

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 21, 2007.

Mayor Benton called the meeting to order.

Commissioner Nelson gave the invocation.

The Pledge of Allegiance was recited.

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

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The next item on the Agenda was Approve Minutes of the Regular City Commission Meeting on May 7, 2007.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve the Minutes of the Regular Meeting on May 7, 2007.

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

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Mayor Benton proclaimed May 2007 as Foster Parent Appreciation Month.

Ms. Rossana Gonzalez said she is with Hibiscus Children's Center. They are in charge of licensing/relicensing foster parents in the four-county area. Right now they have 1,800 children that under care of the state and they only have 132 foster homes. Her job is to recruit more foster parents, so if they know anyone who is interested or if they would like her to speak at their church or civic group, she would be happy to do, just call Hibiscus.

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Mayor Benton proclaimed May 19-25, 2007 as National Safe Boating Week.

Mr. Jerry Henderson, Auxiliary Vessel Examiner, said they will start off on the 19th, Saturday. He has been in the Flotilla for 13 years. This is the largest they had, over 2,000 people come through the station interested in safety and it starts it off. They have been around for a long time and trying to keep everybody safe. This weekend coming up is their big one, Memorial Day Weekend. Everybody is quite concerned. He is sure law enforcement will be out there, both federal, state, and local. They are hoping everybody will drink sensibly and drive sensibly. They have a new course starting on June 4th at the Flotilla if anybody is interested in a safe boating course.

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Mayor Benton proclaimed May 20-26 as Public Works Week.

Mr. Bob Hood, Director of Public Works, said he read the other day that there are 66,000 Public Works Departments in the United States; and on behalf of the 85 other Public Works employees who he has the honor of working with on a daily basis, he thinks they have the best Public Works Department of those 66,000. He wants to thank all the employees of Public Works. And on their behalf, he accepts this proclamation.

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Mayor Benton proclaimed May 20 through June 19, 2007, as Juneteenth Season of Freedom and June 19, 2007 as Juneteenth Day.

Ms. Michelle Rossman said she was in Washington, D.C. a couple of months ago because she was visiting her family and she went to the Smithsonian and there they had just put a Juneteenth exhibit, added it into the Museum of Natural History. She was shocked because there on the wall is a photograph. This was a photograph of Juneteenth in New York City at Coney Island and she happened to have been there. Not in the photograph, but she happened to have been there and she is sure of it because a week later she delivered her daughter. It is just so funny that they are doing this here in Fort Pierce. She actually have been able to go to lots of these in New York and different places and it really is a big event and she would love to see that here,

especially since they are on the water. A lot of these are done in the ocean also. One part of it is for the emancipation of the slaves and those who did not know about the proclamation and it took so long for them to find out about it for the soldiers to reach them. Another part of it that is also is celebrated throughout the United States is that of the ancestors that were in the ocean, the middle passage, and that was the part that they were taking part of in Coney Island. They want to make this a bigger thing, they want the City and they want the County involved. They want to see it something big and glorious. It is in the Smithsonian right now, so it is a big deal.

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

Letter from John Cianciarulo in recognition of Fort Pierce Police Officers Darren Mace and Damian Spotts for their help and understanding.

Letter from Wanda Magnuson, Fort Pierce Utilities Authority, in appreciation of the presentation given by Fort Pierce Police Detective Daniela Driezehter and Crime Analyst Kathy Grace.

Letter from Shirley Walker in appreciation of the courtesy and professionalism of Fort Pierce Police Officer Diane McGlon.

Letter from Michael Croteau and Leonor Croteau thanking Fort Pierce Police Officers Cheryl Glenn-Reed and Cassandra Davis for their professionalism.

Letters from Diane Shaw, St. Lucie County Neighborhood Watch Association, thanking Fort Pierce Police Officers Daniel Gilroy, Heather Scarborough, and Darren Mace for their time and information.

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The next item on the Agenda was Public Hearing on Application for Site Plan Review submitted by Fred Bernstein, Island Village Developers LLC, for a 243 unit condominium resort hotel on the north side of Seaway Drive, west of South Ocean Drive; said property zoned C-5 Tourist Commercial Zone.

Mr. Matt Margotta, Director of Planning, said before them they have actually two items that could run concurrently. He thinks it would be staffs preference to do both presentations. However, they have to keep in mind that the site plan review is a public hearing and the recommendation for designation of the Oceanaire Lodge as a Historic District or Historic Site, that is a resolution so it does not have a public hearing part to it. If staff can get all that all out on the table, then the only issue is trying to separate between designation discussion and hearing. What is the pleasure of the Commission?

Mayor Benton asked everyone agree? (The Commissioners indicated approval.) Okay.

Mr. Margotta said he would like to start out by explaining staff understands there is a lot of complicated issues with this and the approach tonight from staff is try to be as straightforward and as close to the code as possible. And obviously, if they want to boil it down to one notion, he believes it is a decision tonight on whether the City wants a hotel in that location or they would like to designate that house and have an effect on any future development in that area. The decision comes down to a very key point there on wanting the hotel. He also wants to state that the site plan has also seen a lot of scrutiny from the staff and staff has had an effect on this whole process. Originally, as they are aware and they will discuss a little bit in the presentation, Planning Board had seen this and recommended approval again to the Commission. But since the Commission last saw it, staff has worked diligently with the applicant and he thinks they will see an improvement on the site plans. Tonight they will see a lot of conditions, but he thinks for reason for the conditions is just an indication of how well the staff has worked with the applicant to be able to come to some resolution to what is before them. It is something they can make a

