

MINUTES OF A REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, HELD IN THE CITY HALL COMMISSION CHAMBERS, 100 NORTH U.S. #1, FORT PIERCE, FLORIDA, AT 6:30 P.M. ON MONDAY, MAY 19, 2008.

Mayor Benton called the meeting to order.

Mayor Benton gave the invocation.

The Pledge of Allegiance was recited.

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

The next item on the Agenda was Approval of Minutes of the Regular Meeting on May 5, 2008.

Motion was made by Commissioner Coke, seconded by Commissioner Sessions, to approve the Minutes of the Regular Meeting on May 5, 2008.

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

Mayor Benton proclaimed May 18-24, 2008 as **NATIONAL PUBLIC WORKS WEEK**. Bob Hood, Director of Public Works was present to receive the proclamation.

Mr. Bob Hood, Director of Public Works, said the City of Fort Pierce Public Works Department is one of 66,000 public works agencies in North America. On behalf of the 82 current employees of the Public Works Department - who they see daily cleaning their parks, cleaning the buildings, patching holes in the street, repairing police units so they can be on patrol - he wants to thank them and thank the Commission for allowing them to do the job they try to do for the residents of the City of Fort Pierce. It has come to his attention that this past year, in addition to all their regularly scheduled work, they have responded to over 4,000 requests for work and have completed those on behalf of those in the City. He is very proud of that.

Mayor Benton said he can remember back in the early 1980's when it seemed to be a joke, he thinks the comment was made to some of the elected officials that if they bought shovels with two handles they would save some money because two people can lean against the same shovel. Times have changed. Those 82 employees that Mr. Hood represents that work for the City do an excellent job. He thinks the hurricanes showed that. But he gets nothing but compliments out of the work that has been done. And they go just one step further. Keep up the good work and thank them, because they have come a long way.

Mr. Hood said he tries to thank them every day, but they certainly appreciate hearing it from the Mayor too.

Mayor Benton proclaimed May 20 through July 4, 2008 as **JUNETEENTH SEASON OF FREEDOM**. Ms. Marjorie Harrell was present to receive the proclamation.

Ms. Marjorie Harrell said Congressman Macheck will be presenting a resolution from the State of Florida. It is ironic that as Juneteenth drew near the State of Florida felt the need that it was time that they finally issued a apology for Florida's role in enslaving generations of African Americans. They are not going to dwell on it. It is their history, their legacy. Every race of people has a legacy. Theirs is one of brutality and domination. They will remember it, they will not dwell on it, they will move forward to the future with hope and promise. Juneteenth Season of Freedom - Florida received notice around May 20th that the slaves had been freed. That is why they say the Season of Freedom in Fort Pierce, because Florida found out on May 20th. They are still Americans, so they celebrate the 4th of July and they will continue to do that. But that period from May 20th to June 19th is

when all slaves were finally freed. On June 19th in Galveston, Texas, was the freeing of 250,000 slaves and the end of slavery in America. They say they live in a color blind society. The Governor of Florida said they still see the effect of the brutality and abuse from slavery. So let's make it a color blind society from this day forward. There are things they need as a people in this community that they have not gotten. Let's make sure there is fairness all across the board. Children need recreation. Children need guidance. If they can give money to redo a garden, are they going to tell her flowers are more important than their children? So let's be equitable all across the board.

Mayor Benton proclaimed May 17-23, 2008 as **NATIONAL SAFE BOATING WEEK**. Commander Barth, USCG Flotilla 58, was present to receive the proclamation.

Mayor Benton said he thanks Commander Barth for what the Auxiliary does to educate boaters, because there are so many people today moving to Florida and getting out in a boat for the first time and really don't have a clue.

Commander Gary Barth said he would like to thank the City of Fort Pierce for their continued efforts in supporting them in their boating safety and education programs. The reason this is the start of Safe Boating Week, it is the start of the big boating season with Memorial Day coming up. This past weekend they had the open house at Station Fort Pierce with about 2,500 people attending. As the Coast Guard Auxiliary, they are primarily the civilian branch of the Coast Guard. Their interest is in boating safety and boater education. The Commander of Station Fort Pierce recognizes the fact that the number of search and rescue missions and the number of drownings has decreased in the last two years. One of the big things they attribute that to is the boater education and vessel safety inspections being carried out by organizations such as theirs. Again they would like to thank them for all their support. This year's theme is Just Wear It - put on your life jacket and wear it. It does not do any good if it is in the boat and not on their person.

Mayor Benton said he will give Representative Machek the floor and he wants to also give him a little bit of an introduction. Most of them should know Representative Machek, who has represented this District and a little bit to the south of here. He lives in Delray. He has done an exceptional job for Fort Pierce. He is probably the one who got the Farmers Market back on track after the hurricanes. He has done many things for this community. It doesn't matter what party, he has been here for Fort Pierce. Every year after the session he usually joins them. He has a lot further to come than most of their representatives, but he comes here to let them know some of the highlights of what happened during the session. They do appreciate everything Representative Machek has done. It is an honor to have worked for him for these years.

Representative Richard Machek said he thanks the Mayor and City Commission. As the Mayor says, he likes to come up after session and kind of give them a run down of what might have happened or what should have happened. Everybody thinks Tallahassee is going to give everybody everything they want. This is one of the years that didn't happen. They were flush with cash for the last seven or eight years in Tallahassee. As a matter of fact, the last two years they paid cash for everything, they didn't bond a single thing. This year things tightened up, money dried up. They went from a \$71 billion budget to a \$66 billion budget in one year. It made it very difficult for Tallahassee to operate and try to fund the programs that local citizens like and love to have the help from Florida up in Tallahassee. But a lot of people realize this year that a lot of that is not going to happen and it may get worse next year. They were able to trim what he thought was most of the fat out of the budget this year. And they took all the unfilled positions across the State in state jobs that weren't filled and eliminated all those to help cut the budget. But next year he is afraid if things don't turn around, they are going to have to start combining agencies and they are going to have to start cutting real jobs. It is going to hurt at a very difficult time. He thinks most municipalities and county governments are going to have to look back six years or seven years and see what was happening then. What were their budgets like?

