hopes that staff - both legal and Planning Department - will work with Mr. Kraaz and work up a strategy and procedure by which he can process his effort there in a more orderly and smoothly and understandable fashion so there won't be any more "He said" and "I don't believe". They don't need to fight.

Mr. Trias said they have coordinated that already and he thinks it is going to work out very well.

Those voting in favor of the passage of Ordinance Nos. K-333, K-334, K-335, K-336, K-337, K-338, K-339, K-340, K-341, K-342, K-343, K-344, K-345, and K-346 on second and final reading were: Commissioners Alexander, Coke, Nelson, and Benton. Those opposed: None.

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Ordinance No. K-347 entitled, "AN ORDINANCE CREATING SECTION 13-26.1 OF THE **CITY RETIREMENT SYSTEM** ALLOWING THE CITY MANAGER TO PURCHASE CREDIT FOR THE PERIOD OF HIS CITY SERVICE DURING WHICH HE WAS NOT A MEMBER OF THE RETIREMENT SYSTEM AND ALLOWING THE CITY MANAGER TO PURCHASE CREDIT FOR ONE YEAR OF MILITARY SERVICE IN ADDITION TO THE THREE YEARS AUTHORIZED BY SECTION 13-28; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE." was placed on first reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-347 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 Nelson said this doesn't catch him by surprise, but it causes some concerns to him as a member of the Retirement Board. Picking out this provision for the City Manager as opposed to having it applicable to all members in the system with prior military service. And of course, another area that he is concerned about is the fact that sometimes they have a case with lost opportunity and they don't take advantage of it, and when they realize they want to take advantage of it, simply acknowledge the fact that it is lost opportunity and they don't do it. For example, they all know he is a regular Army Retired Colonel and has some experience in military. Normally in the military they take tours of duty if they are in the regular Army for four years. So he thinks the four year aspect when they re-enlist, rather than their ordinance being three years, he thinks they should perhaps go to four years because that would coincide with the normal tenure that the average person will spend in the military. So that portion he can agree with. He thinks further, as he sits on the Retirement Board, he sees across the state that three years buy-back is less than four years buy-back. Of course, if they are going to make it for one individual within the retirement system, they should make it for all individuals of the retirement system. Whether it is the City Manager, the Police Chief, or the Sanitation Worker, it should be applicable for everybody. Another point he will make in regards to this is the fact that the Retirement Board, which he sits on as Vice Chair, should be sent this so they can scrutinize it, look at it from the standpoint of applicability on a universal basis throughout the system and throughout the state. It is not appropriate in his opinion and it might be somewhat premature to ask the Commission to act on something before it is massaged by the Retirement Board. Let them do their due diligence, do what they are experts at, bring in the actuary report. Let's look and determine how it is going to affect all the other employees throughout the system. They know there are synergetic effects when they have this type of thing. Just like the 3% multiplier, they did it in the Fire Department and now everybody in the system wants to do the same thing. How they go about doing it is very important. He thinks they have a Board down there and more than likely they will find some way to do this, but they will make it across the board and look at the total impact. And he would

suggest they defer on this and in fact get input from the Retirement Board and let them massage it, look at how it is going to affect everybody across the Board on a uniform basis, and hopefully it will work out the way they want it. That is his thoughts on this.

City Manager Beach said they have had their actuaries look at this proposal. There is certainly nothing wrong with what Commissioner Nelson suggested in terms of making this policy applicable to all of the members of the Retirement System. That is reasonable and it should not be an issue, because the requirement here is that the applicant - which in this case is him - pays the full actuarial cost of this benefit. This is not something that costs the City of Fort Pierce a dime. His understanding was that this ordinance was taken to the Retirement Board for an advisory opinion - the City Attorney is telling him it will be - but there is no action required on the part of the Retirement Board for this ordinance. The point he wants to make is what is proposed here has no financial impact on the retirement system and it is at the full cost of whoever benefits from it. Whether it is him or if they make it applicable to all the members of the retirement system, that is fine too, because they too would have to pay the full actuarial cost of acquiring that additional time. In whatever capacity Mr. Bergalis serves on the Retirement Committee, he is here. They have discussed this thoroughly. If they have any questions of him, hopefully he can answer them. But that is where they are on the subject.

Mayor Benton said his understanding is, basically what Mr. Beach is trying to do is be able to start his retirement maybe almost three years earlier. That is about his only benefit.

City Manager Beach said not necessarily that. It is simply the fact that he was here for almost two years before he joined the Retirement System and he wanted to acquire those years.

Commissioner Nelson said that is where he talks about the opportunity, not taking advantage of it is opportunity lost. They had a case just the other day. They have a system wherein they forgive liens. A woman came in and paid a lien. If someone comes in and pays a lien before they come in and ask to have it forgiven, and all of a sudden they realize they can have it forgiven, they come to this Commission but they say sorry, they paid it and they are not going to do anything or there would be a flood gate of other people doing it. He is thinking that same principle would apply with something like this. He is not sure he agrees with Mr. Beach; and he has to check with the actuary and other experts on the Retirement Board that it won't have an impact. When they are financing and the City of Fort Pierce sponsors the retirement system, it has to match those dollars that the retiree puts in there. If they are matching four years versus three years, over a long haul there will be some financial impact. And if they extrapolate that further to all of the potential 1,300 to 1,500 members of the retirement system, it could be a financial impact. They have data in that retirement system that could in fact tell them the impact of all of their people in the retirement system based on age, based on salary, and all that kind of stuff. They can tell now that they have so many people who are in fact eligible to retire right now and what that is going to cost them if all those people were to retire right now. That is data that actuarial reports can give them. And it can tell them similar information if they were to go out and look at all of the people who have four years of military time they can convert.

Mayor Benton said he is looking for the other Retirement Board member to give her opinion.

Commissioner Coke said certainly she thinks this is an ordinance proposed to the City of Fort Pierce. She thinks they need to have the Retirement Board look at extending the one year military service to all people. Personally, she is willing to take their Finance Director's word for it if he tells her that he has looked at this and in fact it is not going to affect the retirement system financially.

Mr. George Bergalis, Director of Finance, said the way it is set up presently is the applicant,

be it the City Manager or whoever, now or in the past, for the military service time they have to pay the employer's cost and the employee's.

Commissioner Coke said so it would not affect them financially on the retirement system.

Mr. Bergalis said right. Overall that should cover the cost of the benefit. The only comment he would have on this is the fact that protocol-wise normally these things go before the Retirement Board before they come to the Commission. As he said to Mr. Beach, if this went before the Retirement Board and they decided they didn't want to approve it or send it on to the Commission, it would have no impact upon it not being brought before the Commission because they are the ones who make the final decision regardless. So he doesn't have any problem with it.

Commissioner Coke asked they have a Retirement Board meeting, when?

Commissioner Nelson said Thursday.

Mr. Bergalis said if they have seen their agenda, he has scheduled it to be presented by the Board Attorney to the Retirement Board on Thursday just for information purposes. Whether or not the Commission passes it tonight, it is going to be on that agenda.

Commissioner Coke said since this is the first reading and it will require a second reading, by the time the second reading comes up they will have feedback from the Retirement Board. She thinks they ought to move ahead.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, that Ordinance No. K-347 be passed on first reading.

Those voting in favor of the passage of Ordinance No. K-347 on first reading were: Commissioners Alexander, Coke, and Benton. Those opposed: Commissioner Nelson.

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The next item on the Agenda was Presentation by Pro/Te/An Design Group on State Road 615 - Martin Luther King Jr. Boulevard - 25th Street Improvement Project (from Orange Avenue to Avenue R).

**Mr. Scott Horlander**, P.E., Vice President of Pro/Te/An Design Group, Maitland, Florida, said he is here on behalf of the Florida Department of Transportation. He is Vice President in charge of transportation for Protean Design Group. With him tonight is Charles Quandt, the landscape architect for a project they are about to describe and give a presentation on. (Mr. Horlander displayed drawings.) The project is State Road 615 Improvement Project from Orange Avenue up to Avenue R. It extends a little bit past Avenue Q. He supplied handouts that has the basic scope of the project. They have been working a little bit with Mr. Arias (City Engineer) and some of the other folks at the City, so they are aware of the project. They just wanted to come tonight and give the Commission some background on the project for various reasons which he will get into in just a moment. Again, the limits of the project are from Orange Avenue to Avenue R on State Road 615, Martin Luther King Boulevard - 25th Street. The scope of the project is comprised of the following elements. The main ones are to enhance traffic flow, safety, and to improve aesthetics in the area. One of the things they are going to do is to widen the roadway from Avenue E to Avenue Q on the west side and add landscaping in that area. On the west side there is some property there that is not currently owned by FDOT, but is currently owned by the City; and their intent is to have that property transferred over to FDOT as part of this improvement project so that these improvements, not just the landscaping on the outside, but landscaping in the medians. Landscape medians and landscaping on the west side of the road from Avenue E to Avenue R. Also as part of the landscaping of the medians is access management as well which improves safety. There is going to be either a raised separator

or a landscaped median all the way from Orange Avenue up to Avenue R. The raised separator is just a concrete four-foot wide curb basically. That will enable left turn channelization, improve traffic flow and safety. Another big improvement for the corridor on this project is on the east side of the road they are going to actually widen the sidewalk two feet to the inside. Right now there is a four foot sidewalk out on the east side of the road for the whole length of the corridor. They want to widen that two feet to the inside to provide a six foot sidewalk, again for safety reasons. That will give the pedestrians a little bit safer area to traverse the corridor. They are also going to improve right turn radius where there is right of way to permit. They are going to add bus stops in several locations. They are going to upgrade traffic signals at four intersections - Avenue D, Avenue I, Avenue M, and Avenue Q. Some of those are mast arm installations but they are older and will have to be relocated anyway due to the widening. They will be putting in new mast arm facilities in those locations. On Avenue M there is an existing string pole installation. They are going to trade that out for a mast arm installation pole. Also, lastly on the list is upgrade lighting features along the corridor to meet current illuminance standards. Again, that is another safety improvement for the project. Right now the lighting is on utility poles and doesn't meet current FDOT standards. The improved lighting will bring it up to current standard. He has also included a plant list. This is preliminary, it is not final yet. They are just at what they call their 45% stage of the project. They have a long way to go before they finalize the landscaping improvements. But there is the list they have for right now of what will go in these green areas. If they have any questions about that, please feel free to ask Mr. Quandt. He is not the expert on the landscaping.

Commissioner Alexander said his primary safety concern is what have they decided about the utilities? In that little stretch he was speaking of from Avenue A through Avenue Q, the poles sit directly in the middle of the sidewalk. He thinks of one young lady, he guesses everybody saw this young lady walk on the edge of the road from Sheraton Plaza to he doesn't know where is going, and no one has ever said anything to her about walking in the road because he does not know if she can't get by past those poles or what.

Mr. Horlander said those poles, as soon as he saw this project, that was one of his first thoughts as well. He doesn't want to say unusual, but it is not the safest installation. The two-foot widening, that will help. But the other thing is, they are going to work with the utility companies to get them to move those poles back to the back of the sidewalk. So they will have a six foot sidewalk with utility poles placed at the back of the sidewalk. Still within the FDOT right-of-way, but they will have the widest possible section through there. It will be a lot nicer.

Commissioner Nelson said he has a similar question about the poles. They are not in the middle of the sidewalk but they are in the curb. That facilitates people hitting them easily in the event they get too close. So sitting them on the back of a six foot sidewalk is most appropriate. Mr. Horlander mentioned something about lighting. Is he talking about the teardrop lighting or decorative lighting? It would just be a shot in the arm, an aesthetic enhancement as well as a safety factor when they have their Christmas decorations and everything in there, to have the decorative lights that they have out on Florida Avenue and at the bridge over Taylor Creek. Can they get the decorative lighting in there?

Mr. Horlander said Mr. Fernando Morales is the FDOT Project Manager for this. He is just the Consultant Project Manager. Mr. Morales wasn't able to make it tonight unfortunately. But he will tell them how it usually goes on FDOT projects. FDOT is usually willing to design and install the decorative lighting if the City is willing to pay the added cost of the upgrade basically. Because the standard cobra head fixtures are pretty much the cheapest, the most inexpensive line of lighting they can get, and that is what FDOT will put in. They look nice. But if they want the decorative ones, that is sort of an upgrade; and if they pay the cost difference, that is basically how it goes.