decision on, they will have the facts that they need. He will start with the site plan and then they will segue into the designation. (Mr. Margotta displayed slides during his presentation.) The applicant is requesting a site plan approval for the construction of a condominium resort hotel known as Island Village on the property located on the north side of Seaway Drive, approximately 400 feet to the west of Jetty Park. There are parcels that have been assembled to comprise 5.08 acres. The property is zoned C-5, Tourist Commercial, with a future land use of Commercial General, CG. The Army Corps of Engineers right-of-way abuts the property to the north, followed by the Fort Pierce Inlet. The property located adjoining to the east is likewise zoned C-5 and is occupied by the Mariner Cove motel. The property located to the west is occupied by a multi-family development and also is zoned C-5. To the south, they have properties zoned on the south side of Seaway Drive that are R4-A, Hutchinson Island Medium Density Residential. There is also a little bit of R-3 to the southwest. All these are occupied by single family homes. Some of the project history as alluded to before, the site plan was approved by the Planning Board on December 15th, or recommended for approval, with the conditions relating to mature plantings for landscaping and Jetty Park improvements. Jetty Park improvements was a \$25,000 exaction for improvements to be used in Jetty Park. After much discussion and public testimony, the consideration of the application was postponed by the City Commission on January 17, 2006. Subsequently also was postponed at the February 21, 2006 meeting. Also in that February 21, 2006 meeting, a 90 day moratorium on hotel/motel development in the C-5 zoning district was adopted by the City Commission. Then on May 31, 2006, a letter of determination was sent to the applicant by the Acting Planning Director which identified the property that it contained C-5 and PUR zoning, the split zoning. Subsequently at the City Commission meeting on June 5, 2006, the application was referred back to staff. Earlier this early, January 16, 2007, the City Commission approved the South Beach Overlay District. And on April 2, 2007, City Commission approved rezoning of the portions of the property that were zoned PUR back to C-5. This was what enabled this application to be considered by the City Commission. One of the reasons he wanted to mention the South Beach Overlay District is that as they review this or staff discusses it, they will explain that the project comes into compliance with the South Beach Overlay District. It does not have to, it was applied for prior to the enactment of that ordinance, like it was applied to prior to the enactment of the Design Review Guidelines or the Concurrency Management. They are looking at it under some old rules, but he thinks it is interesting that it does meet the new rules too. The project description, it is a resort hotel that consists of 243 sleeping units. Sleeping units will consist of 216 one-bedroom units, 6 two-bedroom units and 21 four-bedroom units. The floor plans that are on file indicate 61 of those sleeping units have kitchen facilities. If these kitchen facilities are limited cooking facilities with no dishwashers, stoves, or ovens, they would meet the requirements of the South Beach Overlay District. He believes that is what the applicant intends. Customary appliances such as sinks, wet bars, refrigerators, and microwaves would be permitted in the kitchen facilities according to that South Beach Overlay District. This hotel will also include resort-style pools, cabanas, a health club, spa, some meetings rooms, and a gift shop, so it has everything that they expect in a resort hotel. However, there is a significant portion of the amenities, including several of the cabanas, the tiki bar, pool decks, and walkways that are located in that Army Corps of Engineers right-of-way to the north of the property. Approval from the Army Corps of Engineers would be required for the construction of these amenities in that right-of-way. In addition, the center portion of the north side of the resort hotel building is less than 15 feet from the Army Corps right-of-way and that does not comply with Section 22-33 of the City Code. Furthermore, Section 5-288 of the City Code specifies a minimum 10-foot setback on the outside of the structure wall for a swimming pool from all property lines. So the swimming pools need to be pushed back a little bit. The designs of the center portion of the north side of the resort building and the swimming pools require revisions to comply with the Code. They believe that the applicant can accomplish this. He will make a brief description on the height here. Based on the elevations that were provided, the hotel building will extend to a height of 45 feet, which does comply with the height requirements before and after the South Beach Overlay District. There are several architectural design elements that exceed the maximum height of 54 feet; and if revised, these would comply with the height requirements. They have flagpoles and things like that that stick up above the height

requirements. A little bit about access. The access to the resort hotel would be from three locations on Seaway Drive. Right now the Mangrove Matties has an entrance on Seaway Drive at the far west of this property, that will be closed and just kind of scooted a little bit more to the east. Seaway Drive currently has a right-of-way of 50 feet, which is less than the minimum required right-of-way specified by the City Code. At least 5 feet of additional right-of-way should be provided along Seaway Drive and they need to figure out a way of accomplishing that.

Parking is an issue, but the applicant has met this by parking development underneath the hotel building and in the lot along the western property boundary, the Mangrove Matties lot. A total of 288 spaces are provided. Prior to the South Beach Overlay District, the hotel would require 243 parking spaces and that would allow for the use of 4,500 square feet of gross floor area in the restaurant. The South Beach Overlay District would allow them to have less parking spaces, 278; however, there would only be 2,500 square feet of gross floor area for use in that restaurant.

Actually the top set of numbers there, 243 and the 4,500 square feet, are what is being applied to this plan and they meet that. A little bit about landscaping. Landscaping for this project

consists of 336 new trees with extensive landscaping, berms across and around the property.

This is one of the requirements from the Planning Board, that it was full height planting at the time of installation, and the applicant intends to accomplish that. A little bit about stormwater.

The drainage plan however, it is dated March 2, 2005 and is prepared by LBFH, Inc. and it identifies the area along Seaway Drive for dry retention. The locations and design of the

proposed dry detention areas do not meet the requirements of the City Code. The Drainage Plan and the Preliminary Surface Water Calculations require revision to be consistent with the site and landscaping plans and the designs of any stormwater retention areas proposed along the road right-of-ways and this will obviously require revisions to comply with their City Code. They believe the applicant can accomplish this, he thinks it was in a rush of plans that got lost in the middle. In addition, interior landscape areas have not been provided in the parking lot located along the western property boundary to comply with Section 22-187(7) of the City Code.

Further, insufficient landscaping strips are provided around the property of the parking lot to comply with Sections 22-187(4) and (6) of the City Code. Design of the parking lot located on

the western boundary would require revision to comply with the City Code. Site plan indicates that sidewalks 6-feet in width will be constructed along Seaway Drive. According to landscape plans, pedestrian connectivity to the Seaway Drive sidewalk appears to be provided by sidewalks installed along the eastern and western boundaries. However, it appears that public access along

the inlet will be limited to the area along the north side of the Mangrove Matties and will not be provided along the remainder of the north boundary because of two proposed gates. Traffic

analysis, the report dated March 4, 2005, is based on Spring 2003 traffic counts from the St. Lucie Metropolitan Planning Organization, which likely did not include trips generated from

Harbour Isle. Harbour Isle was approved by the City Commission February 2003 and was recently constructed. Therefore, as the data on which the traffic impact analysis is based

appears to be outdated, an updated traffic impact analysis would be required to determine the potential traffic impacts of the proposed development, they need to evaluate that. The applicant

has submitted the updated analysis this past Friday and staff is in the middle of reviewing that.

Conditions of the approval. Before he goes through some of these conditions, he just wanted to state that over the last few days since the applicant received the staff report, they have worked

diligently to try to meet some of staff's requirements and he thinks they are anticipating maybe some of Commission's requirements. They may present something tonight that staff has not

seen, but it is not unexpected. Their intention is that these are conditions that the City

Commission feels comfortable that staff can handle; and they feel comfortable they can handle these to move the project forward. Staff can recommend approval of the site plan application if

the following conditions are addressed. That the Drainage Plan and Preliminary Surface Water Calculations are revised to be consistent with the Site and Landscaping Plans and the designs of

any stormwater retention areas proposed along the road right-of-ways are revised to comply with Section 17-34 of the City Code. The designs of the center portion of the north side of the resort

hotel building and the swimming pools are revised to comply with section 22-33 and Section 5-288 of the City Code, respectively. Design of the parking lot located along the western

property boundary is revised to comply with Sections 22-187(4)(6)&(7) of the City Code. The architectural design elements which exceed 54 feet in height are revised to comply with the

height requirements specified by the code in the South Beach Overlay District. Approval is obtained from the Army Corps of Engineers for the construction of the amenities proposed to be located within the Army Corps of Engineers right-of-way. That public access is provided along the entire length of that right-of-way. Additional right-of-ways provided along Seaway Drive. And an updated Traffic Impact Analysis is prepared to evaluate the potential traffic impact from the proposed development and any improvements required to mitigate the impacts are incorporated. That concludes staffs presentation on the site plan. He would like to quickly go into the Historic Designation if they do not mind switching gears.