How many employees did they have? What were they doing for the community? Because this is pretty much where they are going to have to drop back and sacrifice a lot of things for a few years, so they can come out of this tight time they are in right now. He feels bad about it. The economy is something they can never predict. But it has happened. It is not the first time this has happened. They had this same problem back in the 1970's and they had trouble with their budgets. He guesses maybe they didn't learn. He guesses they forget as things change and different people come into office and they get these little spurts and spikes in the economy. They were in good times and now they are going to be in bad times for a little bit. But he thinks if everybody tightens up their belt, they will survive. He thinks a lot of things happened out there. People were making money on the market in the housing industry - a lot of flipping was going on, a lot of interest-only loans from banks - and it allowed a lot of things to happen maybe that shouldn't have. But he thinks they will weather the storm. The 2008 Legislation in his mind will be remembered as a session for all pain and no gain. There is a lot of suffering up there. They thought they did a good thing when they passed that Constitutional Amendment a while back, that was going to save the State. But it gave them a little bit of portability, the realtors were happy with that, he thinks that will give them some help. There was another \$25,000 for Homestead Exemption which was helpful. And there was \$25,000 for businesses to reduce their taxes on the equipment in their offices. But it didn't help renters, it didn't help the first-time home buyers, it didn't help commercial businesses, and it didn't help those coming from out of State to purchase. So it really didn't do everything that everybody wanted it to do. It helped a few. But maybe that will help them get along a little bit. There were a few bills he will go over. The budget was bad enough, but they did pass a few things, he will just go over a few of them. They passed an anti-bullying bill for teachers in education that gives the schools the ability to put a ban on harassment of students. That did pass. They do some crazy things in Tallahassee. They are supposed to be up there doing all these good things for the citizens, but they do some pretty crazy things. As a matter of fact, one that didn't pass is the toilet paper bill. That was the one that was going to require public bathrooms to meet cleanliness and provide toilet paper at all times. He thought they did that anyway. But that is just one of those things. They did pass the wrongful incarceration law, which any exonerated individual can receive up to \$50,000 per year in prison if they had not had a prior felony conviction. Someone who may have been incarcerated wrongly and served many years in prison, they will have that ability to reclaim those dollars they lost. They didn't pass the evolution bill, which would have allowed teachers to teach evolution as they saw it, not as the school system saw it. So that failed. The baggy pants bill didn't pass. That was the one where students can walk around with their jeans below their waist. They had a lot of debate on that, but he guesses everybody saw the light on that one and didn't pass it. They did put the Florida Forever, the \$300 million a year, back in for ten years. So they will have that for Everglades restoration. They did put \$50 million in there for part of the Everglades and Lake Okeechobee restoration, which was good. They banned dumping of sewage off the lower east coast. They dump about 300 million gallons a day of partially treated sewage into the Atlantic Ocean from Palm Beach County south. By the year 2025 that can no longer be allowed, they will have to go to reuse totally. No gambling bills passed, none whatsoever. They passed a small autism bill. One out of every 150 children who are born will develop autism by the time they are four years old. So they did pass a bill there that will allow insurance companies to cover up to 14,000 students per year starting this year. That is something that will expand as they go along. The abortion bill did not pass. It was a close one. It tied 20 to 20 in the Senate; and when it ties, it is an automatic loss, so that didn't pass. That was the one that would require a woman seeking a first trimester abortion to have an ultrasound and be offered an explanation of the images. They were able to freeze Citizens Insurance rates for one more year at the current rate. Guns at work passed. That is the one where it allows someone to bring their weapon on to a work place like a public parking lot or a Walmart or something in that area, as long as they have it locked in the trunk or locked in the glove compartment and they have a concealed weapons permit. He didn't vote for it, he was a little hesitant, but enough people voted for it to pass. He was just afraid if someone got mad at him, he wanted them to go all the way home to get their gun before they came back to get him, so he was against it. Another thing that passed on property appraisals. They are having a

problem down in Palm Beach County as their Property Appraiser uses highest and best use on a lot of property. So they added in an amendment that in order to use highest and best use, they have to have a zoning change or have the building permits in hand. One that failed - they had a lot of discussion about it - was an amendment onto a transportation bill. He thinks a lot of people in this area and in Okeechobee County probably use a lot of this. That is the one that was going to ban any display of any resemblance of reproductive parts of a bull on the back of an automobile, better known as the Truck Nuts Bill. That one failed. It got a good run though, it almost passed. They did get a State tortoise this year and they also revised the State song. Old folks at home is still there, but they took out some of the offensive words and language in it and passed it on. And then they added another song, they added a State anthem called Where the Sawgrass Meets the Sky. That is some of the exciting and non-exciting things. One thing he would like to do, he would like to present it to the City to possibly hang out in the hall somewhere, is on March 26th they passed a Senate Resolution and House concurred with it.

Representative Machek read the following:

Senate Concurrent Resolution

A concurrent resolution expressing profound regret for the involuntary servitude of Africans and calling for reconciliation among all Floridians

WHEREAS, African slavery was sanctioned and enforced through laws enacted by Florida's first Territorial Legislative Council in 1822; and

WHEREAS, the Council and its successors did, over four decades, construct a legal framework that perpetuated African slavery in one of its most brutal and dehumanizing forms; and

WHEREAS, this legal framework included such lawful punishments as the following: "That any negro or other slave duly convicted of robbery or burglary shall suffer death or have his or her ears nailed to posts and there stand for one hour and receive 30 lashes on his or her bare back at the discretion of the court"; and

WHEREAS, in 1827, free Africans were denied the right to vote and in later years were, by law, so repressed, restricted, and harassed that by 1850 most had been driven from Florida; and

WHEREAS, African slavery was entrenched within the plantation culture of Middle Florida to such a degree that by the year 1860, 73 percent of the total population of Leon County were slaves; and WHEREAS, there were early political leaders in Florida who advocated a vigorous defense of slavery; and

WHEREAS, the Florida Legislature has identified grave injustices inflicted upon African slaves and freemen by the state; and

WHEREAS, even though the laws permitting such injustices have been repealed, it is important that the Legislature express profound regret for the shameful chapter in this state's history and in so doing, promote healing and reconciliation among all Floridians.

NOW, THEREFORE, Be It Resolved by the Senate of the State of Florida, the House of Representatives concurring: That the Legislature expresses its profound regret for Florida's role in sanctioning and perpetuating involuntary servitude upon generations of African slaves.

BE IT FURTHER RESOLVED that the Legislature calls for healing and reconciliation among all residents of the state.

Representative Machek said it passed with not a single nay vote. He would like to present this to the Mayor and the City of Fort Pierce. He has been in the Legislature for eight years and this has been one area that has always been the closest to his heart, Fort Pierce. He came up here as a child with his family for many years and grew up a lot of his life in the Fort Pierce area. He has always been envious of what they all continue to do here compared to where he lives down in Palm Beach County, there is a big difference. He just appreciates their style of life and the way the City is run up here compared to what he is used to today. Thanks again and keep doing what they are doing, because it is the right thing.

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

Ms. Marcia Baker said she lives on Seaway Drive. It seems like just yesterday, but it was about a year ago, she wants again to try to save the Historic building at 1770 Seaway Drive from demolition. It is ironic in these days of the real estate bubble bursting that the man who built and occupied that building in 1926 was a real estate developer and speculator named George Alexander. He operated his business from that homesteaded residence at 1770 Seaway Drive. He is listed in the 1928 and 1930 City Directory along with his ads for land on the beach. In 1943 the Fort Pierce Realty & Construction signed over control of that property to the government for use and occupancy as an amphibious training base. She has a map showing all of the existing and proposed buildings and their uses that was made in 1944. The added-on single story building built in 1942 is designated as a dental clinic. That building has no common walls or interior access to the historic two-story building. The subject building at 1770 Seaway Drive that was built in 1926 is designated on that map as Scouts Invaders Officers Quarters. These exceptional men did the training and preparation for this special elite unit. This building played an essential role in housing the training staff and offices who played such an important part in the battles of the Second World War and particularly the D-Day invasion. There is on tonight's agenda an application to extend for another six months the Site Plan that was approved for that property almost a year ago. At that time it was agreed by all the City Commissioners that if the Island Village Site Plan was not developed that a new application would be forthcoming to re-designate this important landmark building and keep it from demolition. She hopes that if the Site Plan is not extended, that the City will keep its word and file to re-designate the two story building which was used as the Scouts Invaders Officers Quarters, it would be again a historic building. If the Site Plan is extended... And she has no objection to that proposal, because miracles can happen and perhaps the financing people who are in the middle of foreclosing on that property will come up with some new marvelous development plan for that within the next six months. Anything is possible. And they might even have the foresight to incorporate this historic building into a new and better plan. But it should be made clear to Code Enforcement that it cannot and should not be demolished in the interim.