Commissioner Nelson said just like they did over at Taylor Creek Bridge over there. It is a

major entryway into the City. And of course, they decorate the one down there with Christmas lights and everything. They do it on Avenue D, they do it on some portions of U.S. #1. Of course, he doesn't know whether they are doing that proposal on State Road A-1-A or not, the decorative lighting. He would ask that they come up with some cost estimation and ask the City Manager and Mr. Arias about whether they can come up with some more money for it. But it certainly would be good if they can get some decorative lighting in there.

Mr. Horlander said sure, that always looks really good and they have done that on lots of projects. They actually do intend to speak to Mr. Arias about that in the near future. Mr. Arias did mention at one meeting that it does need to be hunter green or something like that as a City standard or the way the City likes to see them. If the City would like decorative ones, that is really not a problem. It just comes down to working out the cost. And the City has signed a maintenance agreement and that is one part of the process. And then they just sort of need to work through the details of what they would all like to do.

Commissioner Nelson said one final thing. They talked about getting rid of the string lighting there at Avenue M and 25th Street to put in the mast arm. That would be a deterrent to damage by hurricanes. Did they consider by any chance putting in those lines underground? He means all of the lights that run up and down the street there, can they go underground?

Mr. Horlander asked is he talking about the power?

Commissioner Nelson said the power lines, yes.

Mr. Horlander said they haven't gotten that far in the utility coordination process yet. They are just about to send out their 45% submittal to the utility companies. He can tell them his past experience is that they will not want to put that underground at their cost anyway, the power that is. It is just for a milling and resurfacing project, FDOT really can't require them to do that. It is not their policy to require that to go underground.

Commissioner Nelson asked do they remember doing that underground over on A-1-A?

Mayor Benton said A-1-A is a reconstruction. 25th Street is not a reconstruction.

Mr. Horlander said this sort of sounds like a reconstruction, but it is not. It really is generated from the milling and resurfacing unit. Most of it is resurfacing, but it just so happens they have this widened portion. It is really considered by FDOT a milling and resurfacing project.

Commissioner Coke said she has two things. Number one, she thinks when they do send the figures to the U.A., if they could ask them to get them figures on what it would cost to do the utilities underground. Because that is their standard, they are moving forward with that, and they are requiring all developers to do it. And it seems senseless to her to do the project one way when they are eventually going to have to redo it. It is spending money twice that they don't have. Number two, this Commission is asking the MPO's assistance with having 25th Street designated as a truck route and they want to have some signage to keep the large trucks off Orange Avenue and U.S. #1. Is that diametrically opposed to what FDOT is looking to do? Or will it work together? And is this the time they should be looking to get whatever signage they need at that point in time and have it all done at once?

Mr. Horlander said he doesn't think the signage will be too difficult either way. He is glad she told him that. It depends on how many trucks there is going to be, but they may want to look at their pavement design through there and make sure it is going to be tough enough. But signage along here, they can certainly address that if they know it is going to be a truck route. They also may want to coordinate with the contract that is on-going right

now on Orange Avenue, State Road 68 he believes it is, approaching U.S. #1. That would probably be a little too far away to really coordinate with this. But certainly they can coordinate with those guys and make sure they get their signage in, because he knows that is getting near completion right now, their project, and they can incorporate signs like that as well in the pavement design. If he thinks of anything else doing the design they can also do that.

Mayor Benton said he just has a question as far as what the level of traffic is on that road now.

Mr. Horlander said he can tell them the volumes. Is that what he wants?

Mayor Benton said yes.

Mr. Horlander said he doesn't remember off the top of his head but he can look it up. The current ADT (Average Daily Traffic) is 19,400 and that is total traffic both directions.

City Manager Beach asked if they assigned a Level of Service number to that, what is that?

Mr. Horlander said he has not calculated that and he doesn't have that here; but just from his general observation, he would say it is an A or B or something like that. It is pretty good. It is a good level of service.

Commissioner Coke said she has that here. It is a Level B. This is a congestive management report she got at the MPO the other day.

Mayor Benton said he sat on the MPO and when he hears the levels of traffic and he sees the traffic especially on St. Lucie West Boulevard; and if that is an acceptable level of traffic, somebody is doing something wrong. Because he sees I-95 and he sees Palm Beach every morning, and how did that get that way? That is unacceptable. If they are pushing themselves in that direction, they have to do something to stop it. Because they are not four-laning, six-laning, or eight-laning roads, they are reconstructing roads the way they are. They are not a new city building new roads. They don't have the ability to widen their roads like a lot of cities without taking on a major buy-out program. So somehow they have to get a grip on these levels and find somebody else to give them those numbers other than FDOT, because he just doesn't agree with their numbers and what they feel is safe and the maximum number on the roads. Because the last six months has been unbearable; and if that is anything like what is to come...

Commissioner Alexander said again, when he hears the numbers for that area and then they are going to designate it and it has always been designated a truck route; but he just thinks again, that portion of the community he doesn't see why they should take the blunt of all that traffic. Once upon a time no one would even go down 25th Street because it goes right through the northwest section. And now all of sudden they want to divert all the truck traffic?

Mr. Horlander said it is not his understanding that it is FDOT's desire. He thought that was what they said the City would like to do.

Commissioner Nelson said they brought it up because the City of Fort Pierce is having somewhat truck traffic on Orange Avenue. What they decided to do was ask the MPO to look at it. They have State Road 70 as a intermodal program there. And when the MPO looks at it, it might look at it from a different light because they have Kings Highway and other areas they might have to do it. So they do not know how it is going to turn out. But Commissioner Alexander has a point there and he has some reservations too, being a representative of the area. To have an abundance of truck traffic going through there is not

perhaps the best thing to do, but they will look at it from a global standpoint and come up with a solution of it.

Mr. Horlander said it is not their intent to add traffic to this as part of their scope or the department's intent by any means. It is purely for safety and aesthetic improvement of the corridor.

Commissioner Nelson asked does he have a monetary figure they are putting on there like about \$5.5 million or something?

Mr. Horlander said it is actually right at about \$4.1 million and it is due to be let to construction in April of 2007.

Mayor Benton said he just wants to back up what Commissioner Alexander said. He knows many years ago when they were first building this road, they designated it to be the truck route. But he thinks especially in this area, now they are surrounding it by residential neighborhoods, and they have in fact asked the Governor to specifically put up a red light there because they have had several fatalities. And to him, to divert trucks on that road would probably add more fatalities. He knows from standing out on the corner, especially Avenue D and 25th Street, people fly by there 50 miles an hour. So they should be looking at somehow taking maybe that truck traffic, unless it is coming into downtown Fort Pierce, sending it up on Kings Highway or Airport Road or something. That right now is a very dense residential neighborhood. And especially when it is around dark and rush hour and in the winter time, it is a very dangerous road. To him, he thinks they need to really take a look at that again before they push anybody to make that a truck route.

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The next item on the Agenda was Request by Bank of America, N.A., that Code Enforcement Board lien in the amount of \$86,300.00 against 701 South 23rd Street be rescinded upon payment of administrative costs of \$737.97 (within 30 days).

**Mr. Jeffrey Sandler**, Codilis & Stawiarski, P.A., said his office is at 4010 Boy Scout Boulevard, Suite 450, Tampa, Florida. It is his pleasure to appear this evening and request that the City Commission accept the recommendation of the Hearing Officer for the Code Enforcement Board and reduce the applicable code fines on this piece of property. He addressed a letter to each of them, which he hopes they received earlier this week, which sought to lay out some of the circumstances which led to this piece of property remaining out of compliance as long as it did. He would just like to go over a little of that if he can. The code fines that were on the subject property were imposed against the prior owner. The owner defaulted on the mortgage. Bank of America sought to take the property back, which they did, receiving the certificate of title in February 2004. They referred the property to his office in order that they might prepare the property to be closed upon and to be conveyed to a purchaser. In May of 2004 they received a contract on the property and title work was completed. At that time they became aware of those code fines. Unfortunately, Bank of America had never been made aware of the code fines prior to that time. They immediately informed them of the code fines and went through their property preservation department in an effort to straighten out the fines. John Paul Brolmann and his brother Marty Brolmann are the purchasers. They attempted to assist them in working with the City to bring this property into compliance. There were apparently two issues which led the property falling into non-compliance. The paint on the structure was badly damaged and needed to be upgraded. Additionally there was a fence which had fallen over. During the process of trying to bring the property into compliance, his client had several attempts with local contractors to do so. They were met with less than success for a variety of reasons - most notably the fact that contractors were kind of hard for them to come by, particularly with the unfortunate hurricane situation that came upon them last year. Subsequent to that, with Mr. Brolmann's assistance, they did approach the City on several occasions in an attempt to find out specifically what was necessary. It appeared that the City was willing to accept them touching up the paint and fixing the fence. And in December of last year they

were able to do that. They asked for reinspection and were then told by the City that the painting touch-up was not adequate and that they wished to have the entire structure repainted. His client undertook that at his expense and repainted the entire structure. The property was brought into compliance with the City in February 2005. His client has expended a great deal of money to bring this property into compliance. In addition to the physical work that was necessary on the property, they have also expended taxes and they have had to insure the property. The property was sold to his client on the courthouse steps; and at that time, the property was already in the condition that led it to fall into non-compliance. His client had no responsibility for that. His client's entire blame here is the fact that unfortunately they made a bad loan. It is one of those unfortunate parts of being a lender. Sometimes they make bad loans and they do their best to be a good neighbor when the property comes their way. And that is truly what Bank of America instructs them to do and that is their guiding principle when they try to bring properties into compliance. They endeavored to work with the City to do whatever it takes to make the City comfortable that this property is in compliance so that this property can be conveyed. Mr. Marty Brolmann is here this evening and he can talk specifically if they have any questions about what he or his brother did with respect to bringing the property into compliance or trying to assist the bank in bringing the property into compliance. His understanding is they are prepared to close. As he referenced in his letter, the contract for sale of the property is \$45,329. Obviously they cannot proceed with the lien in its current state and obviously that is significantly below the amount that was owed to the bank at the time the property went into foreclosure. Even assuming that this property were to be conveyed tomorrow and assuming this Commission were to assist his client and accept the recommendation of the Special Master, his client would still be suffering a loss on this case in addition to the carrying costs they have had for the last year. Based on that, he is prepared to answer any questions they have. He hopes they will take the recommendation into account and will vote favorably.

Commissioner Alexander said he is one of the first Commissioners that will be willing to relinquish the fines and so forth. But his concern is with the first letter (dated February 22, 2005). It was asking for a reduction in fines. And now he is listening to Mr. Sandler and he is telling them they want all the fines...

Mr. Sandler said what they had asked for initially is that the fines be reduced. The Special Master came back with the recommendation that the fine be reduced to the administrative costs. And that was the recommendation that he came here this evening to speak in favor of. If the Commission doesn't feel that is appropriate and that his client should have a fine in addition to the administrative costs, that is a decision that the Commission has to make.

Commissioner Alexander said he won't be the one that brings that about. But he just thought maybe this property was turned back over to the bank a year ago and they did nothing. They have had two hurricanes here and the people who had nothing to do nothing with did more than what this bank did. That is not being a good neighbor to him.

Mr. Sandler said he appreciates that. Unfortunately, it is sometimes not that easy for a bank to bring property into compliance because they are an absentee owner. It does make it considerably difficult for them to locate contractors, to monitor contractors, to meet with contractors, and to get the contractors to perform the labor in a manner that the City finds acceptable. That was part of what led to the problems. It is not for lack of trying that it took his client one year to bring this property into compliance. As he mentioned, they really weren't even aware of the fines until May. So while he does realize May until February is a considerable length of time... And they are not proud of that. As he mentioned, they do everything they can to make sure that they bring properties into compliance in a timely basis. Unfortunately, this is one of those situations where they brought it into compliance as quickly as they were able to and as quickly as the City would accept it. As he mentioned, they did try to bring it into compliance in December and the City then asked them to repaint the entire structure. And according to the information he was given, at some point his client was led to believe they merely needed to touch up the paint on the

structure. But it wasn't acceptable and that is fine. His client has no problem with the fact that they repainted the entire structure at their expense.