Commissioner Coke said before they go any further, several times in his preliminary discussion Mr. Margotta was talking about insufficient landscaping in the plan. But she does not see that as detailed under staffs recommendation as a condition of approval.

Mr. Margotta said that is Section 22-187(4)(6)&(7).

Commissioner Coke said she will take his word for that. Her question is, no place in his bulletpoints does it say, landscaping brought up to meet City Code.

Mr. Margotta said it is intended to come as close to into compliance as possible. Their intention on that parking lot...

Commissioner Coke said her only question to him would be is, if they move forward with this this evening, that they should also include that the landscaping be approved by staff and be brought up to code.

Mr. Margotta said yes, that is their intention.

Commissioner Coke said she thought that was his intention from what he was saying, but she did not see it listed in his bulletpoints.

Mr. Margotta sais he understands, it was not listed on the slides.

Commissioner Coke said or on the sheet she got.

Commissioner Alexander said he heard a couple times Mr. Margotta mentioning Army Corps of Engineers, the amenities that is going to extend over into their right-of-ways. Have they gotten to the point where the Army Corps of Engineers have said anything about that?

Mr. Margotta said staff does not have an indication from the Army Corps of Engineers that the coordination has occurred. He believes some coordination has occurred, but he would hope the applicant can answer that better. There is nothing in staff file for that.

Commissioner Alexander said so they have not contacted Army Corps of Engineers concerning that area of Seaway Drive?

Mr. Margotta said it is actually outside of their jurisdiction, what happens on it. The applicant would work with the Army Corps of Engineers to get some level of approval and that is what the applicant would turn into staff to show that they have done that coordination.

Commissioner Alexander asked so his understanding, this site plan was brought to the City how many years ago? A couple of years at least?

Mr. Margotta said it was March of 2005.

Commissioner Alexander said 2005. And they have nothing in front of any of them concerning what questions that the Army Corps of Engineers raised?

Mr. Margotta said this among several other issues still need to be worked out. Yes, that is correct. But he believes that is certainly doable by the applicant to accomplish that if they wish.

Commissioner Alexander said but he heard him say they were working with the applicant all along all the time. And this question never come up?

Mr. Margotta said not until the later part of the process. It is important to notice there is a marked difference in the staff that originally reviewed and then finished the review on it. He would like to ask Kia Powers to come forward and do the presentation for the historic preservation.

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 07-32

“A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, DESIGNATING THE FULL MASSING OF THE TWO-STORY STRUCTURE BUILT CIRCA 1926 LOCATED AT 1770 SEAWAY DRIVE AS A HISTORIC PROPERTY AND A LOCALLY SIGNIFICANT SITE.”

Ms. Kia Powers, Historic Preservation Officer, said historic designation for this property began on June 26, 2006. (Ms. Powers showed slides during her presentation.) The Historic Preservation Board passed a motion to initiate historic designation of this site. On October 23, 2006, the Historic Designation application and historical narrative prepared by Wendall Cooke was submitted to the Historic Preservation Board and a designation public hearing was set for November 29, 2006. On November 29, 2006 and also at the December 20, 2006, the Historic Preservation Board continued the public hearing at the request of the property owner. On January 22, 2007 the Historic Preservation Board continued the public hearing to February's meeting. At February 26, 2007, the Historic Preservation Board continued the public hearing to the April 23, 2007 meeting to allow time for the board and staff to review reports from the property owners representative and expert witness, and to allow time for the expert witness to be present at the designation public hearing. April 23, 2007, the Historic Preservation Board held the public hearing and passed a motion to amend the original proposed designation report to limit the portion of the building to be designated to the full massing of the original two-story structure built circa 1926 and to forward this recommendation to the City Commission for final approval. Its historical significance, as it is eligible for designation under designation criteria of Section 23-36(a)(2)&(3) relating to significant person and architectural significance. These are pictures of the original two-story structure which is recommended for historic designation. On the left they will see the south side of the facade which faces Seaway Drive and the east side of the facade which faces to the east, and the hotel adjoining. This is demonstrating the coquina rock spiral staircase which is located on the east side of the original two-story structure and would be included in the full-massing of the two-story structure. This is the portion and footprint of the portion of the building which is recommended for designation by the historic preservation board. The Historic Preservation Board's recommendation is to approve the historic designation of the full massing of the original two-story structure built circa 1926 located at 1770 Seaway Drive. Alternatives which were put on the City Commission cover memo are either to deny the historic designation provided the site plan with staff recommendations for Island Village is approved, approve with conditions the historic designation, or deny the historic designation.

Commissioner Alexander said the question was asked of the denying of the historical designation. What reasons could she give for denying that historical? If it is impeding the progress of this City as far as owner having the opportunity to develop his properties, is there anything within that historical designation that would allow them to go forward?

Ms. Powers said should the two-story structure be designated as recommended by the Historical Preservation Board, the applicant of the site plan would have to work that structure into his site

plan.

Commissioner Alexander said maybe she misunderstood his question. For what reason would she deny the historical designation?

Ms. Powers said that would be entirely up to the City Commission, provided the facts of its historical significance, if they felt that this structure is historically significant and should be retained and preserved and incorporated into the site plan.

Commissioner Alexander asked but it could not be removed, that is what they are saying?

Ms. Powers said should they designate the structure, the structure would have to remain and it would have to be incorporated to the site plan. Should they deny the historic designation, the structure would not have to remain and it could be demolished and the site plan as presented could go forward should they approve it.

Commissioner Coke asked have they ever designated half a building before?

Ms. Powers said no. As she had pointed out in their summary, she researched City records after this was recommended by the Historic Preservation Board. The City has never designated a portion of a building or a portion of a site. Should they actually adopt this resolution tonight, this resolution would be recorded and would be recorded for that parcel identification number, so that entire site would be a designated historic site; and staff would have to work very closely and very carefully with any partial designations to make sure that with demolition of additions or additional structures, it was maintained.

Commissioner Coke said since she is the professional in the historic preservation area, lets explore a little bit further there. Does Ms. Powers know of anybody that has ever designated half a building?

Ms. Powers said she knows of nobody who has designated one. The property owner's expert witness, who is in the industry of historic preservation and is an architectural historian, had mentioned to the Historic Preservation Board that she has never seen a partial designation of a building.

Commissioner Coke said she knows there has been some discussion in the recent past about moving that part of the building. Have they had any confirmation that it is even possible to move that?

Ms. Powers said they have no confirmation. The property owner's representative did propose this idea to the Historic Preservation Board; however, it is not within their jurisdiction, so it was nothing that was entertained or discussed further.

Commissioner Coke asked does she know in the history of the Historic Preservation Board and the City Commission declaring properties or sites historic, have they ever done so against the property owners wishes?