Mr. Peter Angelos, 822 Seaway Drive, said this is just an update on the progress of Chuck's Seafood Restaurant and the permitting of the dining room. He was here four weeks ago and had agreed to downsize his dining room plans in order to meet the necessary parking requirements. That Wednesday he submitted those plans to the Building Department and reduced the room by the agreed 600 square feet. Two days later he was advised that the roof line also had to come back. So two days after that he re-submitted the plans with the roof cut back. The following Monday all the plans were in. Eight days later he came in to the Building Department to see what the hold-up was and was informed that his plans had not been reviewed due to lack of a cover sheet informing Staff of what was proposed. That was about another nine days gone. He immediately went to Mr. Recor's office to inform him of his displeasure. Mr. Recor said this should not have happened and he immediately took the plans to Mr. Carlin. Mr. Carlin said he had to get the square footage calculations to continue. He delivered those two days later, which was last Thursday. This morning Mr. Beach called him and informed him that Engineering had some problems with the FDOT permit which had not been received. There is a new parking lot now anyway, so they have to resubmit all those with the drainage plans involved. He thinks there were two items on there that involve that. Those are being addressed immediately, like today. He was in City Hall five times today going back and forth trying to get everything and get this thing completed. In the course of the last four weeks they lost a couple of days there, which is maybe just an oversight, but he would like to have Staff help him out with this. There are a couple of outstanding little items here, final technical things. He has three of five remaining items that were handed to him today, this morning at 9:00 o'clock. He has three of those already completed. The FDOT permits are

the last ones and those could take - who knows - a couple of weeks to get. But he would really like Staff to help him get this project started.

Mayor Benton said he has spoken to Staff about all their concerns. But he did understand about the engineering issue and hopefully that could be worked out very quickly. His understanding is that is the only obstacle.

Mr. Angelos said he was informed today by Mr. Carlin that he is ready to sign off on the rest of the plans. Just an update to let them know what is happening.

Ms. Candace Brown, 8650 Shady Lake Lane, said she is addressing the Commission on behalf of D&A Property Management. They own a building on Avenue D that is addressed as 1921 Avenue D. The address has currently been changed to 1907 Avenue D, because the City says that is the correct address. But they have had that address according to the City of Fort Pierce and had the building rezoned by this same Commission a year ago with the address of 1921 Avenue D as General Commercial last year. They applied for an occupational license and did everything that the City required of them to do on Avenue D. She has a very beautiful building there that they are renting out as open space to anyone who wants to lease it for a day, for a week, for a month. They don't hold any long term leases. Now the City has pulled their business tax receipt license because of dispute with the address with her neighbor who holds the same address as 1921. This has been going on for two months that they have not returned their business tax receipt because of an issue with the address. When they addressed the St. Lucie County Tax Appraisers, they say they only tax by lot, only the City can give an address. They don't know what is going on. All they know is that it has been two months. They are jumping through hoops. They are doing everything the City requires and they still haven't released their business tax receipt.

Mayor Benton asked has she spoken to the City Manager?

Ms. Brown said she left a letter with the City Manager to address this. She hasn't spoken with the City Manager personally. Her husband has. She has not.

Mayor Benton said he would suggest an appointment maybe with Mr. Recor or Mr. Beach. Because his understanding is there are several outstanding items on this property. There is a process she would have to go through. But they know the details, so his suggestion tomorrow is to give them a call and they can set up a time when she could come in. Is that right?

City Manager Beach said yes. If she will call his office and schedule some time, they will work through whatever those issues are.

Ms. Brown said she would be more than happy to do that.

Mr. Jommy Joseph said he resides at 3224 South U.S. #1 in Fort Pierce. He is not on the agenda, he just wanted to seek some guidance. The Commission and Mayor Benton had approved a hotel and restaurant that they are building at Crossroads Parkway. It is the new La Quinta which is about to open. His general contractor actually is going for a C.O.(Certificate of Occupancy). It came to his attention now that it might be potentially held up. He is being told to pave a road which is not on his property, it is a couple of lots away from it, going into Kings Highway. He is here for some guidance. When he purchased this property, the whole infrastructure was already in place. It was improved property, all the utilities and everything was there. He has already done sidewalks, landscaping, sprinklers surrounding his property. When they exit, there are a couple of property owners away from his property. And then comes this designated area he is being told to pave. That is about 600-feet or 650-feet going into Kings Highway. He does not know why he has to face that burden to pave that road, When other property owners there have their lots of sale, he believes that they have already paid for improved properties or improved lots. He is being

told now that when it came to the City Commission, Public Works had said that he would have to pave that road, otherwise his plans would have never been approved. That is what he was told by the City Manager. He does not understand how that could even be possible when the zoning is there. All the things he has done, all his research and traffic studies, shows that he did not make any impact to that road. But now that is a dilemma he is facing.

Mayor Benton said his suggestion is to call Mr. Recor. They don't have the details on that tonight. If they approved the Site Plan, if that was a condition, they don't know those details. But he is sure Staff, Mr. Recor, and Engineering Staff can figure that out for him.

Mr. Joseph said he went through the Minutes of the actual package that was sent to him and never saw anything on there about this. He will definitely speak with Mr. Recor.

Mayor Benton said he is sure they can get to the bottom of it. It could be a County road.

City Manager Beach said he has some familiarity with this. What he has asked this individual to do is write him a letter explaining his position on this issue. It is fairly clear from the records that there was a commitment made as a condition of approving this Site Plan by the Commission. The Commission didn't put this condition on it. Staff put the condition on it before they would recommend it to the Commission. That occurred very clearly. But he thinks there is some confusion as to whether or not the owner, the person who was developing this, was familiar with that. Because that commitment was made by the consultant and the people hired to design the project. He has asked Mr. Joseph to write him a letter explaining this. He will sit down with each of them. They will work through this and see if there is something that they should do differently.

Ms. Carole Mushier said she is President of the Fort Pierce South Beach Association. She is speaking on an item on the Agenda, the request for a 6-month extension for the Site Plan for Island Village. For the record, they supported approval of the Site Plan on June 4, 2007, with all the conditions attached. She might add, only with all those conditions attached. Now they have a request for a 6-month extension. In the year since approval, there has not been one submission for a permit of any kind. Not a shovel of dirt has been turned. Not one building, particularly the Oceanaire Lodge, has been demolished. Staff has identified three of the conditions that could have been met without permitting or physical changes; namely, the dedication of easements along the north and west sides of the property, and the \$110,000 contribution. Their recommendation is that if these three conditions are met by June 4, 2008, then the Commission should approve the 6-month extension. This would appear to be more than fair, given the lack of activity at the site. So they do support the Staff recommendation that the Site Plan be given a 6-month extension, subject to fulfilling the three conditions prior to June 4, 2008. The initial approval of this Site Plan is a good example of why a specified timeline should be attached to all conditions, particularly monetary contributions, as those serve as a type of bond that the applicant will actually develop a site plan.