Commissioner Alexander said he just wanted to let him know, he is never the one to want to punish anyone for doing anything, so he will just leave it in the hands of the Commissioners and he will make his decision.

Commissioner Coke said she has a couple of problems with this. Number one, she thinks it is an entirely different situation when they have one of their citizens who is elderly or disabled and has a problem and somehow they have liens and fines that accumulate on their house. That is a completely different situation. A bank, however, knows how to use a computer. They know how to do title searches. It is a matter of public record every time a lien is placed on a piece of property. So long before Bank of America came into possession, if they did not know, they should have. They had the tools to be aware of this lien, number one. Number two, Mr. Sandler talked about the hurricane delaying things. From the time that the bank got the property until the time of the hurricane was six or seven months. She would guarantee that they had all kinds of unemployed people here that were ready, willing, and able to work during that six or seven months. Now from the hurricane forward, yes they might have had a difficult time finding them. Also, the bank she is quite sure knows how to pick up a phone, call a local real estate agent, and say they need a property manager to get this, this, and this done. And it might have cost them a couple of dollars. But it would have met the needs of this City and their community, rather than have their citizens drive past an eyesore for another 13 months. The big problem she has here is from the date the bank acquired this property, they did absolutely nothing to exercise due diligence to ensure the protection and the visual effect it was having on their citizens, until the day wanted to sell the property. Then it was come to the City of Fort Pierce and wipe out all of these liens. And in the meantime, the property wasn't maintained properly and the liens kept accumulating. She can understand certainly, and they have had some discussions over the years, that \$100 a day gets to be a bit excessive. They talked about lowering it. And then they talked about if they lower it, it gives no one any impetus to go ahead and get things done in a timely fashion because the fine is too low, and people then take the attitude they will just wait as long as they want and go ahead and pay the fine afterwards. She for one will not support reducing this fine to this extent to administrative costs only. She thinks it is an unfair thing that has happened. It is in their community. And she doesn't think the bank has acted as a good neighbor. She thinks they have acted purely as business people. And as someone who has been a business person in this community for pushing 30 years, she thinks the way to get to be successful in business is to be a good neighbor. And she doesn't think that good neighbor policy has been demonstrated here at all.

Mayor Benton asked is there a number they could come up with that would be acceptable? They talked about this at two meetings now. He thinks they should come up with a number. He thinks they have one thing good, they have Fidel Castro out of the house anyway.

Commissioner Alexander said he thought staff was supposed to come back and give them some more definite figures, because the amount they had of \$737 was just for administration cost. That wasn't for all the cost that incurred. Did they not discuss that?

Commissioner Coke said yes, they did. They asked for a specific amount for what it cost them to have attorneys attend code hearings and things also.

City Manager Beach said they are sticking with the \$737 as far as the administrative cost unless it has changed in the last few hours. In the backup material to this agenda item, they see the number of days that the property was back in the hands of the bank, which was one of the questions the Commission had.

Commissioner Coke said 380 days.

City Manager Beach said they had that question and there was another one. There were three different issues that the Commission had asked to be verified. Mr. Dusanek has those for them this evening.

Mr. Bob Dusanek, Code Compliance Manager, said it was out of compliance for 380 days under the bank's ownership. They actually, according to the property appraiser's tax card, got it back for \$100.00. And on the bottom of this, it has that in 2004 it was appraised at \$43,500, which he did not add to that would be the 120% of that which would bring it up to \$52,200 which that piece of property would be actually valued at. The \$737.00 is correct, the attachment there is what that shows for the times and photos and all that kind of stuff for it.

Mr. Beach said he believes that addresses the various questions that the Commission brought up at the previous meeting.

Commissioner Coke asked for clarification, Mr. Dusanek is saying the house is worth approximately \$52,300 now and that the bank purchased it at the courthouse steps for \$100.00?

Mr. Dusanek said that is what the tax card shows.

Commissioner Coke said she certainly doesn't think the \$86,300 lien is in line with what it should be, but she would be willing to accept the administration fees and \$15,000. They will make plenty of profit that way also.

Motion was made by Commissioner Coke, seconded by Commissioner Nelson, to accept the administrative costs of \$737.97 plus reduction of the liens to \$15,000 against 701 South 23rd Street conditioned upon payment within 30 days.

Mr. Sandler said he does appreciate that the Commission is willing to... He would respectfully request that the Commission understand and appreciate how a foreclosure works and why a bank is able to buy a piece of property for \$100.00. It is because they hold a judgment far in excess of that amount and no one chooses to outbid them for this property. He would not agree that the value of the property is the number that was brought forward. He believes the value of the property is the amount that the contract is for because that is what the bank is going to get for it. The bank, as he said, despite the fact there are things that no doubt they could have done to bring the property into compliance sooner, the bank did endeavor to try and bring the property into compliance. They had Mr. Brolmann working with them and trying to work with the City to bring the property into compliance.

Commissioner Nelson said he feels that the bank is astute in executing foreclosures and they know about caveat emptor and all these sort of things dealing with property. Being able to make considerable profit there in the neighborhood of about \$30,000 or thereabouts he thinks is good business sense on the part of the bank and they should accept this. If they don't, then of course, he guesses somebody else will.

City Attorney Schwerer asked the motion is for \$15,000 and administrative costs?

Commissioner Coke said yes.

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

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The next item on the Agenda was Request by Brenda Smith & John Bess to waive \$1,276.00 in interest, penalties, and fees against 119 North 10th Street (upon payment of

demolition liens in the amount of \$4,800.00).

**Ms. Brenda Smith** said this is her husband, John Bess. They sent a letter to Lois Caudill of the Building & Community Response Department on March 28th and she wanted to make sure they received a copy of that letter.

Commissioner Alexander said yes.

Ms. Smith said they are here asking that liens in the amount of \$1,276.00 be forgiven. They acquired the property at 119 North 10th Street in a tax sale. They actually live right next to it. For many years the property was a nuisance, it had substantial fines, and ultimately the home that was located there was demolished. Rather than that sort of remedying the problem, it actually exacerbated it. After the hurricane, it became a dumping ground. They cleaned the property as well prior to purchasing it at a tax sale. They actually tried to get in contact over the past two years with the person they assumed was the lawful owner of the property, Mr. Herbert Rochester, in order to purchase the property. It turned out that he was not the owner of the property, so they purchased the tax deeds and forced a tax sale because it was a tremendous nuisance to have it next to them. They secured the tax deed she believes on March 24th. And at that time they went to the City, tried to find out what the existing problems were there. They spoke to Nancy Earheart who told them they were getting ready to write a notice for dumping. They immediately contracted with a gentleman, Tim Hoeffner, who cleaned the property. And they secured a permit to fence the property today. They would respectfully ask at this time, if they would forgive the interest.

Commissioner Coke asked Ms. Smith knows they can't forgive the demolition lien and the actual costs?

Ms. Smith said absolutely.

Commissioner Coke asked how long did she want to pay off that demolition lien?

Ms. Smith said the fact is, they purchased the property for an amount that was in excess of the taxes on it, so there is a corpus of money there to pay the \$4,800.00. They assume that will be paid almost immediately.

Commissioner Nelson asked she is willing to accept payment of the \$4,800.00 plus the administrative cost if they waive the other portion?

Ms. Smith said her understanding was that if they were able to secure the vote of the Commission, that the amount they would end up paying was the actual cost of the demolition. They are willing to do that.

Mayor Benton asked she bought this at the courthouse door?

Ms. Smith said yes.

Mayor Benton said this should have been covered where the bidding on the property started.

Ms. Smith said it was not.

Commissioner Nelson asked is the administrative cost of this \$100.00?

City Manager Beach said the Agenda item is for the Commission to waive \$1,276.00 in interest, penalties, and fees.

Commissioner Nelson said he understands that; but is the administrative cost \$100.00?

Commissioner Coke said yes, that is what it says on the paperwork.

Motion was made by Commissioner Nelson, seconded by Commissioner Coke, to waive interest and penalties against 119 North 10th Street in the amount of \$1,176.00, upon payment of administration costs of \$100 and demolition liens in the amount of \$4,800.00 (a total of \$4,900.00) conditioned upon payment in 30 days.

Commissioner Alexander asked in the demolition procedure, wasn't there an administration cost involved in that process?

City Manager Beach said on one page of the attachment for this Agenda item they have four line items. One of them is administrative fees and under that administrative fees line it indicates that \$100.00 was assessed for that purpose.

Commissioner Alexander asked was it not included in the \$4,800.00?

City Manager Beach said no, it was not.

Commissioner Alexander asked so anytime the City of Fort Pierce Code Enforcement goes out to do a process, they don't come back with administrative charges for photos and the whole nine yards? He knows it costs more than \$100.00.

City Manager Beach said all he knows is what is on this paper in front of them right now.

Commissioner Nelson asked she is willing to pay a total sum of \$4,900.00 in 30 days?

Ms. Smith said they are willing to pay the \$4,900.00, assuming that amount will be taken out of the excess they paid at the tax deed.

Commissioner Nelson said they can't deal with all of that administrative stuff on her end of the spectrum. She needs to figure out the way to handle that.

Mayor Benton said that should be St. Lucie County. When they sell a piece of property at the Courthouse door, that starts with what liens are against it, especially bank liens or government liens. At least that is the way it used to be.

Commissioner Nelson said he just paid \$600 some odd dollars the other day because he bought something on the courthouse steps and he had to pay it.

City Attorney Schwerer said their motion should be to accept the sum of \$4,900.00 in full satisfaction of this lien upon payment within 30 days or whatever time they want. That should be their motion. How it is paid and when it is paid would be the applicant's responsibility.

Commissioner Alexander asked would it be okay if they come back and request an extension if it is not as they speak of?

Mayor Benton said they probably will have to.

Commissioner Nelson said what needs to be done is, they go down to the bank or some source and get \$4,900.00 and come pay that to the Finance Director within 30 days. He will issue the necessary stuff to say it is clear of all liens they associate with this property. Commissioner Coke said check with the Clerk of Court. They have already collected the money and they can process it through to the City of Fort Pierce, rather than them paying \$4,900.00.

City Attorney Schwerer said please don't instruct them on how to do this. Simply just make the motion. Let these people handle it, because there are a number of ways they could do this.

Mayor Benton said if there are any problems, they can come back and ask for an extension. How is that?

Ms. Smith said yes.

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

Mayor Benton said if for some reason this isn't straightened out in 30 days, they can come back and ask for an extension. That is usually the case.

Ms. Smith said they do appreciate that.

**Mr. John Bess** said he knows his wife is going to explain it to him when they get home. But could he have them explain to him what was just said?

Mayor Benton said what he just said was, if it is not straightened out with what they paid for the property in 30 days, in other words the County hasn't sent a check or vice versa whatever, they can come back in front of the Commission to be heard again, just like they were tonight, and look for an extension on this payment. He would hope that when they paid for the property, this was included.

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The next item on the Agenda was Ms. Karen Smith, representing **Yellowfin Kingfish Classic**, request **Alcohol Beverage Permit** for Fishing Tournament to be held in Indian River Veterans Memorial Park & Riverwalk on April 21-23, 2005.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve Alcohol Beverage Permit for Yellowfin Kingfish Classic Fishing Tournament to be held in Indian River Veterans Memorial Park & Riverwalk on April 21-23, 2005.

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

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The next item on the Agenda was Mr. Ben L. Bryan III, representing the **Fort Pierce Sportfishing Club**, request **Alcohol Beverage Permit** for 24th Annual Fort Pierce Open to be held at Indian River Veterans Memorial Park Parking Lot (Moore's Creek Boat Ramp area) & Riverwalk on May 6-7, 2005.

Motion was made by Commissioner Alexander, seconded by Commissioner Coke, to approve Alcohol Beverage Permit for Fort Pierce Sportfishing Club 24th Annual Fort Pierce Open to be held at Indian River Veterans Memorial Park Parking Lot & Riverwalk on May 6-7, 2005.

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

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The next item on the Agenda was Mr. Carlos Barrena, **Treasure Coast Opera Society**, request \$40,000 for operational expenses for the 2005/06 Opera Season.