Ms. Powers said no.

Commissioner Becht said he read with interest the long meeting they had on this; and he wants to compliment staff and compliment the owner for bringing in some very interesting discussion on their designation process. He has his concerns with designating, not a half of a structure, but he thinks it is maybe a fifth of the structure.

Ms. Powers said of the site, yes.

Commissioner Becht asked can she explain to him what she means or what her Board means when they say full massing?

Ms. Powers said what they mean by full massing, there are some additions to the structure. If they will look on the east facade, there is a roof-line about halfway up the building. This is a one-story structure attached to the two-story structure. That one-story addition there would be included in that full massing. The coquina staircase would also be included in that full massing.

Commissioner Becht said he is not sure that clarifies it, but he knows what she is talking about. The expert that the owner brought in gave two different lines of arguments. One, she said it is not historic because of the architectural detail; and two, she argued that it was not architecturally significant because of an attachment to a historical person or the Navy. Rather than waste a lot of time here tonight, is Ms. Powers prepared to meet those arguments and give... She heard them at the designation meeting, can she give him any contrary argument to those arguments that are not in their Minutes from the Historic Preservation Board meeting?

Ms. Powers said as this was not prepared by staff, she can. Working with their Historic Preservation Urban Designer, they have come up with an answer to the styling issue which was brought by the expert witness and her definition of a Spanish Eclectic style. What they have prepared tonight, and if she may read it to them, this may address their question. The structure's Spanish Eclectic styling and can be seen in its asymmetrical facade, stucco exterior finish, and flat roof. Other style elements include the capped chimney and the narrow tile roof above front entrance. It is common for flat roofed Spanish Eclectic houses to combine both one and two-story sections. This is present in the one-story extension on the south and east elevations of the two-story main mass, which was the portion they were just speaking about. Other style elements include the windows that wrap the corner of the building, the curved staircase with metal handrail, and curved wall landing. These are commonly found structures of the modernistic style, as it's smooth stucco exterior wall surface and modernistic styling is rare among residential structures within the City limits. And this is why this building was called out as a Spanish Eclectic style.

Commissioner Becht said she addressed all those points and she had five or six that Ms. Powers has not touched on that kind of gravitated against it being significant from an architectural standpoint, not the least of which is that it has had so many add-ons that they really cannot recognize the original structure. What about the issue of it having an attachment to a significant personality?

Ms. Powers said its attachment to significant persons was the use of this building during the Naval Amphibious Training Base and it being used as a dental clinic for officers for the Amphibious Navy Base. And that is significant to Fort Pierce's history and past, which is one of the designation criteria's is its significance to persons of their past.

Commissioner Becht said he does not want to be argumentative with her because what he wanted to know was her argument against their argument so that he does not have to listen to four hours of their argument. But their argument already is that if they apply that formula, almost every building on South Beach that is over 50 years old was occupied by Navy personnel.

Ms. Powers said correct.

Commissioner Becht said so he is not sure they would get over the hurdle with that. The other concern he has is that the owner has offered to pay the cost to move - again if it is capable of being moved - this structure to another site. He thinks that almost anybody that owns a historical building would probably agree to that, which does not really fulfill the mission of a historical district. His concern is that once they get it relocated at somebody else's expense, the House of Seven Gables - if he is not mistaken - the cost to rehab that was half a million dollars however many years ago they engaged in that. And while that was a worthwhile project, there is also a cost of operating that building on an ongoing basis. And he has grave concerns about that in light of things that are happening in Tallahassee, that they would take on that at this juncture.

Mr. Margotta said he has just one final point. Obviously staff appears to be coming before them with divergent recommendations; but the overall staff recommendation is that they do approve this hotel site plan with at least those conditions so that they can bring it into compliance with their City Code.

Commissioner Nelson said he mentioned in his presentation about the width of the sidewalks and some of his literature indicates that it is going to be six feet wide. What is the normal standard width of the sidewalks in that area?

Mr. Margotta said five feet.

Commissioner Nelson asked why six feet in this case?

Mr. Margotta said just wanted it to be one-fifth better than anybody else. He does not know the actual rationale behind that and he did not mean to sound joking around or anything. Hopefully the applicant can answer that. It is just a little bit wider path. He thinks it is a good idea.

Commissioner Nelson said they are trying to have some degree of connectivity and universality in the whole area over there. He was just wondering about that.

Mr. Margotta said the need to respond to connectivity, he is all for it. The wider path is going to allow the easier movement of folks and make it much more useable.

Commissioner Alexander said back to the area of Seaway Drive is 50 feet and they are requesting an additional five feet. Is that amenable to the owner, are they willing to give up five feet? Where are they going to get it from?

Mr. Margotta said the five feet that is being discussed would be along the frontage of Seaway Drive. In order to meet their minimum right-of-way standards, they need sixty feet to be able to accomplish what they need to have, five feet from either side of the road. He believes through a Development Agreement there are ways they can handle this. It might not need to be a right-of-way.

Commissioner Alexander asked there is five feet available, that is what he is saying?

Mr. Margotta said yes, they are getting into his landscape area. The roadway itself is not going to be in that area.

Commissioner Alexander asked he is asking for full landscape there, right?

Mr. Margotta said yes.

Commissioner Nelson asked so how is he going to go five feet into the landscape?

Mr. Margotta said actually the initial part is their sidewalk.

Commissioner Alexander said okay, they will let them follow up. Concerning the swimming pool area that is going into the right-of-way of the government land, are they expecting them to get permits from the government?

Mr. Margotta said yes, they should be getting permission. If not, they should not be doing anything out there until they get permission.

City Manager Beach said the land is actually owned by the Corps of Engineers. And it would be like him going out there and trying to build something on that land. It does not matter if they

own the adjacent land, the land that they are proposing to build on is owned by somebody else. And they absolutely have to have their permission.

Commissioner Alexander said that is what he is asking. How can they turn in a site plan and knowing that they cannot impede on...?

City Manager Beach said he believes that is the reason staff is suggesting that they make that a condition of any approval that they may consider. They have to have permits from the Corps for Engineers in order to move this forward. If they are unable to obtain those permits, then the Commission granting of approval would be void.

Commissioner Alexander said he heard about public access, then he heard him speak about some gates. What kind of gates would he be speaking of in that area?

Mr. Margotta said he does not believe the gates would be very imposing. These are of a pedestrian nature, probably something along the lines of a pool fence gate or something like that. But the site plans indicate that there is barriers in that northern section of their property that would impede pedestrian traffic along that way.

Commissioner Alexander asked again, that is going to be on the Corps of Engineers property, right?

Mr. Margotta said yes.

Commissioner Alexander said so there is going to be gates, they are going to impede on Army Corps of Engineers properties. And they are going to okay this?

Mr. Margotta said what they are hoping and he believes the applicant is amenable to is they would all three work together - the City, the Army Corps of Engineers, and the applicant - to somehow accommodate whatever is going to happen on that property. He believes that it is possible.