Ordinance No. L-20 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED **WEST OF SELVITZ ROAD, SOUTH OF GLADES CUT OFF ROAD, NORTH OF 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: Florida Municipal Power Agency - Selvitz Road Power Plant)

Ordinance No. L-21 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **899 EAST WEATHERBEE ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Gloria Gualteros)

Ordinance No. L-22 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **207 DIXIELAND DRIVE**; 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: Brandy Sanders)

Ordinance No. L-23 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **935 SKYLARK DRIVE**; 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: Peggy Brown)

Ordinance No. L-24 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **924 BARREL 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: Bandy Lightweight Ring Supply)

Ordinance No. L-25 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **3500 OLEANDER AVENUE / 900 FARMERS MARKET 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: Pioneer Metals, Inc.)

Ordinance No. L-26 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **3415 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: James DeVercelly)

Ordinance No. L-27 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **3417 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: Carey Pitts)

Ordinance No. L-28 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **2197 AVIENDA AVENUE**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: St. Lucie Habitat for Humanity)

Ordinance No. L-29 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED IN **MARION HEIGHTS SUBDIVISION**; 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: Various Owners)

Ordinance No. L-30 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED IN

THE SOUTH 25TH STREET SUBDIVISION; 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: Various Owners)

Mayor Benton declared a Public Hearing on Ordinance Nos. L-20 through L-30 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.

Motion was made by Commissioner Becht, seconded by Commissioner Coke, that Ordinance Nos. L-20 through L-30 be passed on second and final reading.

Those voting in favor of the passage of Ordinance Nos. L-20 through L-30 on second and final reading were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

The next item on the Agenda was Mr. Fred Bernstein, Island Village Developers LLC, request 6-month extension to approve Site Plan for Island Village at 1750 Seaway Drive.

Motion was made by Commissioner Coke, seconded by Commissioner Sessions, to approve a 6-month extension to the Site Plan for Island Village at 1750 Seaway Drive with Staff's conditions.

Commissioner Becht said he has several problems with what is happening here. If they go to Staff analysis, that would be Page 2 of the report they got from Staff, there are seven bullet points; and he would add an eighth to it, which would be the historical building. He would like to go through them. This is important enough to belabor, so he actually does want to belabor it. The first bullet point, the 5-foot easement along the north property boundary line, could have been done in the last 11 months. Has there been any effort to donate that easement to date?

City Attorney Schwerer said there are no documents in his office nor have there ever been in his office concerning that.

Commissioner Becht asked is it their expectation that this is going to occur from May 19th to June 4th? Is that the motion maker's intent?

Commissioner Coke said that was Staff's recommendation, so she assumed Staff would not recommend something that was impossible.

Commissioner Becht said sometimes Mr. Schwerer's office does not get the recommendations in time to know that he is going to be asked to review and finalize and record at least two easements before June 4th. So that question does go back to Mr. Schwerer.

City Attorney Schwerer said it would be very difficult to obtain a finality to either of these easements within this time frame, unless it was just put to the top and expedited. Recall they have some lenders involved with this that they need subordination agreements as well.

Commissioner Becht said also, there is litigation pending, so he is not sure how...

City Attorney Schwerer said it would be extremely difficult to accomplish it by that date.

Commissioner Becht said the second bullet point says a left turn lane will be provided. Is Engineering able to tell them tonight if they need any additional right-of-way from the property owner?

Ms. Tracy Telle, Assistant City Engineer, said she believes that right-of-way width in that area is 70 feet.

Commissioner Becht said he believes it is 50 feet.

Ms. Telle asked 50 feet? Then yes, additional right-of-way would most likely be required. Probably at least 15 feet.

Commissioner Becht asked how long would it take her to know how much additional right-of-way they are going to need for this left turn lane? How long would it take her to make a final decision on that? That is really his point. To get the documents done such that the City gets the grant from the property owner so they get everything they need in order to move forward. And Mr. Bernstein can then deal with his financing issues. And the City doesn't have to worry about that, because they have everything they were supposed to get incident to the Site Plan.

Ms. Telle asked would this include State approval permit also? It is a State road.

Mayor Benton said five years.

Commissioner Becht said he doesn't think five years is enough. That is another point though. He would like some feedback from Staff on how they could get something tonight, if they are going to grant an extension. The third bullet point is the \$110,000. Can that be done by June 4th?

Mr. Fred Bernstein said he met with Mr. Recor and explained to him and showed him in confidence the commitment to do a construction loan. Once that is funded, then everything will be paid. That was what he explained to him.

Commissioner Becht said that doesn't mean June 4th. He is looking at June 4th, because that is the motion.

Mr. Bernstein said that is why he needs the extension, because of what has happened with the credit facilities and the real estate market.

Commissioner Becht said two different issues. One is what Mr. Bernstein is going to give the City in order to get the extension. That is \$110,000 before June 4th. The simple question he put to him, can he do that by June 4th?

Mr. Bernstein said no, he can't. He will do that upon the first draw of the construction loan.

Mr. David Recor, Deputy City Manager, said Staff is aware of that position as well. Let him explain why the Staff recommendation was for June 4th.

Commissioner Becht said he is in support of that. Let him cut Mr. Recor short because he has three other points and he could respond to all of them in one breath if he doesn't mind. The fourth point is the developer pays for underground utilities along Seaway Drive in front of his property. The City knows what it is costing them on other portions of A1A. Are they able to put a figure to that tonight?

City Manager Beach said they are not.

Commissioner Becht asked any idea on how long it would take to put a figure to that?

City Manager Beach said they could have that figure probably within two weeks.

Commissioner Becht said then they have the 5-foot easement on the west side, which kind of folds in with the first bullet point. The next one is contacting the Corps of Engineers, which they have done. The next bullet point is revisions so that it complies with South Beach Overlay. Have the revisions to the plans been submitted such that they know it now complies with the South Beach Overlay?

Mr. Recor said it does. If they recall, a number of these issues were issues that came up during discussions. His recollection of the discussion is that this plan was brought forward because it met the requirements of the South Beach Overlay District. That last comment was put in for good measure as an exclamation point, because it was the first project that was reviewed under the South Beach Overlay.

Commissioner Becht said what is not addressed expressly, but perhaps is addressed implicitly in the motion is, that they are not going to do anything special with the historic building that they did something with as they approved this. He wants to point that out just so it is out in the open. His last point is that this does not come under the Design Review Guidelines because of the timing of the project, so they lose the opportunity to impose Design Review Guidelines on this project. He doesn't know how they would go back and do that after the fact. But if they are going to extend the courtesy of an extension of a Site Plan to the property owner, he would like for all of those things to be expressly acknowledged that they are not going to require them and they are just going to fall back to the three.