**Mr. Carlos Barrena** said he made this request and spoke with some of them before. He realize how unusual this request has been this time of year. He would not have done it if it were not an emergency because of the hurricanes and everything that he has explained in his letter. To tell them the truth, he had his hesitations about this matter, but he has no

choice. The reason he insists in trying to do this is because it would be a crime after 27 years, now that the Sunrise Theater is about to be finished, if they are not able to continue their work. This was his request and he submits himself for whatever their decision is. He wants them to know he is very grateful for all the help they got from the City in the past anyway.

Mayor Benton said they have spoken several times. He thinks what it came down to is normally the opera would be held in the Civic Center where they have room for a lot more people; but because the Civic Center was destroyed, he had to make due with some smaller facilities which cut down the number of ticket sales and plus inconvenienced people. So they didn't have the numbers they normally would have.

Mr. Barrena said they lost \$35,000.

Mayor Benton said his question for staff would be, because of these hurricanes creating this and this was something with the Civic Center closed, isn't there grants out there or through FEMA? They pay for everything else. In this case after 27 years, this could be one of the toughest things in this community is they would be the victim of two hurricanes because they weren't able to make their presentations. To him it would be an injustice if they are not around for the day the Sunrise Theater opens.

City Manager Beach said he is completely unaware of any grant programs that may be available to respond to the problems created to the cultural venues based on these hurricanes. If they recall, one of the dilemmas they are running into within City and County governments, one of the damages they had that were significant had to do with landscaping and trees and things of that nature. There is no mechanism for recouping the cost of that. That is something they are having to absorb. His suspicion is that the same thing is applicable to the cultural arts, that these are simply not something that he guesses is interpreted to be essential to the well-being of the community, and thereby they simply don't create programs to fund those problems that he is aware of. That is an important part of that discussion, there could be some out there he is not aware of.

Commissioner Coke asked is Mr. Barrena looking for this money from their next year's budget? He is just looking for a commitment now?

Mr. Barrena said the problem is, if they don't have some of the money before, they won't be able to cope with the expenses for the summer and the beginning of the fall. That is when they usually start getting their membership and subscriptions and support, after they have some brochures with the seating plan for the theater. They never got it before. In fact, he had a telephone conversation with the new manager and he guaranteed the days they have for January, February, and March. But until the other day that he spoke with them...

Commissioner Coke said contrary to what he said in his letter to her, she has supported giving the Opera Society money every time. They have been giving \$20,000 for the last couple of years. He is looking for them to make that commitment plus an additional commitment.

Mr. Barrena said due to the fact of all the losses they had.

Commissioner Coke said yes. It is the same thing. She wrote him a letter that unfortunately the whole City has suffered losses. They have citizens that don't have homes or places to live, they have parks that are down, trees, all kinds of things, and they need to cover all of that. She is looking for a way to resolve his problem. So her question then becomes, if they are looking for a commitment now, let's work with little pieces. The \$20,000 they have been giving them historically for October 1st, she would be willing to address that now and make that commitment; and she is sure then Mr. Barrena could go to the bank with the City giving that commitment as of October 1st and take a loan against

that.

Mr. Barrena said he does not know how, they don't have any collateral.

Commissioner Coke said she is sure if Harbor Federal knows that the City on October 1st is going to give the Opera Society \$20,000, they will give him a loan against it. If not, maybe they can talk to Mike Brown. The second thing is, since the hurricanes she has been to more fund raisers for more non-profits than she can count. Did they have a big fund raiser since the hurricanes?

Mr. Barrena said they haven't planned it yet because of the lack of personnel they have. They have a Board that has to be addressed as well. They have tomorrow night a Board meeting. For right now the problem has been that they have had a lot of debt and lately a lot of their members and friends have died unfortunately for them, they are so sorry and they are very grateful for what they have done in the past. But the fact is that their funding has been going down. Unfortunately these shows are of high quality but require a lot of funding. Also, if they want to have that type of shows at the Sunrise Theater when it opens, they need funding. Without funding, they cannot do a thing. They are trying to address all those points she mentioned. But meanwhile they have those expenses to pay. He knows how big this problem is. He is grateful for whatever solution they can give him.

Commissioner Alexander said his concern is, on events and future events, don't they have insurance they could carry in the event of a disaster happens or rain or something?

Mr. Barrena said the insurance only covers the office and the performance in whatever theater they do it in.

Commissioner Alexander said he is speaking of the entertainment field. There are such insurances, right?

Mayor Benton said he is not sure.

Mr. Barrena said they don't have any. He doesn't think they sell insurance on that basis, it would be very costly for one thing.

Commissioner Alexander said when he is speaking of \$40,000. He has supported them in the past and he will in the future. But they asked the Chief of Police to cut his budget. Maybe somewhere down the line Mr. Barrena can trim some of this budget he is looking at here. He is not saying they haven't tried to. But his second question is, where would the money come from?

City Manager Beach said at this point in time the availability of finances for this is not an acute problem. The resources are there. It is a community prioritization question that only the City Commission can answer. They have resources in their fund balance. They also have resources through the Community Redevelopment Agency that may or may not be applicable to something of this nature. But what he is saying is that financially that is not the critical issue. The critical issue is prioritizing the resources of this City and that is what they all get stuck with.

Commissioner Alexander asked could they not divert some portion of this to the CRA for operation expenses?

City Manager Beach said he cannot tell him that without looking into the mission and the funding mechanisms of the CRA as it relates to this. His suspicion is they probably can, but he wouldn't want to make that commitment.

Mr. Barrena said he thinks they would be eligible, but by the terms it was due on 13th of the month, so they couldn't get in any more.

Commissioner Coke said the City gave the Opera Society and the Jazz Society an equal amount of money last year and then later on to pursue arts, etc., they made an additional donation to the Jazz Society. Can they tell her how much those additional monies were?

Mr. George Bergalis, Director of Finance, said off hand, no. He doesn't remember.

Mayor Benton said he thinks they did. He doesn't remember whether it was \$20,000 or \$30,000.

City Manager Beach said his recall is that it was \$15,000 in addition to whatever the original allocation was.

Commissioner Coke said okay, she thinks they gave them \$15,000 to begin with and then an additional \$15,000. Does that sound right?

Mr. Bergalis said he will let her know definitely tomorrow.

Commissioner Coke said tomorrow doesn't do her any good. Considering they did make an additional donation to the Jazz Society and considering the wonderful commitment the Opera Society and the very dedicated people have made, she understands they need some money to tide them over.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to give the Treasure Coast Opera Society an additional \$15,000; and commit October 1st for their next year's budget, \$20,000.

Commissioner Alexander said they have to address the community as a whole. He just wants to be supportive of the individuals that support this community in growth and diversity, so they do have his support on that and in the future they also have his support. Mayor Benton said he thinks what is very critical for these folks is that the Sunrise Theater present seating plans, so that way they have the ability to start sending out information and sell tickets. But right now until they get a seating plan they can't do that, so they are in a real bind. He hopes this will help.

Commissioner Coke said she knows people who have been waiting to get the letter that says "Join the Opera Society this year, send a check" and some of them just haven't gotten that letter.

Mayor Benton said at least from what Mr. Barrena has told him, until they know what the Sunrise seating plan is, it has been very difficult to take that step.

Mr. Barrena said he is supposed to have a meeting with the new manager.

Mayor Benton said after 27 years it is very hard to believe. He has never been to an opera. Mr. Barrena gave him tickets and unfortunately he was ill. But he will look forward to his first opera. He just knows it is something this community needs. It is just unfortunate that the County can literally find millions and millions of dollars for the Mets Stadium which only draws a success rate of less than 30 days a year and the rest of the time it has been subsidized with the St. Lucie Mets, but they have nothing for the other side of the picture when it comes to cultural affairs and the arts. Maybe some day they can change that. He thinks it is going to take some educating. But it is amazing how athletics comes first.

Commissioner Nelson said he wants to support the motion. But he will take this opportunity to make note of the fact that he saw some correspondence where Mr. Barrena mentioned that some of his clientele were reluctant about going out to Lincoln Park Academy because of their thoughts in regard to their personal safety in that area. He would ask if they

possibly can, try to not promote that concept, because he thinks all of their cities should be able to benefit from these types of facilities. And where they have areas like the Lincoln Park Academy or the Delaware Magnet School of Arts, they should in fact encourage its usage and make it available to the public at large and dispel this idea that one part of the City is not safe, because that is not totally true.

Mr. Barrena said he apologizes for that phrase. Not only that, he wants to state here that they got the best treatment they ever had in their life. Everybody was so cooperative for everything they had done over there. It is a beautiful theater. It is not big enough to do the opera and it is very difficult to do. And they had, for whatever reasons, a very small attendance. It was a big loss.

Mayor Benton said they look for a bright future when the Sunrise opens and he can't wait until that day.

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

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City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 05-22

“A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, APPOINTING **JOHN LANGEL** TO THE **CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS**; PROVIDING FOR AN EFFECTIVE DATE.”

Motion was made by Commissioner Alexander, seconded by Commissioner Coke, that Resolution No. 05-22 be adopted.

Those voting in favor of the adoption of Resolution No. 05-22 were: Commissioners Alexander, Coke, Nelson, and Benton. Those opposed: None.

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The next item on the Agenda was Submittal of Applications for Appointment to **Historic Preservation Board**.

City Clerk Steele said they have two applications for consideration. There will be a resolution for the next City Commission meeting.

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City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 05-23

“A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, AUTHORIZING EXECUTION OF A **HIGHWAY LIGHTING AGREEMENT** WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE ADJUSTMENT RELOCATION AND/OR INSTALLATION OF A CERTAIN LIGHTING SYSTEM WITHIN THE RIGHT-OF-WAY LIMITS OF STATE ROAD 68 - ORANGE AVENUE - FROM ANGLE ROAD TO 13TH STREET AND AUTHORIZING THE MAYOR, CITY CLERK AND CITY ATTORNEY TO EXECUTE SAID AGREEMENT ON THE PART OF THE CITY, PROVIDING FOR AN EFFECTIVE DATE.”

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, that

Resolution No. 05-23 be adopted.

Those voting in favor of the adoption of Resolution No. 05-23 were: Commissioners Alexander, Coke, Nelson, and Benton. Those opposed: None.

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City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 05-24

“A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, DESIGNATING THE **INDIAN HILLS GOLF CLUB** AND GOLF COURSE AS A HISTORIC PROPERTY AND A LOCALLY SIGNIFICANT SITE.”

City Manager Beach said Staff would like to pull this from the Agenda and bring it back to the Commission at a future date. They want to revise some of the description of the area.

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The next item on the Agenda was Mayor Benton request Status Report on Ohio Avenue Roundabout.

Mayor Benton said he believes the Commission was looking and showing interest in putting that roundabout in or looking for the funding. Can they tell them where they are with that?

Mr. Jack Andrews, Assistant City Engineer, said they have design plans ready to go. They do need to finish the contract documents to put the project out for bid. One of the problems they have right now, they have requested from St. Lucie County ownership of Sunrise Boulevard and including the area that it would take for the roundabout there. From what he understands, that has not been approved yet and that is one stumbling block they have there.

City Manager Beach said he believes when they were working on this project before, the last obstacle they had to overcome was getting St. Lucie County to approve the design of the roundabout. He thinks they had reached that point with the existing staff that was there, but now that staff has all changed. Because of the time frame, his suspicion is if they reactivate this they are going to have to go back through that process of getting the design approval by St. Lucie County. He thinks all of them know that they have been working with St. Lucie County for some time trying to get Sunrise Boulevard improved to an extent that satisfies the City's Engineering Department. Then at that time the City of Fort Pierce was going to take over responsibility for it. That would include the area where this roundabout is going to go. But he believes for purposes they are looking for, if they want to reactivate it then they have to do two things. One is to get those approvals through the St. Lucie County Engineering approval process; and the other of course is to identify a source of funding. The last estimate he recalls was around \$650,000.

Mayor Benton said he thought they had approved moving forward with it. If it is going to take some discussion with the County, they do have a meeting with partial boards tomorrow so maybe it is an item they can put on the agenda to see if the County can pick up where they were.

City Manager Beach said he thinks it is a technical issue. It is a technical approval by the engineering staff of St. Lucie County. He is not sure that it so much involves the County Commission. If they all recall, this is the project they replaced North 2nd Street with. They had resources identified for that, but they replaced it just through prioritizing. If they all want to restart this project, please tell the staff; and they will kick in both the approval

process and they will also start searching for resources.