Mayor Benton said Mr. Margotta listed what he would consider seven deficiencies in the Code. Normally wouldn't that have been addressed and put in the plans at technical review or before the Planning Board. But to come in front of them? Luckily they have a new planning staff here, but they have dealt in the past with some developers that have not given them what they were promised, he guesses he can say. Shouldn't these deficiencies have been dealt with before it was brought to them?

Mr. Margotta said that is an excellent question, he is glad somebody did ask. Staff is not just brushing that aside. This has already been through the Planning Board. There is no substantial changes since then. It has been in the works for so long. They are definitely at a point where if they believe staff can wrap this one up with these code requirements being met, then they are done. This is ready to be approved and get a building permit, lets get a hotel on the site and they are ready to go. This is not a normal process step. They will notice he is the one who is speaking, normally it is other staff. He did not want them to have to stand before the Commission and tell them they have a plan that needs this much work to complete. But he believes they can complete the work, he thinks the applicant is ready to do that. He also wants to get this process over with.

Mayor Benton said he would just like to see something completed, so when they show the public, they are going to see what they are going to get, instead of come back with something that is not what they were bargaining for. So they will let the public hearing go on and they will see what everyone presents.

Commissioner Coke said when they began this discussion, they talked about this is a two-part

process. The first part is on the site plan, which is a public hearing. And the second part is the historic designation. It is her understanding from what he said - and please correct her if she misunderstood - that the site plan now meets the conditions of the South Beach Overlay, with his conditions?

Mr. Margotta said yes.

Commissioner Coke said it is also her understanding looking at this that it would be impossible for this property owner to be able to utilize his property were they to pass this historic designation.

Mr. Margotta said correct.

Commissioner Coke said so she would certainly think that is a big factor to consider when they are looking to move forward here. If they want a hotel on the beach, they need to deny this historic preservation.

Commissioner Becht said he thinks there are legitimate grounds for denying the historic preservation and staying within the confines of the policies of the Historic Preservation Board. The vote was split at the Historic Preservation on four-two lines. The two members that were voting against it raised their questions about the quality of the architecture that is still salvageable from a structure and the questionable historical significance of any persons attached to it. So he would prefer, if they are going to deny the historic designation, that they follow the lead given to them by the two dissenting members of the Historic Preservation Board.

Mayor Benton said when it comes to that discussion, what bothers him... He read most of this, there is a lot there, hours worth. But when he saw that same board address the packinghouse that burned down and some of the buildings in the Rivers Edge District that are being designated as possibly historic structures that should be rebuilt, he just questions - is that the same board, the same people? There is only so many structures in the City, especially on the island. And he knows they just lost one that they wish they could have saved.

Commissioner Coke said the concern that she was trying to bring up is she thinks perhaps they should have put this (b) as (a) and (a) as (b) (Note: The historic preservation resolution first and the site plan second). Because if they do not deny the historic preservation, there is no way they can approve the site plan as is.

Commissioner Nelson asked before they deny or approve anything, would it be appropriate they hear from the developer as to what his thoughts are and what his reactions are to some of the objections posed by staff?

Commissioner Coke said the historic preservation resolution is not a public hearing.

Mr. Margotta said he believes it is appropriate that they ask the applicant some questions if they need them answered. The reason he brought out the fact that it is a resolution is that it is not a public hearing, he does not believe there is a requirement.

Commissioner Nelson said but as Commissioner Coke has pointed out, it is tied into that. If the historic preservation is not ruled on favorably, certainly the developer would probably fold his tent and go home. So it is appropriate in his opinion that they should hear from the developer and see whether or not he has any particular concerns that they should address or weigh relative to the approval of both entities.

City Attorney Schwerer said Commissioner Nelson he believes is making a request of the Mayor to hear from the developer; and the Commission can certainly ask the developer to comment during a resolution.

Mayor Benton asked there is no problem with them taking the resolution first?

City Attorney Schwerer said that would be their prerogative. It is agendaed (a) and (b), and this is (b). But he thinks it makes some sense that (b) should be considered first and they should have input from whoever they wish to have input from, especially the developer as owner of this building.

Mayor Benton asked is that okay with everyone here? (The Commissioners indicated approval.) Mr. Bernstein or Mr. Morell, if they would like to address the board.

Mr. Michael Morell said he is an attorney who practices land use, environmental, redevelopment, and historic preservation law. He is out of West Palm Beach, Florida. But he is pleased to be representing today Mr. Fred Bernstein and the Island Village Developers, which is the applicant for the site plan project, and Inlet East LLC, which is the owner of the 1770 Seaway Drive parcel, one of nine parcels that is the subject of the designation. He wants to thank their staff. It has been a long 27 months, it has been trying at times; but he can honestly say that in the last six weeks there has been extraordinary effort made. Matthew Margotta has gone to extraordinary lengths to work with his client. His client and Mr. Margotta asked Mr. Schwerer and himself to kind of take a back seat and see how far they can run with it; and they did, they ran with it pretty well. And Mr. Margotta summarized for them, he thinks quite accurately, the progress that the applicant and the staff feel they made towards meeting each other's interests in this process. He is pleased to be at this podium at this time and will only limit his comments to the historical designation issue, and he will be back when they want him for the site plan. He agrees with the suggestion made by Commissioner Coke and he believes agreed to by Commissioner Becht and some of the other Commissioners, that it makes more sense to do (b) first, do the historical designation decision first. Because should they decide to designate, they have the testimony of their project architect here, who he would like them to hear from on the historic designation issue; and what he will testify to is that the designation will require a major redesign of the project at considerable additional cost and the loss of a considerable number of units, the precise number of which and the precise costs to redesign of which have not been determined because they have not had to look at that, but that is what he will testify. His comments are to supplement what he believes have been some additional evidence that has been laid before them by the staff in its recommendation that was not before the board. Technically they are reviewing a record that was prepared before the board, but a number of points have been made tonight that have injected additional evidence that was not injected below or was not the position of staff below. When they submitted their notebook to them last Wednesday, they included only elements from the record below. Because they had a deadline of 12:00 noon to submit their written materials for this meeting, and they had not yet received either the staff report on the designation or the staff report on the site plan, they reserved the right to bring to their attention tonight additional information that they think they should consider if in fact they deem they are going to open what they thought was a closed record of proceedings before the HPB. Having said that, Mr. Margotta has presented a memo to them, a new cover memo after he submitted his materials, in which he has mentioned to their attention that the City has never designated a part of a building. The reason they think it is important to supplement that information is that they know why and how the staff's decision to change its mind on designating the whole versus the partial came about. Staff was originally designating the whole building. They waited until they read the staff report and then they changed their designation. Now they objected to them even to reviewing their staff report because it was quasi-judicial below and they felt like the proponents of the project should go first. Having said that, he is not going to beat procedural issues tonight because he thinks the parties are very close to resolving the issues. He does believe however it is important that they know why their expert said they cannot designate part of a building. What their expert proved at hearing, they believe, was that this was not a 1926 Mediterranean Revival or Spanish Eclectic structure. She proved that the original structure was a two-story Art Moderne or Art Deco structure built in 1936, built not in 1926. She refuted the documentary evidence that was presented by the City's expert that the building