Commissioner Coke said she may very well look to reconsider her motion. Her most important thing here is, if they put forth a good faith effort and they want to move forward with this project, then they need to do that. Out of the conditions that Staff has recommended - although she does believe the contribution to the Jetty Park and the Human Development & Resources Centre is very important - most important to her at this juncture in time is the northbound and the westbound easements. If everyone else felt comfortable, she would amend her motion based on... If Mr. Schwerer can put this to the top of his pile, can Mr. Bernstein get to work on that tomorrow and be willing to proceed with that?

Mr. Bernstein said absolutely, but there are a lot of other... It is not just his decision, but he would be happy to work with Staff and Mr. Schwerer to do that. He doesn't have a problem with that. He told Mr. Recor he doesn't have a problem honoring any of these. It is just that it has taken him an entire year to get this commitment so he could move forward.

Commissioner Coke said first of all, his Site Plan doesn't expire until June 4th, so actually they are fortunate in that they have one more meeting between now and then. They have a meeting June 2nd. She would really like to see those easements in place and dedicated to the City at this juncture if they are going to go ahead and make a commitment for a six-month extension. She can wait until his first construction draw for the \$110,000 for the Jetty Park and the Human Development & Resources Centre. She can work out a lot of these different things. But she has a real concern that they need to move forward expeditiously in getting those two easements to the City. Based on the commitment they all made to each other a year ago, the City has moved forward with a great good faith effort in the design and work of a linear park that is going to benefit his project as well as the entire City. They have moved forward with getting plans drawn for that, they have expended funds, they have had public hearings. They have done a lot to get to the point based on that commitment Mr. Bernstein gave them. So she doesn't mind extending her commitment to him. She is only one vote up here. But she really thinks it is essential that they move forward on those two easements.

Mr. Bernstein said he has no problem working with Mr. Schwerer and Staff in doing that. There are lenders and there are other situations, but he will be happy to do that and try to expedite it.

City Attorney Schwerer said he wants to make it clear to the Commission that the role in his office is not necessarily to prepare these documents. But he wants to state it for the record tonight so Mr. Bernstein understands this, because he is going to be tied up almost all day tomorrow; and assuming Mr. Bernstein starts on this tomorrow, which is May 20th, he has approximately ten working days to accomplish this. So this is more toward his real estate attorney. He will need to have the easement document prepared by Mr. Bernstein's real estate attorney designating the terms of the easement and the legal description. He will have to have certified legal descriptions attached to those easements. He will need a sketch of a survey showing where it appears on the property, he will need an up-to-date title search or an O&E search that will show who is the legal owner and any encumbrancers that are affected or have control over some lien on the property. Then he will need lender subordinations in form. They really have to be signed off to be valid, but some lender subordinations for the first and second lender he knows of and any other lender. And he will need a certified title affidavit. So Mr. Bernstein will have to have his real estate attorney get those to his office expedited so they can review those and they will provide comments to those documents as soon as they can. But understand, they would have to move that to virtually the top of the pile just to review it in those ten working days they have left before June 4th.

City Manager Beach said it appears clear to him, and he is not sure that it is clear to everyone else, but the conditions that have been placed on here can't be met by June 4th. The Site Plan they had in front of them, even today the approval of the Site Plan they are dealing with today is conditioned upon these things. In other words, that Site Plan is not valid unless these things occur and unless they happen. If he is stating something inaccurately here, correct him; but he thinks if they grant this six-month extension, it is still subject to all of these terms to be complied with in that time frame. Until Mr. Bernstein does comply with this, he does not have a valid Site Plan.

Mayor Benton said he is glad Mr. Beach made that clear.

Commissioner Becht said the clarity of that is needed. But what is missed in that is if Mr. Bernstein is not able to, for a variety of reasons beyond their control, move forward with his project, it would be nice for them to have the easement on the north side of the property and the easement on the west side of the property and the turn lane and the \$110,000, because they still have needs of the City that are going to be dealt with, not to mention the time this project has tied up their City Staff with no money or compensation having come in to date for this five-star resort. So taking what Mr. Beach has said, it is obvious that the conditions can't be met. He would like to put a timetable on them that is realistic. He thinks it is realistic to expect that his attorney can draft and he can sign an appropriate easement document and submit it to Mr. Schwerer for his review. That can be done within ten days. That is realistic. Mr. Bernstein says he can't come up with \$110,000 unless he has a loan commitment and closing. He is not sure that he buys that, but he thinks three of them might buy it. He would like for the City Engineer's staff to come up with a proposal for a dedication of right-of-way for the turn lane regardless of whether FDOT buys it or doesn't buy it. He would like all of that done within the next 45 days. Then they get Mr. Schwerer to the interesting question, if any of these conditions are not met in that timetable, any of them, do they have the right to just say Mr. Bernstein didn't meet the conditions on the timetable they granted the extension on and the site plan is now dead? That he thinks will motivate the property owner to do these things and do them in a timely fashion.

City Attorney Schwerer said the Site Plan was specifically conditioned upon these conditions.

Commissioner Becht said if he moves forward.

City Attorney Schwerer said it was specifically conditioned on them, so therefore if the conditions are not met within the time frame of the June 4th deadline, the Site Plan is invalid. Now they can exercise their discretion to extend these conditions as well as extend the Site Plan. That is how he would take it. If they extended these conditions out to a deadline certain to occur simultaneous with a date that they would want this matter reviewed by them or back to them, they could then at that point in time deem that the conditions have not been satisfied and therefore the Site Plan would be subject to being cancelled. What he is saying in simple terms is, set a date they want the conditions met by, set a review date by this Commission, and bring Mr. Bernstein back in to determine why he hasn't met them, if they haven't been met. Because if they have been met, then the extension would automatically occur.

Commissioner Becht said in response to that, he would ask the motion maker and seconder to revise the motion to put in a specific timetable for the deliverables and identify which one of these they want delivered and by what date. Mr. Bernstein has already said it is unrealistic to expect that he will be able to do certain of them by June 4th. So let's pick a date.

Commissioner Sessions said on the issue of the contribution of \$110,000 for the Jetty Park and the Human Development & Resources Centre, he is interested to know whether or not that was a gratuitous effort on his part, how did that come into existence, and the enforceability of such a contribution?

Mr. Recor said that was negotiated during the discussion at the hearing. He believes the contribution started in the neighborhood of \$50,000 and was negotiated to \$100,000 plus; and then discussed of how the money would be distributed, where it would be spent.

Commissioner Sessions asked so was that a gratuitous effort on his part or was that some form of...?

Mr. Recor said it was an exaction.

Commissioner Sessions said maybe Staff can speak on the enforceability of such a contribution at this point in time.

City Attorney Schwerer said it is fully enforceable because it was negotiated between the developer and his representative and the Commission.

Mayor Benton said he thinks that discussion came because building a hotel of that magnitude next to a park, a lot of those folks staying in the hotel are going to be using that park and that beach.

Mr. Recor said that was going to be his point earlier; that is, these seven bullets were not included in the original Staff recommendation, but were topics that came up during review and discussion of the Site Plan that made it into the final motion for approval to make sure that they were done.