Mayor Benton said they discussed this at the workshop and at budget time that it is time they started. He doesn't think there has been any efforts at all in the area south of Georgia Avenue in the Sunrise Boulevard, Oleander Avenue, or Virginia Avenue area. And it is time they started doing some work in that area of town also.

City Manager Beach said he believes that is an accurate statement; and one of the primary reasons for that is it is immediately outside their Community Redevelopment Agency boundaries, and the finances and resources available to do that will take a little more creativity.

Mayor Benton said with the exception of the CDBG area, what is that, they have something coming up with this Section 108. That revenue would qualify for that area.

City Manager Beach said it should.

Mayor Benton said so there is a funding source. But he just thinks that they have neglected that area for so long that it is time that they started. They talked about this. And yes, the priority was down here because that road was unusable and there is more traffic on that road. But he thinks now it is time they got back on track.

Commissioner Nelson said his recollection was they did in fact have money set aside for that program in the neighborhood of about \$650,000. There was considerable opposition by the residents of the area. They shifted the money from there to the Florida Avenue and the 2nd Street Project and they deferred this one until a later date. He doesn't know of any hangup relative to approval on the part of the County, but he might be wrong.

City Manager Beach said that wasn't something that involved the City Commission. That is what the staff was working on. The staff had submitted the plans to St. Lucie County trying to get them approved.

Commissioner Coke said put it back on the agenda to get the ball rolling on it again.

Commissioner Nelson said yes, he thinks they should get it back on the agenda.

Commissioner Coke said that would be a real slow point with traffic.

Mayor Benton said right. He thinks it needs to be done.

Commissioner Nelson said it was a beautiful plan. He loved it big time. They did a great job.

Mayor Benton said he thinks the pressure needs to be put on the County, because Sunrise Boulevard and that area is in pretty bad shape since the hurricane and there has been some flooding issues in there also. Does everyone agree? (The Commissioners agreed.) They can try to get this back on track and they can mention it to the County that they can push their staff a little bit maybe.

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The next item on the Agenda was Mayor Benton discussion on HB 923, An act relating to the St. Lucie County Fire District, establishing an exemption from payment to the Redevelopment Trust Fund.

Mayor Benton said he has had several calls from the Governor's office in the last week and a half on this item. First it was, does the Mayor agree with it? Yes. Then the second call was, how about the rest of the Commission? It is his understanding the Fire Board passed

this. They passed the Interlocal Agreement. But the question is, like Commissioner Becht stated that both on the Fort Pierce and Port St. Lucie Interlocal Agreements they both signed, the agreements could be dissolved in 10 days. This could take several million dollars out of the Fire District's budget at a time when the Fire District's main job is out there saving lives. So he is looking for them to support this because basically this will take care of that issue for Port St. Lucie and Fort Pierce. The Fire Board has endorsed this bill and it appears that the Legislature... He doesn't have the number or vote on it. But it appears that the Governor expects to get it in front of them and it will pass through the Legislature. So he thinks it needs to be done. This is a health and safety issue. They need to take the politics out of it. Anybody who is setting a budget doesn't need to worry about some municipality taking several million dollars out of it or the ability of it being taken away from them. It has that cloud over their head. Mr. Beach and he spoke the other day and he thinks none of them ever dreamed that the CRA in expanding it would have the revenue that it does today because of property values. So this is not going to hurt the City; but if they don't change it and allow this to follow through, it could create some problems for the Fire District and they do a heck of a job saving lives in this community.

Commissioner Coke asked if they support this, does he think they will let the City build their parking garage?

Mayor Benton said he had a long talk with them. That has nothing to do with it. In fact, they don't see any firemen in the audience. This is just the right thing to do he thinks.

Commissioner Coke said let the City build their parking garage would have been the right thing to do, too.

Mayor Benton said he guesses they just can't look the other way.

Commissioner Coke said it is not that she is not going to support this, she just thought that they ought to get that message.

Mayor Benton asked does Mr. Schwerer have any problems with this?

City Attorney Schwerer said no. If they choose to express their support for this to the Legislature, he would simply ask that they caveat that in two respects. He has not read it cover to cover, and quite frankly he hasn't had the time to look at it. He knows it is a detailed piece of legislation. First, make sure it does not affect the Interlocal Agreement they just entered or any aspect of it, because in that Interlocal Agreement they automatically exempt them starting in the year 2007-2008. That has been approved by their bonding insurers and they don't want anything to disturb that agreement. Second, that it does not affect their existing bond that is out there. With those two caveats, he doesn't see anything legally that would stop the City from supporting that.

Mayor Benton said because it has October 1, 2007 in there, it shouldn't affect the bonds.

City Attorney Schwerer said assuming the legislation is such that it is not intended to affect the Interlocal Agreement or their bond, then there would be no real legal issue.

Commissioner Alexander asked is Port St. Lucie going to mirror the same bill?

Mayor Benton said he doesn't know whether the Governor has called Port St. Lucie or not. They have a different relationship down there with the Governor's office he thinks than Fort Pierce has had anyway.

Commissioner Alexander said being a member of the Fire District, they did agree that they would, after the Interlocal Agreement that they would all go back to their respective Council

and Commissioners and make sure the future CRA's will not be a problem to the Fire District. So again, that is something that was on the table for them to revisit. He is not only bringing it to the City Commission, but he will be taking it to the Fire Board with the understanding that Port St. Lucie has to be inclusive because they are speaking of St. Lucie County.

City Attorney Schwerer said if this legislation passes, there will be no need to address that issue.

Commissioner Alexander asked they need to support it though, right?

City Attorney Schwerer said correct, express their support to the Legislature. Dealing with Commissioner Alexander's issue, what he is saying is there will be no need for that issue to come back before them about the future CRA's because the legislation will take care of it.

Commissioner Alexander said absolutely. But they need to take this support from here to there.

City Attorney Schwerer said yes.

Commissioner Nelson said he really doesn't understand what is going on here. He would have much preferred to have staff give him a better analysis of this before they act on it.

Mayor Benton said he thinks it is self explanatory. Basically what the City passed with the exception of, there is no end. They can't stop it in ten days. They need to take politics out when they are saving lives.

Commissioner Nelson said he still doesn't understand that.

Motion was made by Commissioner Alexander, seconded by Commissioner Coke, to express support to the Legislature of HB 923, An act relating to the St. Lucie County Fire District, establishing an exemption from payment to the Redevelopment Trust Fund, with two caveats: That it does not affect the recent Interlocal Agreement between the City and the Fire District; and it does not affect the existing bond.

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

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The next item on the Agenda was Mayor Benton discussion on traffic issues.

Mayor Benton said he thinks everybody agrees traffic in the last few months has just been insane. This is not just in one area of town but all over town. Sitting on the MPO they look at traffic levels. Driving through St. Lucie West Boulevard is insane. He doesn't know how that was allowed. That is a new development and traffic is... What is that, five years old? And cars can't even get around. To him he thinks it is time, when they are looking at updating their Comprehensive Plan, to bring in consultants. He thinks they need consultants to tell them. When they have developers who come in here and say they want to increase the density, they need to know that if they say yes to one, when are they going to say no? Because they have already committed to rebuilding roads and not widening them. A-1-A is going to be two lanes. They got that money by saying they are not going to six-lane U.S. #1. So there is no intent to widen any roads here. They are not like Port St. Lucie, they are not building a new city. And they can't take the property to do it, it would be very costly. So he thinks they need some experts to come in here and tell them what they want to hear, and not what is acceptable to FDOT, because he thinks they have different standards.

Commissioner Coke said very timely that just last week at the MPO they had Congestive

Management System Report. She was going to get copies of this for everybody. It breaks down all the streets in the County. It has U.S. #1, Edwards Road to Virginia Avenue, and then it goes on for pages and pages. Red, of course, is the bad color and Fort Pierce didn't have any red. Not surprisingly, their little sister city down south of them had a couple of red ones. They had a lot of orange. Fort Pierce did have a couple of roads that were orange, which meant it was over 100% of the usage. She has already sent a memo to Mr. Beach last week and asked him if he could let her know what they were looking to do to alleviate some of these problems on these roads. But she will be happy to get everybody a copy of this report because the MPO just paid an outside firm to do it. If they need more information, maybe they could contact that firm and get more specifics. The study just got done. They probably don't need to reinvent it.

Commissioner Alexander said he does have a question relating to that. She said Fort Pierce doesn't have any reds. What do they call this U.S. #1 right outside City Hall?

Commissioner Coke said not compared to Port St. Lucie.

Commissioner Alexander said he knows. But it is ridiculous. They need to look at that.

Mayor Benton said that is the problem, others are saying there is not a problem, but everybody here knows there is.

Commissioner Coke said no, they are saying there is a problem. But they are saying red is if it is like used one and a half times more a day than it should be.

Mayor Benton said if they had an expert come in when people come in front of them. Like A-1-A for instance, the other day trying to pull out of Harbour Isle. One way he could take a right with no problem. This was in the middle of the afternoon. There other way, it was basically about 12 minutes one time. When Harbour Isle is developed, there are 2,000 cars however many times a day entered onto the roadway there, plus whatever happens near the trailer park and whatever happens with redevelopment all over the Island and all over Fort Pierce. So they are hearing this, but they have all these consultants and traffic experts that come in working for their developers saying everything is fine. They ask for a traffic study and they get one, but it is telling them what the developer wants them to hear. When do they get somebody who tells them this is the density they are allowed with the traffic flow and traffic numbers they need.

Commissioner Coke said she wants to make sure everybody got a copy of this because it tells them basically... These people do come in and tell them how many trips per day it is going to add. This tells them how many trips a day are on there and what the volume capacity is on it. So if somebody is coming in saying they are going to add so many trips; but it is not going to work if they all have one of these chars, they can look at it and say they are way over volume. They don't care what those guys say, at least they have something updated.

Mr. Ramon Trias, Director of Development, said if they are interested in learning about traffic, they could have some educational component to the Comprehensive Plan revision they are doing. He would recommend they do that. The reason is that the traffic is one of the best understood and most analyzed topics in planning. And unfortunately, having had a chance to work on those issues for 15 years, he has to say there are no easy answers. The more educated all of them become in the topic, the easier it is to understand why certain things work and why other things don't work. He would encourage that they incorporate that into the discussions of the Comp Plan.

Mayor Benton said he thinks so too. Because when they have developers especially with large developments, they need to know when they have to say no. They can't just go from 4 units an acre to 8 units or whatever it would be in town here and multiply that by how

many developers are looking to come here. The undeveloped areas like the Port, there could be 1,000 residential units planned there. Who knows? The point is, they are there. And what they consider acceptable...

Mr. Trias said last week he had a chance to attend a lecture by Walter Kulash who is a national authority on that topic. He is very good. He explains very clearly what happens when they widen roads and how sometimes the additional capacity they think they are going to get doesn't materialize and so on. People like that are out there and they are educating the decision makers in the community about the issues. Because for the past 20 years or so the idea of widening roads to solve capacity issues hasn't worked. It is one issue that definitely helps, but it does not fix the problem in the way that intuitively they think it would. So he would encourage them to learn about it and he will make some recommendations on the topic.

Commissioner Alexander said he doesn't want to open up a can of worms but he does have some concerns. When are they going to fix the roads they have when they find out it is wrong, especially on Seaway Drive? Harbour Isles is going to be coming in shortly and they have not addressed that issue yet. He thinks that is something that if they can admit to these things, that they could get something done about it. That traffic going over that bridge today is serious. And when they get to the opposite side of that bridge, they have people coming into this community that know not that the traffic becomes one lane. When are they going to address that issue? They are coming in with that roundabout soon. How are they going to divert the traffic?

Mr. Trias said that is one way to address the issue because the roundabout operates more efficiently than a traffic light. All he is saying is there are only certain things that one can do with roads - basically design the intersection and adding lanes or not. What he is recommending they do is learn about it, become informed about it, and then they will be able to make decisions accordingly when somebody proposes a project.

Mayor Benton said he would hope at the Charrette, if there is any way they could have somebody that is dealing with traffic issues, a traffic expert, so they can answer these questions. Because he doesn't know how it is going to work over there. Somebody is going to have to explain it to him with common sense.

Commissioner Alexander said that is a starting place with the Charrette.

Mr. Trias said that would be an excellent idea to start at that point.