was built in 1926 and somehow could be viewed on a photograph that hangs in the museum. Her position was that two additions were made to this building that changed the nature of its structure as a Art Moderne or Art Deco building. In the 1940's, the Navy added a wing that first of all changed the original use. And it is real important that there be an integrity of use as well as architectural style in a building under the code criteria. The use was changed from single-family residential Art Moderne to a commercial dental clinic, a Spanish Eclectic aberration in which the Art Moderne was detracted from the Spanish wing. Having done that, it dinged significantly the integrity of the original structure, which is one of the main criteria of their code. In the 1950's the structure was added to the north with the single-family asbestos style, almost a 1950's modern architecture, which further detracted from the 1936 Art Deco style as had been compromised by the Navy in the 1940's. And those two additions meant that no portion of the structure, either the original or the add-ons, qualify under their ordinance. And having done that, staff cannot peel back the add-ons that defeated the property from meeting the integrity criteria of their code and ask that they designate only a portion of the building. At hearing they said no portion of the building qualifies. And because they cannot peel back the portions that have been added to the building that stops it from qualifying, they cannot now come back and peel back and ask for only the two-story massing. What is important, is while staff changed its motion, the board did not re-write the designation. Even though the motion included below a decision that the designation report be rewritten, it has not been rewritten, so none of the facts have been deleted from the report that should have been winnowed from the report as evidence upon which the board made its decision. As a matter of fact, he hopes this matter is not headed to the courts, he hopes that this designation is defeated tonight. But were it to be presented to a court, he thinks a court would scratch its head and say that it has no basis to know what the decision was that was made by the board below, and the flopping of the staff on the partial of the historic designation adds to that confusion. The simple thing for them to remember is their expert architect testified it was not significant when it was originally built; whatever was there, the integrity of it was detracted from with the 1940's and the 1950's addition. They cannot designate a part. Staff is correct, when they designate a building, they also designate the legal description of the lot. So the effect of designating the two-story massing would have a fatal effect on the site plan project. And therefore, they think the best thing the Commission should consider tonight is the historic designation first. And they would ask them to deny the designation. They have had an expert house mover, not a structural engineer, but an expert house mover, the best in the state, the gentleman that moved the Mizner mansion up and down the coast a number of years ago. And he also was an expert that he recommended to Mr. Bernstein who has done a number of historical residence relocations in Palm Beach County. This Modern Movers out of Orlando specializes in historic moving. While he is not a structural engineer and he did not guarantee the integrity of that spiral staircase, he said he had no problem. He said if they want to move this two-story building to their park or somewhere where the community can enjoy it, even though it is not a historic structure and Mr. Bernstein is willing to do it, he gave them an \$85,000 estimate. And his client's position at this time is officially he will share with them the cost which has been estimated by a non-structural engineer to be \$85,000. Having said that, he is done on the historic issue. He would just ask their architect to render his professional opinion, that if they designate the project, it requires a major redesign and a loss of units and extraordinary costs both in terms of additional redesign cost and lost income as a result of the lost units.

Commissioner Coke asked before Mr. Morell does that, can Mr. Buchwald bring up the screen where Ms. Powers had given the options which she felt were available to them? Is she correct in assuming, and please Mr. Schwerer weigh in this, that they could deny the historic designation conditioned upon the site plan being approved? And then, were for some reason the site plan not be approved, it could be revisited as a historic designation?

City Attorney Schwerer said he believes that is accurate. He is not sure about revisiting it and what the conditions would be. But certainly it would have to be revisited, there would have to be another process and procedure before the Historic Preservation Board, public notice, the whole nine yards. But yes, he thinks that is accurate.

Commissioner Coke said she does appreciate all Mr. Morell's comments and she knows they are going to hear a lot more from him in just a few moments. And she did take time this weekend to read this small novel he gave her. She does not know how the rest of the Commission feels, but she would be ready at this point in time to make a motion to deny the historic designation on this provided that the site plan is approved.

Motion was made by Commissioner Coke, seconded by Commissioner Nelson, that Resolution No. 07-32 be denied provided the Site Plan for Island Village is approved.

Commissioner Alexander asked did he understand Mr. Morell said that to relocate this building, they will work with whom - the City of Fort Pierce?

Mr. Morell said his client has agreed to share in the cost of relocation which has been estimated by an historical house mover to be approximately \$85,000.

Commissioner Alexander asked who is he going to share that with?

Mr. Morell said with the City, if they want it moved.

Commissioner Alexander asked he wants to share that? That means the public is going to have to pay to share that building cost.

Mr. Morell said no, he thinks his client is prepared to cover the cost of moving only the two-story massing. Now they have a spiral staircase which some people think is significant. It was not permitted according to code. It is impossible to climb. They are not going to want any child anywhere near that spiral staircase. They roped it off, they do not let people go up and down it because it is flat dangerous. And they are not going to pay to rebuild that thing on site. He thinks his client is offering to cover the costs of his share being up to \$85,000 of moving, which is their estimate. That does not include any rehabilitation costs or rebuilding costs or the preparation of a foundation on the new site or anything. The City would need to get their own architect to do a proper rehabilitation plan and then the design of a footprint to accommodate it. They are only talking about covering a share of moving costs, their portion being up to \$85,000 based on the good faith estimate they obtained. Is that correct Mr. Bernstein, has he stated that properly?

Mr. Fred Bernstein said yes.

Commissioner Coke said just for clarification again. She is big on having things clarified in the public record. If this were to move forward and the site plan, if that is approved, she is quite sure they are not going to start construction tomorrow, they all know how buildings go. So there would be ample time for the local historic preservation board to meet with and assess this, the St. Lucie County Historical Society, if someone in the community organization realm were to find the means to partner with them to move this building for the public good, then that would also be acceptable.

Mr. Morell said absolutely. If they find some law firm that wants to use it as an office, they will move it to their private lot. They will work with them and pay up to the \$85,000 in moving costs only - not foundation, relocation, restoration, rebuilding of a cracked wall if it falls apart on the truck. They are prepared to do that. Before they vote however, he will say this. The alternative as laid out by their staff tonight is a brand new alternative. The way he understands it, and it sounds like they are getting ready to make a motion to...

Mayor Benton said they already have a motion and a second, so they need to be calling the roll.

Mr. Morell said he would ask that they allow him to place into the record the Minutes...

Mayor Benton said because he has a motion and a second, he is supposed to call the roll right now. They have really gone too far with conversation, he thinks.

Mr. Morell said not knowing how they are going to vote, although hoping it will turn out the way they would like them to, he is going to need to preserve an objection to the tie that has been made between the denial and the site plan. He would proffer for them evidence that would have been Minutes that show that the motive of this historic designation was to defeat the site plan. And therefore, he thinks alternative has kind of got it flipped. But go ahead and vote.