Commissioner Coke said this letter she has here (from Mr. Bernstein) is dated April 10th and he has already applied with another finance person. Does he have an estimated closing on that?

Mr. Bernstein said he was hoping to have an estimated time. His attorney is working on closing documents. But he doesn't want to say something and he can't perform, that is why he asked for six months. It is not going to take six months. But he would be happy to work with Staff and keep them up to date.

Commissioner Coke said let her make a proposal here because she would like to amend her motion. She would like to clearly state that the 5-foot easement on the north part of the

property and the west side of the property is essential to everything the City has planned over on the beach. She thinks perhaps June 4th is not a viable option to get all of that completed. Commissioner Becht, who is way more learned than she is in the law, seems to think that within ten days they could get a letter or commitment.

But she would like to amend her motion to grant the six-month extension of the Site Plan with all of the conditions including the one on the South Beach Overlay conditioned upon the easements on the north part of the property and the west part of the property be signed and delivered to the City prior to the June 16th meeting.

Motion was amended by Commissioner Coke, seconded by Commissioner Sessions, to grant a six-month extension of the Site Plan for Island Village with all of the conditions, including the one on the South Beach Overlay, conditioned upon the easements on the north part of the property and the west part of the property be signed and delivered to the City prior to the June 16th meeting, and the other conditions will be met at the end of the six-month time frame.

Mr. Bernstein said he will make his best efforts and will start on it right away. He can't guarantee it, but he will try his best.

Mr. Recor said it is important to know if they are extending the Site Plan, the conditions go along with the Site Plan.

Commissioner Coke said she is very aware of that. She is also very aware of the fact that when they talked about this a year ago, the 5-foot easement to enable them to build that Linear Park was supposed to be a number one priority they were all going to work on. The City has expended taxpayer's time, effort, and money to pursue that; and if they don't receive those easements, the Linear Park will not come to fruition, and they will have wasted a lot of Staff time which is the taxpayer's money. The only way in her heart she can grant a six-month extension on this is that at least if they move forward to ensure that this delay has not cost the taxpayer's of this City any money. She is very aware of what staff is trying to tell her, that the conditions go along with the Site Plan extension. But she is willing to extend the other conditions, she is willing to extend the Site Plan for six months, but she is not willing to extend the easements for six months.

Commissioner Becht said he would ask that the motion maker make one additional time limit, that the \$110,000 be paid at the time of the loan closing.

Motion was Amended by Commissioner Coke, seconded by Commissioner Sessions, to include that the \$110,000 be paid at the time of the loan closing.

Mr. Bernstein said at the first draw, so when it is closed...

Commissioner Becht said that is not what he said. If that is what Mr. Bernstein wants, that is fine; but that is not what he said.

Mayor Benton said the first draw comes after they have started construction.

Mr. Bernstein said no, the first draw is going to come immediately to pay off the loans and everything.

Commissioner Coke asked that would be the loan closing?

Mr. Bernstein said he will have to talk to the lender how they want to do that. But the first draw is going to be a first take down. It is going to come to pay off all the lenders.

Commissioner Becht said he would prefer that it be at the loan closing time, because he would like for the City to be at least on a parity with anybody who is holding a mortgage on the property.

Mr. Bernstein said fine, that is the first draw to pay down the lenders. He has no problem with that.

Commissioner Becht said when it closes, the City will get paid simultaneously when everybody else gets paid.

Mr. Bernstein said when the lenders get paid, everybody.

Mayor Benton said he is going to go on record by saying he is not going to support this extension, because it has been many years now they have been promised and approved things - luxury condos which they haven't seen and now this. He knows the market has taken a down turn. He thinks there are questions about the financial ability with the property where the future is going. He knows it has been a code enforcement nightmare regularly, he has to send them over to mow the grass and board the place up and secure it. It is time they saw progress. He wishes this becomes reality, but he doesn't have as much faith as the rest of them do.

City Attorney Schwerer said just for the record so they cover all bases here, the motion as he understands it is the easement documents shall be in final form ready for recording and approved as to form by his office by June 16th. Is that what he understood the motion to be?

City Clerk Steele said signed and delivered prior to the June 16th meeting.

City Attorney Schwerer said the other conditions will be fulfilled before the expiration of the six months. Implied in that motion is if the documents are not delivered on or before June 16th, that this Commission reserves the right to bring back before it the non-compliance issue and discuss whether or not the Site Plan extension should be revoked. Is that his understanding of what they are going to do here? What happens if the documents aren't delivered at that time? It is the intention of addressing the issue of whether or not the extension of the Site Plan should be revoked?

Mayor Benton said that is his understanding. Clarify it with the motion maker.

Commissioner Coke said yes.

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

The next item on the Agenda was Mr. John Donahue, Boyle Engineering, to give **State Road A1A** Status Report.

Mr. John Donahue, Boyle Engineering, said he assumes they all have his report. He just wants to go over a couple of things. Regarding the drainage easement with the Pelican, he spoke with the City Engineering staff; and Ms. Telle attempted again to contact the Pelican's representative, Dan Fuller, and left a message. She hadn't heard any information back regarding that easement.

Commissioner Coke said the Pelican is closed on Monday, so to try to contact them on Monday doesn't do any good at all.

Mayor Benton said it seems like the Pelican is going to be as tough as the State to get a permit or permission.

Ms. Tracy Telle, Assistant City Engineer, said she knows they are closed. Usually she deals with Pat Tulley and she knows he is off on Mondays. The last time she spoke with Mr. Tulley he had mentioned that they received the comments and they had been forwarded to Dan Fuller at Fuller, Amfield, & Wagner (Appraisal & Research) for response.

Commissioner Coke said she contacted Mr. Tulley after the last update and told him that they had the comments for several months and they have not received a response. She was assured they would have one by this evening. If it is the will of the Commission, maybe they can appoint a Commissioner to go visit with the Commodore and the General Manager and get this ball rolling. She will do that.

Mayor Benton said Commissioner Coke has volunteered. Hopefully she can get through to those folks over at the Pelican.

Mr. Donahue said he has trust in Commissioner Coke that she will get through to them. The second update to his report is regarding the Harbour Isle Roundabout permit. He believes Resolution No. 08-24 on the Agenda later is the final step necessary to secure that permit from FDOT, which is great news. They have his update on the status of the design for Phase I. He will be happy to answer any questions they may have.

Mayor Benton said that means that roundabout should be going out for bids and maybe they will get started on it.

Commissioner Coke said there was discussion of it at their workshop; but were they going to call the County and request that they be formally put on the County's Agenda to get their approval to coincide with the TPO to transfer funding so they have money to complete this project?

City Manager Beach said his recall is the County agreed at that meeting to have that as an Agenda item. He thinks Faye Outlaw (Assistant County Administrator) was going to... Commissioner Coke asked could they have someone follow up and find out when it is going to be on the Agenda? She would like to be sure she or someone from Staff is there to be sure that it happens.

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 08-22

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, DESIGNATING **119 SOUTH 13TH STREET** AS A HISTORIC PROPERTY AND A LOCALLY SIGNIFICANT SITE."