Mayor Benton said they have heard from everyone that all this is going to work. But it is not even finished and they have a problem. Somehow he has to understand things a little better.

Commissioner Coke said she thinks the lights are off because she tried to make a left from 2nd Street and Seaway Drive on to U.S. #1 today and the traffic light was red. It was red so long that people were stopped all the way up to the top of the bridge from U.S. #1.

Mayor Benton said he thinks they need to look at the timing on these lights outside City Hall too.

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The next item on the Agenda was Commissioner Nelson to discuss Mileage and Food Per Diem for Official **Travel Allowance**.

Commissioner Nelson said he sent a memo on this and staff has been so generous as to attach the present ordinance they have governing their per diem pay for mileage, food, etc. He might have been wrong with respect to indicating this was Senator Possey who addressed this at the Senate level, he was informed it was somebody else. Perhaps the

issue itself did not pass out of committees and everything to make this happen. That notwithstanding, they have at the Federal level as well as the State level and throughout the State a multitude of variances with respect to what is paid for per diem and mileage and meals during official travel. It is appropriate he thinks to have staff look at this issue in a deeper sense and come up with some type of revision to their ordinance that allows them to in fact increase those amounts that are allocated for the official business they conduct on behalf of the City. They cannot buy breakfast for \$5.00. They cannot have a lunch for \$7.00. And he doesn't know what they are going to eat for dinner at \$12.00. Everybody knows that their gas prices certainly warrant more than \$.29 per mile. He was advised that their ordinance was created back in 1981 or thereabouts. And it is not appropriate for this day and age. So therefore he is recommending a proposal that staff be advised to research this better and come back with appropriate revisions to the ordinance to make it consistent and compatible with today's environment.

Mayor Benton asked does everybody agree Staff is to look at it? Because he knows, unless they eat at McDonald's or Burger King, it is very difficult when they go somewhere to make ends meet on that, especially some of the places they have them stay.

City Attorney Schwerer said technically the ordinance already allows that to be considered. When they are at a location where the customary and usual costs or prices exceed these numbers, they may submit paid receipts and will be paid those amounts. For instance, if they are at a resort location attending a conference and the breakfast is \$10.00 and they are only allowed \$5.00, if they save their receipt for that. Clearly it says, "Should actual expenses exceed the above rates due to emergency conditions or unusual economic surroundings, paid receipts must be submitted." That means they can be paid for that. It already provides for that. If they feel that they want to increase those amounts for breakfast, lunch, and dinner, he guesses somebody can do a study to determine what the average costs are. But they already have the ability to get paid is what he is trying to get to.

Mayor Benton said they know that. He thinks it would be easier this way though.

City Attorney Schwerer said \$.29 a mile is certainly a flexible number. The Federal Government allows a certain amount for their automatic deductions.

Commissioner Nelson asked now he wants to complicate it?

City Attorney Schwerer said if they use the car for business purposes...

Commissioner Nelson said if they go out there and try to keep a tab on all the expenditures with all those little slips of papers at the toll bridge and all that stuff and turn them in, guess what? They have a problem.

City Attorney Schwerer said he is just suggesting they can do it now. He wanted them to understand that is allowable. That is all he wants them to understand, that is allowable now that they can have that extra expense.

Commissioner Nelson said let's check out what other people are doing and let them revise the ordinance.

Commissioner Alexander said that is his only concern. He doesn't think they should expect or demand Commissioners come back to them with a \$5.00 tab. He wouldn't even consider that. He doesn't look this big for no reason. That is kind of a slap in his face because he doesn't even bring back any kind of charge. He never has and they tell him all he has to do is submit this. That is his to the City, not to quibble about a dollar. But again, they know that expenses are going up for gas. For \$.29 a mile that doesn't take care of anything. But they are not crying about that. They just say let it move along as they go on

and it automatically they shouldn't have to request this. But again, Commissioner Nelson brought it before the Commission.

Mayor Benton said maybe they can get staff to take a look at it and see what other cities have and if they have better numbers and more updated maybe.

Commissioner Nelson said that will give Mr. Schwerer something to do. He has to be gainfully employed.

City Attorney Schwerer said no, that is not his job. That is staff's job. It is not a legal issue.

Mayor Benton said he is sure they can find something. They can ask somebody in the Finance Department to make a few phone calls.

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The next item on the Agenda was Commissioner Coke request expression of gratitude to former Mayor Edward Enns by dedicating Marina Square or the Fountain to the **Enns Family**.

Commissioner Coke said just for the record, she will read her request to all of them:

4/14/05

TO: MAYOR & COMMISSION

FROM: CHRISTINE COKE

FT. PIERCE'S HISTORY IS IMPORTANT TO ALL OF US. WE ENJOY TELLING THE TALES OF OUR PREVIOUS CIVIC LEADERS AND OUTSTANDING CITIZENS WHEN WE TALK ABOUT THE BACKUS HOUSE, THE COBB BUILDING, THE ZORA NEAL TRAIL, ETC.

I BELIEVE THAT OUR RECENT HISTORY WILL BE SEEN AS PIVOTAL IN OUR DEVELOPMENT, AND SHOULD BE REMEMBERED GENERATIONS FROM NOW.

TO THAT END I WOULD REQUEST THAT THIS COMMISSION HONOR THE ENNS FAMILY BY DEDICATING PART OF WHAT WAS ACCOMPLISHED TO THEM.

FORMER MAYOR ENNS, AND HIS FAMILY, HAVE WORKED LONG AND HARD FOR THIS COMMUNITY. THE MAYOR HELPED THIS CITY TO BEGIN THE JOURNEY OF REVITALIZATION AND HE DID SO WITH SUCH ENTHUSIASM THAT IT IS STILL CONTAGIOUS.

HIS FAMILY SUPPORTED HIS EFFORTS AND WORKED RIGHT ALONG WITH HIM, SACRIFICING PRIVATE FAMILY TIME, SO THAT HE COULD LEAD US TO THIS NEW BEGINNING WE ARE ALL SO PROUD OF.

MAYOR ENNS AND HIS FAMILY ARE TO BE COMMENDED AND RECOGNIZED FOR THEIR VISION, WORK AND SACRIFICES.

PLEASE JOIN ME IN THE EFFORT TO EXPRESS THE TRUE EXTENT OF OUR GRATITUDE TO THE ENNS FAMILY.

PLEASE CONSIDER DEDICATING MARINA SQUARE OR THE FOUNTAIN TO THE ENNS FAMILY. WITHOUT THEIR HARD WORK AND DEDICATION, WE MIGHT NOT HAVE COME SO FAR SO FAST.

I WOULD LIKE TO SEE SOME SIGNAGE DENOTING "ENNS PLAZA" OR "ENNS FOUNTAIN" AS WELL AS A DEDICATION CEREMONY FOR SUCH EITHER BEFORE A FRIDAY FEST, OR DURING THE FARMERS MARKET.

THANK YOU FOR YOUR CONSIDERATION.

/s/ CHRISTINE COKE

Commissioner Coke said she would like to add, or dedicating some major part of the City that Mayor Enns was involved in.

Mayor Benton said he read her memo and agrees with her. A group of Mayor Enn's friends came up to him the other day and they asked would the Commissioners consider something that really has made him happy. When he saw his face the other day at the Golf Course...

Commissioner Coke said she had originally thought about the Golf Course. But do they remember when they talked about renaming it? He like a little fit about that.

Mayor Benton said all he knows is, he and Commissioner Nelson sat on either side of Mayor Enns for eight years; and every time it came to naming something, which they both have had their hands in, he would get a little upset about it, until Mr. Bennett died, his close friend. But when he found out through Mary Beth Birsky how much time Mayor Enns went through the Golf Course during construction and that he walked there. And the other day, as bad as he is feeling, he couldn't drive but he played every hole. His friends basically had asked for this, that is his pride and joy.

Commissioner Coke said that wouldn't bother her in the least. Her only concern was she remembered when they discussed renaming the Golf Course last year, he was adamantly opposed to it.

Mayor Benton said their thinking was, or at least it was presented to him, the "Eddie Enns Golf Course at Indian Hills" and that way they incorporate the Indian Hills in the name. But after seeing him there the other day...

Commissioner Coke said that is fine. Whatever everybody wants. She just thinks they need to do something.

Commissioner Alexander said he just had one question about the Marina Square. Isn't that going to become private?

Commissioner Coke said no. She knows Mr. Enns was very instrumental in pushing that forward. She just thought it would be easier to have a dedication ceremony down there.

Commissioner Alexander said but he thinks he would be more proud of that Golf Course. Unless they want to name City Hall after him.

Mayor Benton said he doesn't think anybody wants this building named after them.

Commissioner Nelson said he has no problem with either the Golf Course or the Marina Square. But he definitely would not want it to go on the small issue of the fountain.

Commissioner Coke said she thought in case he was objecting, she would take something smaller.

Commissioner Nelson said if they are going to name that fountain up there, they should name it after him or Mr. Trias.

Commissioner Coke said they are naming nothing after Commissioner Nelson ever.

Commissioner Nelson said but something big, monumental like the Golf Course or like Marina Square would be more appropriate. She is right in her assessment that he was a catalyst with respect to the revitalization of the Marina area.

Commissioner Coke said her other thought too was they have Friday Fest or the Farmer's Market down there. It is good to have a dedication ceremony where people would be more aware of it.

Commissioner Nelson said it is a question of timing too. Is it time to do it now or later?

Mayor Benton said it is time. With the Golf Course, because as they all know there were a lot of folks who objected. First of all, they asked how could the City get into the Golf Course business? And number two, how could the City take their historical Golf Course and change it? He played the other day with this guy who had been playing for 42 years and he for 18 holes he never heard the end of it. How can they change this Golf Course? Well, they have a real pride and joy out there the way they have redone this Golf Course. And he thinks Eddie Enns was the one who had a deal with a lot of his friends and a lot of the old timers in Fort Pierce to get them to accept it. To him, being it came from his friends instead of one of the Commissioners, when Eddie Enns yells at him and the Commission, then they can say this is what his friends asked for.

Commissioner Coke said that is fine. But she does think they ought to schedule a dedication ceremony; and that was one of the reasons she was leaning toward the Marina Square down here is because it is a more public area where they have the Farmer's Market, etc. The Commission can decide what. As long as they pick something, she would be happy.

Mayor Benton said he likes the Golf Course because his friends came up with it.

Commissioner Alexander said he likes the Golf Course.

Commissioner Coke said the Golf Course is fine too.

City Manager Beach said if they all will decide that the Golf Course is what they would like to name after the Enns family, let Staff bring back to them some ways to do that. Instead of them all deciding tonight, let them bring them a series of ways that could be done.

Commissioner Coke said that is the other thing. The Golf Course just got done making up all their T-shirts and putting up all their signs. They can just redo them.

Mayor Benton asked can they do this, does everyone agree? (The Commissioners agreed.) He thinks they need to do it as soon as possible.

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The next item on the Agenda was Discussion on **Joint Workshop Meeting of City Commission, Fort Pierce Utilities Authority Board, and St. Lucie County Board of County Commissioners** scheduled for April 21, 2005, at 9:00 a.m. in the County Commission Chambers, 2300 Virginia Avenue.

City Manager Beach said they have as part of this Agenda item a letter from the Chairman of the County Commission, Frannie Hutchinson, wherein she is inviting the City Commission and the Utilities Authority to a joint meeting at 9:00 a.m. on April 21st. More than one of them had made some suggestions and some requests that other Agenda items be part of that discussion. And in Commissioner Hutchinson's letter, she addresses some of those issues asking that they schedule another joint meeting to talk about those issues and limit their discussion here to the utility issue. Attached to her letter is the proposed

Agenda. As they can see, they get a presentation from the Executive Director of the South Florida Water Management District, discussion about the Regionalization issue, and the Joint Planning Agreement update, and those are the only things on the Agenda. He thinks they have contacted all of the Commissioners individually about attending this meeting; and he wanted to confirm tonight that they do plan to attend, because he heard some concerns expressed by different members that they weren't sure this was something they wanted to do or not.

Mayor Benton said for the record, he hasn't seen a revised Agenda, but County Commissioner Craft had told him that he added the City's issue about the discussions on annexations that they wanted added to this Agenda. He hasn't seen that in writing yet. But he understood that if they are having a joint meeting, there should be joint issues, not just County issues. And there is no need to have two meetings. They can deal with it in one.