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

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

Mr. Frederick Bernstein said he is from Stuart, Florida. He just wanted to tell the Commission how happy they are to be here after a long time and also thank the staff and working with Matt Margotta to be able to get here. It has been a lot of work and he just wanted to thank Mr. Margotta and his staff for helping them get here. When they received the staff report, basically he got it on Thursday, they worked very hard to address the comments of staff so they can show them that they could bring those comments into compliance. He has their architect, their land planner, and their engineer here, and Mr. Morell. He is going to let Mr. Morell start and then he will introduce the various design team to address the issues. If they can't address them completely, they will work with staff so they are happy with it. He thinks they have been very successful in doing that so far, himself and Mr. Margotta and staff. He is very elated to be here and excited to bring a hotel to South Beach which he thinks will bring great economic impact, employment, and everything else that goes with a hotel into Fort Pierce.

Mr. Morell said he will be very brief and turn it over to their experts. He has only a preliminary question. They were working from six conditions that were detailed in the staff report dated May 15th - a memorandum from David Carlin sent to Matt Margotta through Peter Buchwald, their Zoning Administrator. Tonight, he saw a chart on the screen. Commissioner Coke referred to seven conditions and she referred to a piece of paper. They have not seen that.

Mr. Peter Buchwald, Zoning Administrator, said there are seven in the staff report.

Mr. Morell asked are there seven? He thought he counted. How many bullets in the... There are seven. He is sorry, he mis-spoke, there are seven points. Is the sheet identical to the seven points? His mistake, he apologizes to Mr. Buchwald. Having said that, they are prepared to bring on Stephanie Groves from Creech Engineering to effect staff recommendation one, which is the drainage issue. Staff recommendation two, which is the design of the center portion of the north side of the resort hotel, they have Bobby Hoitt from Taff Bradshaw & Associates and he will be addressing point two. Staff recommendation three, design of the parking lot, they have Bobby Hoitt from Taft Bradshaw, their planners, who will also be testifying why they believe they have come into compliance or can prove compliance either by the end of this hearing or immediately thereafter. Staff recommendation number four is that the architectural design elements exceeding 50-feet be lopped off to meet the South Beach criteria. Harold Carter, their project architect from Quincy, Johnson, Jones, Myott, Williams will talk about number four. He would like to talk about staff condition number five right now and Bobby Hoitt will supplement. Condition number five is approval obtained from the Army Corps of Engineers. And Commissioner Alexander will be interested in this because he had a number of well-formed questions of staff. Approval must be obtained from the Army Corps for the construction of the amenities proposed to be located within the Army Corps of Engineers right-of-way and public access is provided is along the entire right-of-way. They are prepared tonight, he believes their planner will verify that, to show a revised plan that removes all improvements from the land owned by the Corps. They are in effect vacating their use of that land and intend to build a

fence and also comply with the pool setback issues that were mentioned by staff. They will need some fenced access to the docks to the northern part that extend northern of that walkway. It will look a lot like... He does not know if they have seen South Flagler Drive in West Palm Beach where private docks extend seaward of a public walkway. But they will vacate. He asked his client what is his intention with regard to the City, and he said let them have at it. He has read Mr. Beach's presentation two weeks ago where Mr. Beach is preparing a conceptual site plan to go to the Army Corps of Engineers and to ask them for the City's use. They will go with him and they will support the application. They would hope in the process if they make that application, they will show them their preliminary plans and make sure that it respects the rights of their guests who will traverse crosswise hopefully their approved use and they will need some security features. But the two gates that are shown at the end of their project will also come down, along with the improvements. That makes number five go away and they are in compliance and the City has not had to ask them for any property rights to come into compliance.

Staff number six is a thorny one. Staff number six is the additional right-of-way as provided along Seaway Drive. When he first read that, he was looking for the provision where the City made an offer as to how much they were going to pay them for that right-of-way and he noticed that it was not accompanied. So he said do not ask Mr. Margotta for the money, just ask Mr. Margotta to tell him where is it in their Code that they believe they are shown to have a regulatory entitlement to that right-of-way? Can he point him to a legal requirement in their Code that requires his client to give them an additional five feet?

Mr. Margotta said hopefully Peter Buchwald can point out the specific Code as he is speaking. But as a development occurs, it has been they expect that the adjoining right-of-ways are brought up to their City Code. It is just a matter of as development occurs, they bring something into compliance. This is typical. They have seen it in a lot of subdivisions, particularly in areas where they have annexed where there has been a 50 foot wide right-of-way, and as development occurs they need that extra five feet from either side to bring it up to their minimum standard of 60 feet right-of-way. He thinks this can occur with something other than a right-of-way, it might be more of an easement situation. There is portions of a road that they still need to work through the whole subject.

Mayor Benton asked speaking about that same right-of-way, has the applicant said he would cover the cost of underground utilities throughout the extent of his project along A1A?

Mr. Margotta said that is to be part of the discussion. He has not heard that specifically from the applicant.

City Manager Beach said what he would ask Mr. Morell do, instead of asking staff to prove their positions in this setting, that if he disagree with those provisions, let's work those out.

Mr. Morell said he understands, perfectly fair. Having asked the question, he is ready to get back to address it.

Mayor Benton asked shouldn't this have been done before it came in front of this Commission? Couldn't this have been hashed out with staff so they are not going to be here all night long?

Mr. Morell said he wishes he could say yes; but he is holding a letter dated April 27th signed by staff saying that his client's project on April 27th complied with all minimum criteria in the code.

He was really surprised last Wednesday afternoon to receive the memo dated the 15th with the six new issues. But he is not here complaining about that, he is trying to respond to the six issues. So the answer to the Mayor's question is his client has always been open. They were under the impression that since May 29th, and confirmed by Mr. Margotta in a letter to his client on April 27th, that they were in minimum compliance. All of this stuff is new to them. But they are here in good faith trying to meet those. And he is going to address the comment about right-of-way. He thinks City Manager Beach is appropriate, they are not here to beat the City to death over the lack of a regulatory requirement. They have asked for a specific requirement; and while one has not been provided, it is important to understand that his client might be willing

to make a donation to the community as a good corporate citizen, having not been provided with the exaction policy in their code that meets the various constitutional tests. And what his client would propose with regard to staff recommendation six is - and this is in response to the questions that Commissioner Alexander had - his client would be willing to deed to the City the five additional feet of right-of-way, the transaction to be completed at the time of the Certificate of Occupancy, provided that the recalculation of the setbacks not be done according to the new five feet, that they be allowed to keep their existing landscaping in place. Since they do not intend to widen the road tomorrow, they would ask to let them give the five feet on the day they are going to get a Certificate of Occupancy; and they will keep their nice landscaping in place and it won't need to be removed until they decide to exercise the right-of-way since they will have title to it on the day of closing. He thinks that is a fair voluntary contribution, not sustained by any regulation that has been brought to their attention, but a presentation by his client as a good corporate citizen that he is willing to do that to get his application approved tonight with conditions that he can agree to.