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, that Resolution No. 08-22 be adopted.

Those voting in favor of the adoption of Resolution No. 08-22 were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 08-23

"A RESOLUTION AUTHORIZING THE CITY OF FORT PIERCE, FLORIDA TO ENTER INTO AN AGREEMENT WITH THE **FLORIDA DEPARTMENT OF TRANSPORTATION** FOR **AMENDMENT NO. TWO** OF THE **JOINT PARTICIPATION AGREEMENT** FOR THE OPERATION OF THE COMPUTERIZED TRAFFIC CONTROL SIGNAL SYSTEM THAT MONITORS AND CONTROL TRAFFIC SIGNALS AT INTERSECTION ON THE STATE

HIGHWAY SYSTEM WITHIN THE LIMITS OF FORT PIERCE, ST. LUCIE COUNTY; AND AUTHORIZING THE MAYOR, CITY CLERK, AND CITY ATTORNEY TO EXECUTE SAID AGREEMENT ON THE PART OF THE CITY; PROVIDING FOR AN EFFECTIVE DATE."

Motion was made by Commissioner Becht, seconded by Commissioner Alexander, that Resolution No. 08-23 be adopted.

Those voting in favor of the adoption of Resolution No. 08-23 were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 08-24

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE CITY AND FLORIDA DEPARTMENT OF TRANSPORTATION AND FORT PIERCE UTILITIES AUTHORITY FOR SUBORDINATION OF UTILITY INTERESTS IN FAVOR OF FLORIDA DEPARTMENT OF TRANSPORTATION FOR CONSTRUCTION IMPROVEMENTS WITHIN STATE ROAD A1A RIGHT-OF-WAY FOR THE **HARBOUR ISLE ROUNDABOUT**; PROVIDING FOR AN EFFECTIVE DATE."

Motion was made by Commissioner Coke, seconded by Commissioner Becht, that Resolution No. 08-24 be adopted.

Those voting in favor of the adoption of Resolution No. 08-24 were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

The next item on the Agenda was Commissioner Alexander discussion on **Boys & Girls Club** gym ads.

Commissioner Alexander said he will put this in the hands of Mr. Beach. Could Mr. Beach assist him in this matter?

City Manager Beach said this was placed on the Agenda at Commissioner Alexander's request as a result of an advertisement that occurred referring to the HDRC gymnasium they have constructed in conjunction with the Boys & Girls Club as the Mac Mascioli Gymnasium. He believes the FPRA Director has given them a copy of some communication on this and shared some information that indicates that specific ad was not authorized by them. They think this problem is going to go away as soon as they actually come up with a name that this Commission accepts in regards to the naming of that gymnasium. If they have any questions about it or need additional information or further clarification, just let him know. They have indicated that it was an oversight, that it was not something they authorized.

The next item on the Agenda was Commissioner Coke discussion on employee participation in **Dependent Health Insurance Coverage.**

Commissioner Coke said June 1st they are finally - and she thanks Staff for the great job of getting this done finally - moving to a new health plan which is going to save the taxpayers of this City money. When they were evaluating that among other things, it had come to their attention by their insurance people that most people pay 50% to 55% of dependent care. The City of Fort Pierce pays approximately 82%. They certainly do not want to burden the employees all at once with a 30% increase in their dependent care. However, they have discussed many times that they were going to implement a change, whether it was 7% a year for several years or 10% a year. June 1st is around the corner. Her understanding that Staff doesn't think they have ever made a clear concise direction on

what percentage from this 82% to the 50% or 55% and what percentage they want to increase on an annual basis. So she is wondering if they can today define that.

Motion was made by Commissioner Becht, seconded by Commissioner Sessions, that whatever the difference is between what the City is paying for Dependent Health Care Insurance and 50%, that difference be divided by one-third, and that one-third be added to the employees for dependent coverage on June 1, 2008, as they transition this year, and another one-third be added next year, and the final one-third be added the following year.

Commissioner Becht said that way they get down to 50% in three years.

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

The next item on the Agenda was Submittal of Application for Appointment to the **Keep Fort Pierce Beautiful Advisory Board**.

City Clerk Steele said they have an application for consideration and there will be a resolution on their next agenda.

The next item was the **Consent Agenda**. Mayor Benton asked does any Commissioner wish to remove an item? (No items were removed.)

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

a. Approve Application for **Alcohol Beverage Permit** submitted by James Rockwood, representing Hi-Tide Sales, Inc., for Company Picnic at Jaycee Park on June 7, 2008.

b. Approve Application for **Alcohol Beverage Permit** submitted by Michael Corde for Corde Family Engagement Party at Jaycee Park on June 1, 2008.

c. Approve Expenditure of \$250 from the Police Department Law Enforcement Trust Fund for contribution to the **Florida Missing Children's Day** Ceremony.

d. Approve Annual Blanket Purchase Order by Police Department to purchase **Wireless Aircard Service** from Verizon Wireless in the amount of \$20,313.28. State Contract #MA4974

e. Approve purchase of **In-Car Video System** for four Police Department vehicles from Insight Public Sector in the amount of \$18,460.00. State Contract #250-000-03-01

f. Approve purchase of four Panasonic Toughbook **Laptop Computers** for the Police Department from Insight Public Sector in the amount of \$13,760.00. State Contract #250-000-03-01

g. Accept bid from Ranger Construction Industries, Inc. for **State Road A1A Roadway Improvements, Phase IIB** (Bayshore to the South Bridge, less and except the Harbour Isle Roundabout) in the amount of \$1,816,200.53. Ref Bid No. 5799

h. Approve override of **Hurricane Housing Recovery** maximum award amount for housing replacement projects: (a) 501 Palm Avenue, owned by Steve & Jennifer Holt, in the amount of \$12,211.70; and (b) 2605 Sunrise Boulevard, owned by Lila Miyamota, in the amount of \$20,405.60.

i. Approve Project Agreement between the State of Florida Department of Environmental Protection and the City for FDEP Land and Water Conservation Fund

Program for FY 2007-2008 for **Jetty Park Expansion Project** to reimburse City \$200,000 to help offset cost of acquisition of the Rollins Property.

j. Approve waiver of fines and costs in the amount of \$126.15 against **314 North 14th Street**, owned by Paul Chang, upon payment of lot clearing lien and administrative fees of \$312.66 within 60 days.

k. Approve waiver of fines and costs in the amount of \$2,047.35 against **1012-1016 Avenue L**, owned by John Swearingen, upon payment of lot clearing and special assessment liens and fees in the amount of \$4,039.69 within 60 days.

Commissioner Alexander said he guesses it is only himself that seems to have a problem with when they say fair share. They just heard from the representative coming from the State of Florida how difficult it is going to be. They as a City run more businesses out of town than they can shake a stick at. He is kind of appalled with it when they ask of one developer that they don't ask of others. They ask of a developer that comes into a section of town and he has to completely do something that they just passed last year for another developer to do it and he had no part of it. This is not the first time. He pulled a couple of records that he does know that they discussed not too long ago about out there by WalMart, they want to extend the road. If no one else don't have any concerns about it, it is just when it comes back and forth in front of him, they know exactly what he is talking about. It is unfair. He just don't see it. The explanation given is unfair.