Commissioner Coke said her concern is in January they had a meeting and the first three or four items were the County's items. And when they got done with those, they said okay let's all go home, but they will get together in the beginning of March and they will cover the City's issues. Then they cancelled that meeting. And then they didn't even attempt to re-schedule one for April. And now here it is, they are going to have one at the end of April, but the City's issues were not put on here. When they cancelled the one in March it was because the City called over there and asked to have the City's issues put on the top of the Agenda this time.

Commissioner Alexander said his concerns are from the last joint meeting, that any issues left there should be old business. It should be addressed before they go into any other issues.

Commissioner Coke said thank you. She agrees.

Commissioner Alexander said for the County to sit there and set the Agenda without the City's input...

Commissioner Coke said that is not a joint meeting.

Mayor Benton said that is dictating the meeting.

City Manager Beach said actually what it is, the County wants to talk about what they want to talk about.

Commissioner Coke said she is willing to go to this meeting if they will take the City's left over Agenda items from January and put them on the top of the Agenda. Otherwise, she has no interest in attending.

City Manager Beach said again, he needs to be able to tell the County whether they are all going to attend or not. He already had that discussion with them.

Commissioner Alexander said they need Mr. Schwerer to come in now because this issue was brought up because of Conflict Resolution.

City Attorney Schwerer said they do understand they are in conflict resolution with the County over this issue. Certainly they are in conflict resolution over the issue concerning the County's utility ordinance which they have proposed to adopt, which at least his reading and the reading from the Utilities Authority Attorney suggests that the County is going to be now allowing package plants to be built in the unincorporated area. They are in conflict resolution due to a number of breaches of the Interlocal Agreement that they signed as well as the Bulk Water Agreement. Those are issues they will have to deal with at some point in time. They had asked the County to meet with them to discuss some of those

issues that involve the utilities first before they talked about regionalization. His take from the Fort Pierce Utilities Authority at least this is his sense of talking with their Counsel and hearing what their Director is saying and/or their Staff as well as the Board - and Mayor Benton sits on the Board with Mr. Beach - the FPUA wants to address the utility issues with the County before they talk about merging and coming into a regional system with them. They want to understand why the County isn't complying with the agreement they have already signed, to get that straight, because why enter a future agreement with someone over utilities when they aren't complying with the first agreement, and that is the perception of the Utilities Authority. He is just repeating it. He is not acting as Judge and Jury here to tell them what has happened over there and who is guilty of the breach, but that is what the Utilities Authority perceives it as. They have a written agreement, they have a series of stipulations and provisions and obligations, and they feel the County has not lived up to that agreement; so why should they go over there and talk to them about another agreement for regionalization when they haven't even gotten that addressed. Other than the presentation by this Executive Director, who he understands might be retiring, that is why the County wants to hear that. The issue of the County's addressing that utility agreement and interlocal agreement should be right on the top of that agenda. How they want to express that to the County is up to them, whether they insist they first address the issue of the utility agreement and the interlocal agreement before they hear from them about regionalization, that is up to them. But certainly they have to have some answers from this County Commission, and the Utilities Authority needs some answers from this County Commission, on what they are doing with the utilities issue as a whole.

Mayor Benton said from the discussion at the last U.A. meeting, unless they have a change of heart tomorrow, there was no intent on that Board sitting down with the County until Conflict Resolution, because they don't want to talk about this, they want to talk about those issues. He doesn't know what Henry Dean has to do with it. Yes, they said he is going to retire and they wanted him to come speak to them. Also, when he thinks of regionalization, he would think that Port St. Lucie might be included in that. When they talk about region, they talk about more than the City and the County. It could include the four county area.

City Attorney Schwerer said his suggestion would be, if he had to just give them advice, his advice to them - and in all due deference to the County - would be not to go meet with them about regionalization until they first addressed the issue of the Utility Agreement and what is happening underneath that. Because there is always an opportunity to meet about regionalization at some later date. He can't see why that issue should present itself first. That is his advice.

Commissioner Coke said she thinks they should take their attorney's advice.

City Attorney Schwerer said Port St. Lucie was not invited to this meeting and he doesn't know why because they are a big consumption water user, the volume that they put out. And he doesn't understand why they are not part of this regionalization discussion either.

Commissioner Alexander said his concern is with protocol. If they go in there and the County Chairman is opening up calling to order and the Mayor is calling order for the City of Fort Pierce, if it doesn't get to that point, again they cannot walk away from this. So if he doesn't get to that point then he thinks the Mayor can adjourn the City Commission and they can go ahead on about the City business. They need to be there to make these decisions. Surely this is not going to be made in a couple of days, not to the City's liking. At what point do they as a City Commission dismiss themselves if it is not of some interest to the City?

Mayor Benton said he thinks what it is, if they don't plan on going to this meeting or if there is not enough interest from this Commission to sit in on this until they have other questions answered, then he thinks the meeting should be postponed like the last meeting when they

couldn't get answers. But by no means do they want to take their time and go over there and sit down and not have a full Commission, plus they don't want to waste Mr. Dean's time. It is on the Agenda because he told County Commissioner Hutchinson... He had lunch with her twice last week, everybody sort of laughed when they saw them out. But that is just one issue. He knows County Commissioner Craft has worked very hard on this, but he doesn't know that he knows all the issues between the U.A. and the County. So with that, he will leave it up to the Commission. He can go or he can stay home. It doesn't matter to him.

Commissioner Coke said she would think if the City Attorney has advised them that perhaps they would be well advised to put this off until after they get done with their conflict resolution, that is what they pay him the big bucks for and they ought to take his advice.

Commissioner Nelson said he agrees.

Commissioner Alexander said he is going to agree. But he still is saying this would not have come up if they didn't go into Conflict Resolution. He is just supporting the ones who want to get something resolved. If they all agree that they don't go, then he will agree with them.

Commissioner Nelson said it is always embarrassing when they have guests coming into their County and they see bad things. He would hate to have a South Florida Water Management District guy, Mr. Dean, come here and the City Commission is not there. Sometimes they have to make these appearances and do nothing but just thank him for coming. He recalls some things he had that he knew what he was going to do and he knew it wasn't going to pan out to anything but he had to go any how. He is amenable to go either way and do nothing. But he will go with the majority.

Mayor Benton said there are a couple of issues out there. Because they have this Bulk Water Agreement and he thinks they were looking at a joint facility, it is in writing in there, and at that point he believes everyone was looking out near the airport. Well, things have changed with the U.A. too because now the U.A. is looking at building a new power plant within the next two or three years and they need water to cool that plant. So the U.A.'s priority for a wastewater treatment facility now has moved to the south. So somehow they need two facilities. Yes, that needs to be talked about because it will probably take a joint venture, but he thinks other issues probably should be cleared up first.

Commissioner Nelson said okay. Make a decision. He is going with the majority.

Mayor Benton said he is going with the majority.

Commissioner Coke said her theory is that she wouldn't mind going to the meeting, but only if the County begins the meeting with the City's leftover items that never got covered in January. If they are willing to put those on the top of the Agenda and discuss those first, she will be happy to go. But if they are not even going to put their items on the Agenda, she doesn't know why they would waste their time.

Mayor Benton said those items are referring to the annexation issue, at least that is what their staff wants on there.

Commissioner Coke said there were three items she believes on the January Agenda.

Mayor Benton said as long as they are not going to touch the issue that they are going into conflict resolution about. That is off limits until then. Does everyone agree that if the County wants to talk about the City's issues, they will be there? And if not, there is no need.

Commissioner Coke said talk about the City's issues first.

Mayor Benton said if Mr. Beach would contact Mr. Anderson and see if they can get that straight.

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The next item on the Agenda was Director of Development to discuss City of Fort Pierce and St. Lucie County's **Land Use Categories and Zoning Districts**.

Mr. Ramon Trias, Director of Development, said staff has prepared a series of charts that illustrate the relationship between land use. He doesn't plan to make a presentation. It is simply for their information.

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The next item on the Agenda was Community Development Coordinator request approval to amend the **Annual Action Plan** for 2004-05 to reallocate \$400,000 from Section 108 loan repayment to other approved and eligible programs.

Ms. Dorina Jenkins, Community Development Coordinator, said they have her memorandum in front of them. Are there any questions?

Motion was made by Commissioner Coke, seconded by Commissioner Nelson, to approve Amending the Annual Action Plan for 2004-05 to reallocate \$400,000 from Section 108 loan repayment to other approved and eligible programs.

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

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City Clerk Steele said Commissioner Coke had submitted a request from **World Harvest Eagle Ministries** on Friday afternoon.

Commissioner Coke said they didn't get it to her until late. Did everybody get a copy?

City Clerk Steele said she put a copy of Commissioner Coke's note and the request in their Agenda package, if they all would like to discuss that now.

Commissioner Coke said it is a great thing this church is doing. They have a dance group, a group of children that they have been working with, and they are looking to start promoting them locally. They were looking for funding. She suggested if they were going to use money for advertising that perhaps the City would be an appropriate venue to help start advertising this youth group so they can get going. What they want to do she believes is advertise some of their local events that they are using to raise money because they are going to start going to state competitions with their dancing and things.

Commissioner Nelson asked did they look at the Children's Services Council? This is exactly the thing they sponsor over there.

Commissioner Coke said she doesn't know. They came to her. This is what she knows about them.

Commissioner Nelson said funds are available for these types of things from the Children and Services Council. He sent them a package with this mini-grant they have that deal with the children. They are the right age bracket, from 3 to 18. That is right down their alley.

Commissioner Coke said she will send them there also. What does everybody think they ought to give these kids?

Motion was made by Commissioner Alexander, seconded by Commissioner Coke, to approve donation of \$1,000 to the World Harvest Eagle Ministries Prosperity Dancers from the Advertising Fund.

Commissioner Alexander asked when they do things as such for the kids and so forth, they have a monthly advertisement that goes out, can they not incorporate that on any event the City is doing for kids? He doesn't know how many subscribers they have, but he thinks that would be something nice to boost kid's efforts.

Mayor Benton said normally when they do this they still have to fit all the 501(c)(3) or whatever guidelines they have.

Commissioner Coke said yes. She will send them to Mr. Bergalis.

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

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**Ms. Alfredia Wilder-Agnew** said she would like first of all to thank the Commission for allowing her the opportunity to speak with them. Her problem is what is going on in the northwest of town. She called the City to find out who is issuing licenses for everyone who stands in their yards and on street corners to sell food. She is really trying to find out what is going on with it. She realizes the police know it is illegal to do it and they are the ones patronizing it. The black businesses over there are closing. She wants to know if it is legal; because if it is, she would like to go to Virginia Avenue and U.S. #1 and sell food on Wednesday, Thursday, Friday, and Saturday nights. No one seems to know whether it is legal or not and it has really made her mad. Another thing happened. By the way, she is a native of Fort Pierce. She was born and reared here. Her mother is 84 years old and she is still alive here. This used to be a thriving community over there. That place is dead. It doesn't make sense for someone to just allow a whole community to just fall apart for no reason. She knows there are a lot of things going on over there. The Police can find every piece of drug there, but they can't find a murderer. Something is going on. Someone needs to wake up. They can't kill a whole community and expect this town to survive. She went out last night. Apparently they tried to close the Elks down. They also tried to close her business down one time, but she has gotten over that. They tried to close the Elks down. These people are being forced to pay \$25.00 an hour to have a Police Officer there plus pay for security there in the building. They say that suggestion came from the Police Department, that they do this in order to be able to reopen their business. B.J.'s, the biggest club in Fort Pierce for the blacks, he hasn't even opened his disco portion. They need to be able to survive. They should be able to survive without having to worry about the Police busting into their place and then pushing them into doors. Her husband is still suffering from his shoulder from where he was actually physically pushed to a door while they were chasing through her business trying to locate some drugs. It doesn't make sense. That is all they want. They want to be able to enjoy themselves. She sits here and she sees all this money allocated for this and that. But this whole community is dying. She doesn't want any part of politics, she thought she didn't, but now she sees she is going to have to. Somebody has to. She has a little girl. She is close to 50 years old with a 6 year old daughter. She will not stand by and not allow her to have anywhere to go if she does live to grow up. It doesn't make sense. There is something going on. She is going to get to the bottom of it. How, she doesn't know. She is glad she came here. She doesn't even know how to address them. They have never seen her before until they forced her to have to come here several years ago. She is going to find out the procedures that goes on here. It is late. She knows it. She wants to go home too. She has been working all day. She is working two jobs now trying to survive. But please let her know if it is legal; and if it is not legal, shut these places down. Let the black businesses make money. If that land is that important, give them an offer and buy it. Don't force them to have to close and kill their livelihood. It is not fair.