Commissioner Becht said he has brought up with the City Manager something that is probably not going to be very popular. Before the City Manager moves forward on it, he is going to want to know that there are three Commissioners who are interested in finding out information on it. He sent the City Manager an email asking him to look into how they would, if there is sufficient will, change the **multiplier for the retirement program**. This affects everybody up here except himself right now; and if he lives long enough, maybe it will affect him. But they applied a 3% multiplier to all City employees a couple of years back and he supported it at that time. But in light of certain budget restraints and the multiplier that is in place for comparably situated municipal employees, he wonders if this is something they should look at. It would take three of the Commissioners to get City Staff moving to research is it possible and how much money they would save if they rolled it back 2.5% for instance. Keep in mind that this is somewhat complicated because they have outstanding contracts at the 3% multiplier. So if two others are interested, he thinks Staff will move forward on it; otherwise, he doesn't think they will get any movement on it.

Mayor Benton said he wouldn't support that. He believes they went to the 3.0% because the State's retirement system did and he thinks they were just keeping up with them.

Commissioner Becht said the State is at 1.6%. Teachers are 1.6%. General state employees are 1.6%. Judges he thinks are 3.3%. It is law enforcement or hazardous duty employees that are 3%. He thinks they will find if they research it that the county system and the state system is at 1.6%. The colleges involved in the state system is 1.6%. So with clerical type jobs, they have a very handsome multiplier. It is the risk of law enforcement that he thinks... What they did was they followed the Fire District when the Fire District spread that benefit to its clerical employees. The Police Union was at the time pushing forward on it. He doesn't want to get into an argument, but he does think the Mayor is incorrect. He thinks the state system is generally at 1.6%.

Mayor Benton asked could they get the information on that? Because when they went to the 3.0%, that was the information he was fed, that they were just following the State system. He doesn't sit on the Retirement Board so he doesn't know. But that was the information provided to him.

Commissioner Coke said she thinks they are a long way from making any changes, let her say that clearly. She doesn't even know, if the time came, about supporting changes. But she does believe that facing the economic times that are coming up, the clear mandate they got from their citizens was not that they wanted services cut, but they wanted bureaucracy cut. If they are paying a 3.0% multiplier when the State is paying a 1.6% multiplier, she thinks they are doing a disservice. First of all, she thinks they need to look at exactly what government agencies are paying what multiplier, so that they are not treating people unfairly either way over or way under. Secondly, she doesn't think they need to necessarily consider like the police officers, who definitely their life is more at risk every day when they walk out the door, than somebody who is sitting in City Hall every day. So they don't necessarily have to treat those people on an even par because their lifestyle and their jobs are not on an even par. So she would be at least interested in looking at a comparison of what the other multipliers are throughout the State - other governments, the cities, the counties, the school boards - and if there is a differential between how they treat general employees versus how they treat police officers and firemen. If there is a basis for that, then she would look to the next step and have some actuarial studies done to give them an exact cost savings of what it would be over the years. She doesn't think it can hurt them to look at it to see where they are.

Mayor Benton said he agrees, he has to see the numbers. For some reason they were sold on doing it, whether it was a recommendation from the Retirement Board. He knows this was a few years back. But they just didn't get there, they didn't pull a rabbit out of a hat. They went from 2.75% to 3.0%. And he thought they were following in line with the State.

Commissioner Becht said they were following the Fire District. The Fire District had just done it for their clerical workers as well as those in the line of duty.

Mayor Benton said he has no problem looking at it. Maybe he was misled, it has happened before.

Commissioner Becht said he would just like to know what the savings would be, if they can do it, how many contracts they have outstanding that would prevent them from doing it, and what would the dollar savings be. County Commissioner Joe Smith said something at the joint meeting that kind of rung with him - there are no sacred cows. They have to look at everything in order to know where they are going to save money and where they have programs they can't cut.

Mayor Benton said he thinks they are going to have an interesting budget discussion, because they have heard talk about creating more departments in the City and that would cost millions of dollars. So he thinks they need to look at the real big picture here.

Commissioner Sessions said he was contacted by Electronic Technology Corporation. Actually County Commissioner Coward brought them in to see him. At any rate, these individuals have a product (a **power factor optimizer**) they placed on line that if installed would substantially reduce an individual's electric utility bill almost 25% to 30%. What he would like to do, if he could get the consensus of the Commission, is to have them come in and give a demonstration of what their product is and how it works. And perhaps get the blessing of the City to go with the proposal and take it to the U.A.; or an alternative, put it before the FPRA as a pilot program of some sort. So he would like for them to come in and give them a demonstration.

Mayor Benton said he received this information about three weeks ago, which is the same box Commissioner Sessions is talking about, where they say it can save about 25% on their electric bill. They say that a home receives more power than it can use and this is going to conserve it and use it as needed. He asked the U.A. at their last Board meeting and he should find out the results tomorrow from their engineers if this is serious. If this is serious business and it works - they are saying anywhere from 10% to 25% - his plan was

to come back to this Commission and to the FPRA and say forget weatherization, forget insulation. They could probably put 1,000 of these boxes on peoples homes and save a lot more. But first they have to know if it works. He knows the City Marina is looking at installing one there. It is about \$600 to have this installed.

Commissioner Becht said he had someone come and talk to him about it. He suggested to them that they should put it on two pilot homes in the FPRA area and that they should do that gratuitously after making a presentation at the FPRA. They would then have hard data on two homes and they should have the facts. What he is saying is, two homes that are comparably situated for the base line, and see if there really is a reduction in the bill. If there is a reduction of the bill, he would hope that company would understand that the FPRA is going to be very interested in entering into a lot of contracts with them to have homes that need to be weatherized or power reduced to do that. But he thinks it starts with, prove it. After they show them, then they can expect a lot of contracts.

Mayor Benton said they donated one for a Habitat House. He has heard of at least three different companies doing basically the same thing. If it works, it is a great deal. But it just seems too good to be true. So before they start recommending to people to spend \$600 on this... He hopes to have some information tomorrow. He agrees it would be great. And it would definitely work better than insulating homes for now. Because if they could reduce somebody's electric bill some 25%, it would sure ease a lot of pain right now.

Mayor Benton said he would like to thank City Staff - specifically Nick Mimms, Dorina Jenkins, Serena Knight, and Christa Razem. On Saturday the Department of Community Development and Public Works started with **Keep Fort Pierce Beautiful** once again. They cleaned up several blocks in the City. They had a great time. They ate well. They cleaned up probably a ton or two of garbage. He wants to thank everybody for getting Keep Fort Pierce Beautiful back on track and thank everybody for their help.

Monday, May 26, 2008 is Memorial Day Holiday in the City of Fort Pierce. All City administrative offices - with the exception of the Police Department Public Safety Services, the City Marina, and the Indian Hills Golf Course - will be closed. There will be regularly scheduled garbage and/or trash collection on that day.

There being no further business, Mayor Benton declared the meeting adjourned at 8:12 p.m.

Adjournment.

ATTEST:

CITY CLERK

MAYOR COMMISSIONER