Mayor Benton said when it comes to people selling on the corners now, he can understand if a church is having a picnic once a month.

Ms. Agnew said no. This is every week.

Mayor Benton said they do have Code Enforcement.

Ms. Agnew said it is every day, four days out of the week, sometimes five days. That is a full-fledged restaurant. They should be paying taxes, they should have a license to do this and everything.

Mayor Benton said he believes it is illegal.

Ms. Agnew said she spoke with Mr. Dusanek's office and apparently no one there knows. They said that the City is issuing temporary licenses for this to happen.

Commissioner Nelson asked whose office did she speak with?

Ms. Agnew said Mr. Dusanek. He was on vacation. There was someone filling in for him.

Mayor Benton said he thinks she got some mis-information there. His understanding is this is illegal unless they have a license and the license should be posted and they would have to go through the Health Department like everybody else.

Ms. Agnew said they have a smorgasbord going on over there. If it is legal, she would like to go south of town and do it herself. So she will be calling about it. But anyway, that is not even the issue. They are going to be seeing her every week. They are going to get tired of seeing her.

Commissioner Nelson asked what is her business? What kind of business is she in?

Ms. Agnew said right now she has a little what is called a hole in the wall, because she can't afford to really have a big gigantic business.

Commissioner Nelson asked what is it?

Ms. Agnew said it is a place for people to just come and enjoy themselves. They sit there, they listen to music. They might have a little fun and dance and this and that. She is not into drugs. If she could, she would destroy every one. But the doctors are the ones that are issuing them. In fact, right now they are trying to put her on something - but she refused - like Zoloft. That is not her.

Mayor Benton asked could he at least make a recommendation? It appears she wants to get involved in trying to take back her community.

Ms. Agnew said she is going to have to.

Mayor Benton said all of them are up here for that same reason and they have met the same obstacles she is. There is a Weed & Seed Program. He is sure she has heard about it in the community.

Ms. Agnew said that is what is killing it also. Can she come and get agendas to whereas each week she can have something to be able to discuss? Because she doesn't want to make a fool out of herself.

Mayor Benton said if she calls his office, call City Hall and ask for extension 301, they can get her involved maybe with Weed & Seed. They know what the problems are. They just need to get their heads together and find solutions. And it is going to take the whole community. He knows he has been working on it himself for ten years like Commissioner

Nelson and they don't have all the answers, but they are looking for some. They are looking to bring people who care into helping. So if they can get her to help them, they need eyes and ears in the community for people who are going to say they are not going to take it any more. They want to take back their community. He remembers when Fort Pierce was a great place to live when he was younger. And there are several reasons why this community is in the shape it is in now. He thinks they are doing their best to try to pick up the pieces from years ago. He thinks it was worse off ten years ago than it is today. The drugs with crack cocaine and everything out there, they have their work cut out for them. But they need help from the community. So please, if she would like to join them, they will take all the help they can get.

Ms. Agnew said okay, she will definitely help them.

Mayor Benton said they will work on that one because they don't want to put any businesses out of business with people on the corner. He thinks they can address that, right?

City Manager Beach said yes, they will.

Mayor Benton said please contact his office and they can sit down and chat one day and see how they can get her involved and work together to solve some of these problems. That is what it takes. Sometimes they have to say, "I am not going to take it any more. What can I do to help?" He hopes that is where she is.

Ms. Agnew said she honestly believes the biggest portion is that too much is allowed over there that people know it is illegal. But let's get into that another time. She is ready to go home.

Mayor Benton said they will sit down and talk. Please call his office.

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**Ms. Arlene Goodman** said she is here with an invitation as the President of the **White City Improvement Club** tonight. She assumes they all got the letter from the County stating there is going to be a Charrette Workshop on Saturday, April 23rd. They just wanted to make sure that the Commissioners all did get this and that they are invited. Their City limits are getting closer to their Midway Road. They have been trying for many years to put in a historical ordinance down through there to preserve a little bit of what was started back in 1893. So she is hoping some of them will be able to come to the meeting and give them some input, listen to what the County and Mr. Gary has for recommendations. She understands the County has already been getting into the northwest area of Lakewood Park and doing a lot of towns and cities and whatever else it is they are doing up there, and they think they want to do that down in White City also. She hopes they will come and give them their input because they are going to get closer and closer together as family and friends.

Mayor Benton said just for her information, tomorrow they are having three Commissioners from the City and County and School Board and Port St. Lucie get together in the Conference Room at St. Lucie County, he thinks at 1:00 p.m. tomorrow. One of the topics is White City. He is having lunch with County Chairman Frannie Hutchinson and Port St. Lucie Mayor Minsky. They know that is the center of all of their interest and because of the issues of Midway Road widening between 25th Street and U.S. #1. So there will be discussion tomorrow on that because that concerns all of them.

Ms. Goodman said she sits on the Stakeholders Committee that is also working with the PD&E on that sign work and they intend to be there too, she has contacted them. Because they have a lot of discussions that they would like to come back to the City Commission with also about their historical ordinance compared to what... The County doesn't have one. Hopefully tomorrow night they will by this time. How they can work together and

preserve some of the old buildings. They all know what it looks like.

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Commissioner Coke said she noticed all over town now there are new **pole signs** going up - these are on the beach, on Okeechobee Road, and some on U.S. #1. She started noticing one and within a week she noticed another dozen. She thinks if they are going to have a pole sign ordinance, then they need to pursue that.

Commissioner Nelson said they have one.

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Commissioner Coke said she doesn't expect an answer now, but if they could possibly get an update on where they are with getting prices and the possibility of the **acquisition of property** that is for sale on the beach to be used as public property. They had talked about having their people look at that.

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Commissioner Coke said she is getting a lot of confusion so she thought she would ask if anybody else here, her fellow Commissioners' and the Mayor's interpretation is the same as hers. She has had four or five people, including a woman tonight come in and say that they thought **CRA** (Fort Pierce Redevelopment Agency) money would be good, but they are in between **grant applications**. She thought when they set aside emergency grant money it was for just that purpose, that people didn't have to wait from one application process to another. They can pick up a grant at any given moment; and if it was an emergency, it would be processed. She knows there are several of those out there and people have told her they have gone to City Hall to get an application but they missed the application period and they are in trouble. Maybe she misunderstood the intent of the emergency application. If she did, she will stand corrected. But if everybody else's interpretation is the same thing that it was to be an ongoing process whether there was an open grant window frame or not, then she thinks they need to redirect staff to follow that guideline. If the Commissioners could tell her what they think so she can stop mis-informing the public, if that is what she has been doing.

Mayor Benton said Mr. Franke sent him a copy of the rules on it and there is a cut off time. But he thought during the season there are emergencies that pop up.

Mr. Bob Franke, Director of CRA, said this is an issue they will be discussing at their next Board meeting.

Commissioner Coke said she will be out of town.

Mr. Franke said they don't really have at this point, a definition of what constitutes an emergency. For instance, the Opera Society. He did meet with them in late February prior to the deadline for the grant and he sat with them and reviewed the application. He told them to fill out the application and come back to him if they have any issues. They called him Tuesday after the deadline closed. Now it is an emergency. So these are types of issues they do need to discuss. As far as the openness of the emergency allocation, and he did discuss this with the CRA Attorney, regarding the appropriateness of accepting emergency applications during the application cycle they are currently in. This is another issue they will be discussing at the Board meeting. They certainly will have those issues put on the agenda for the Board to review. That is where they are. Nobody has been refused an application coming in the door. What he has been suggesting is that, and there may have been some mis-communication between his secretary and the applicants coming in, because she knows the deadline was over. There were some people who did come in who were supposed to see him for applications and didn't. What constitutes an emergency, they do need to identify that.

Commissioner Coke said she knows the people he is talking about with that one instance. She wasn't thinking about that. But she has had several other people tell her they went in to get an application.

Mr. Franke said again, there has been some mis-communication out there.

Commissioner Coke said she thinks the intent of this Commission was for emergency, not necessarily being somebody's house is burning down, something else. They talked about if a business is opening up and it not during the grant time frame or someone is relocating and it is not during the time frame.

Mr. Franke said he understands. He thinks they have to set those parameters like they set for everything else, and include those in the grant policy they have, which they haven't done yet. They will be. And that was one of the things that came up just basically in the last month since the grant application cycle closed.

Commissioner Alexander asked he does know individuals come to him and tell him that they went to get applications. But this emergency situation where the City has to go into their coffers, is there any way they can reimburse from the CRA?

City Manager Beach said he doesn't know there is an opportunity to do that. But here is something they should all keep in mind. These rules were laid out by the CRA Board. They can change those rules. Right now they are getting a taste of what was caused by a rule to have an application period. They have had enumerable requests since the cut-off date for more applications. They all have a reason and they all have a need and they all have it now. It is not later and they don't want to wait until the next grant cycle. So what they may want to talk about on April 27th is whether or not to even have an application cycle time. There are ways to deal with this. Again, those are the Board's rules, so they can talk about those and do whatever the Board agrees to do.

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Commissioner Nelson said he thinks they need a workshop to cover those issues that were raised relative to **reapportionment** or **redistricting**. He would like to have one as soon as possible to follow up on their discussion relative to the County doing its due diligence, trying to balance these districts.

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Commissioner Nelson said he talked about **sewage lines** running down Avenue Q. He saw a memo from Ms. Tobin regarding the fact that some \$335,000 was the price tag for running those lines down that area. It has jumped up considerably from the time they first mentioned it some time ago. He thinks she cited there were some 6 people in the City out of 32 or something overall. So roughly 26 versus 6, and the 26 or so in the County. They should be doing something like they did over on 26th Street to provide sewer lines in that area. He would that they continue to staff that or come up with some type of proposal with a joint effort coming up from the County, the City, and the Utilities Authority to provide sewage in that area, sort of like they did over on 26th Street.

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Commissioner Nelson said there are remains from the storm, some **telephone poles** that actually lean over. The U.A. went in there and disconnected the power and put another pole in there and left the old pole there. It has been six months or so. Those poles should be removed out of their midst. If someone would touch base with him, he can tell them where some are that need to be removed. Those guys on the Utilities Authority can look at 15th Street and Avenue O, there is a pole that needs to be done. He would like to talk to somebody because he sees lines that are in fact still hanging down. They are an eyesore. He will be getting with Mr. Beach on that. He can talk to the other people on it.

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Commissioner Alexander said he does have some concerns about some of these old **palm trees** that were damaged in the hurricane on Orange Avenue and that area. These humongous palm trees look like they are leaning to the south. The next storm that comes through here, they may be across some properties. He doesn't know where the City stands for responsibility with those palm trees but he saw quite a few.

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Commissioner Alexander said **Avenue D** is a beautiful avenue lighted. But he is trying to find out why they have such a problem with lights not being on. They are either blown or do they use these cheap batteries for these bulbs?

Commissioner Coke said the lights on South Bridge have been out for a couple of weeks too.

Mayor Benton said one side of the bridge they don't work and the other side they do.

Mr. Gary Ferch, Director of Public Works, said he is just going to update everybody and he will get a memo to the City Manager on that. It is hurricane damage, they are finding out. It is not just bulbs. The water got underground into the conduits and damaged the lines. They are going to come up with some figures. First of all, the Utilities Authority is their contractor - the U.A. puts all the lights on and keep them running. They are not able to keep them running. The whole downtown they are having problems with. Salt water got into it. So there is going to be some figure coming up here for the Commission and the City Manager. They are trying their best. If they can get them on, they will get them on.

Mayor Benton said that is interesting. When he puts his lines in from the road to his house, he had to put two pipes in for this problem. But the U.A. doesn't have to? Interesting.

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There being no further business, Mayor Benton declared the meeting adjourned at 10:55 p.m.

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Adjournment.

ATTEST:

CITY CLERK

MAYOR COMMISSIONER