Commissioner Coke said first of all she wants to commend everybody involved. She is surprisingly pleasantly happy here that they seem to have reached compromises. She is one vote here, but if he is willing to give them the right-of-way and then landscape their right-of-way for them, that makes her all the more happy.

Mr. Morell said it is a community benefit.

Commissioner Coke said but she would like to, before he brings up the troops, because she knows they have a lot of public here that she is sure would also like to speak. But before they bring up the troops, she was so pleased with all of his answers to the public access on the water and the right-of-way, her question to him is if everybody is going to stand up and say they are going to find a way to compromise and meet the City, then can they not just proceed - unless there is specific questions for these people - with the theory that he has read these conditions and that they are going to work out a developers agreement should this pass that will put these things into play?

Mr. Morell said the terms of a development agreement raise complex negotiations in a number of subjects that are required to be addressed by the Florida Developers Agreement Statute. He believes what his client would rather see is a simple condition attached to the development order approving his site plan. These are conditions that Mr. Schwerer could draft.

Commissioner Coke said she guesses she phrased her question incorrectly. Is he saying to her that all these gentlemen and ladies that want to come up and tell them about each one of these bullet points are basically going to say they found a solution, they found a way, and it is going to work? That being the case, it would be her preference, unless there is a specific question for one of these gentlemen and ladies, to state that these are the conditions of the approval, and allow the public to speak.

Mr. Morell that is fine. He knows Mr. Schwerer, as artful as he is in advising them on site plan approval with written conditions, is as dedicated a professional as he is, and he hopes he has a level of comfort. He would like to see the language... Although it is obvious they are meeting conceptual approval here tonight in substance, but he thinks they are going to need to devise a little process where Mr. Schwerer can draft a condition and they can agree as a scrivener's review of the condition, and they not get themselves into a situation where they have a vote and approval but not written language of conditions. Mr. Schwerer may have some suggestions on how they approach that process issue. But having said that, they are not going to add anything? Believe it or not, he is going to waive his right to raise an objection to them not having declared ex parte communications or anything quasi-judicial procedure. It is a pleasure to have staff to do as much work to bring the parties as closely together as Matthew Margotta and Peter Buchwald and David Recor have done in the last six months.

Commissioner Becht said this is most interesting tonight, like a love fest. This may be where the love fest ends. He needs some commitment on the record from Mr. Morell on behalf of his client, or his client directly. Mr. Margotta mentioned earlier that the kitchen facilities in the 21 units would be built to the South Beach Overlay. Is that correct?

Mr. Morell said as he knows, their application is 27 months old. One of the legal issues, which they hope to dismiss tomorrow morning after they get an approval tonight, is the standards under which their application is going to be reviewed. Mr. Margotta said earlier today, that even though they were not required to meet that as a matter of law, they in fact met it, which is probably a reflection of the hard work that Mr. Recor put into revising that South Beach Ordinance. He knows he was weary at the end of it.

Commissioner Becht said he has not heard a yes or no.

Mr. Morell said his answer to him is yes.

Commissioner Becht said he is afraid to push it any further than that. He would like to get on the record, and he had talked to his client about several issues and found him to be very much in the mode of compromise, which was great. But what he wants to get on the record is that if this is how it is going to proceed, if they move to try and get permission or forgiveness from the Corps for anything they may build on that right-of-way, he wants to make sure that he is not going to have an objection from the upland owner, his client, for the construction of a six foot sidewalk between his property and the inlet. So he would like to get on the record tonight that his client does not have an objection to them both seeking permission for and constructing a six foot sidewalk.

Mr. Morell said yes, he said earlier they would go with them to Corps. They would hope staff would bring their conceptual plan which shows the details of that plan to them before they both go to the Corps. They would address their concerns. Their concerns are going to be safety and cross access to their docks, which are going to be blocked off from access to that walkway. And so the answer is yes.

Commissioner Becht said okay. One of the options that they have is that his client would draw them for the City, that they would agree on a design. And he is not saying that this is the way they need to do this tonight, but there may be some benefit with all of the revisions that are going to have be done to the site plan, that they be negotiated in the next two weeks so Mr. Bernstein knows what he has been blessed with and the Commission knows what has been given. So there may be some benefit to having those drawn and brought back to them in two weeks.

Mr. Morell said a lawyers job is to give his client his advice. The client makes the decision about whether to accept it. He is going to tell them what his advice to his client is going to be on that question and then they can hear from him as to whether he accepts the advice. His client, before they came to the compromise this evening of rescinding the gated access to the use of the Corps property in front of their property, was to give them walkways on the east and the west side of the property. When issue of the Corps came up, he suggested this community has not put forth the planning necessary on South Beach to adequately address the transportation, vehicular, and pedestrian access issues that are going to be a result of this project being the first step in creating a linear park all the way down to Jetty Park. The Town of Jupiter has been working on their riverwalk for over five years and they had this conversation in honesty. They spent millions of dollars with the engineering firms, they have constructed parking garages after they have done transportation impacts. Because these easements to the waterway around his clients property are going to generate tremendous pedestrian and traffic impacts for the neighborhood. He does not believe that his client is required to put the capital infrastructure necessary. The United States Supreme Court says that their exaction from his client must be roughly proportional. He as a lawyer is of a firm belief that the mere language that they put into their South Beach Overlay and a that the preliminary comments that they are going to adopt later this evening in their Comp Plan means they are nowhere near being able to show rough

proportionality. He told the client he is concerned about the access because people are going to be coming across their property on both sides to walk down to Jetty Park and he really thinks he ought to limit access to this walkway from people who can park at Jetty Park, because the neighbors are not going to like the traffic jam that occurs down at Mangrove Matties as everybody is trying to go fish off the Corps property, which they hopefully will help them get some use. So the answer to that question is, his advice to him is going to be no, because they need to a little more homework. But he will be glad to work with them to show them what the Town of Jupiter did to satisfy the rough proportionality standard. But at this time, they have not made the showing. So his advice to his client is that he not do the improvement. Have at it, have a good time, they will go with the City, they hope the City will make it safe for their guests to traverse and go to the dock, they will go with them to the Corps. But his advice will be that he not pay for it.

Commissioner Coke asked could Commissioner Becht repeat his question, because she kind of got lost there.

Commissioner Becht said he thinks Mr. Bernstein knows what it is, because he asked him this today.

Mr. Morell asked just the design, does he mean the draftsman fees?

Commissioner Becht said let him restate it. What he was looking for was a statement on the record from Mr. Morell on behalf of his client, or his client coming to the microphone and saying it after being very fully advised, that he is not going to object, as an uplands property owner, when the City goes before the Corps to seek this access between him and the waterfront. Mr. Morell said he has said he will go with them. What else does he want him to say?

Commissioner Becht said he liked the way he stated it.

Mr. Morell said assuming they don't design some access that encroaches on his reasonable use to his riparian rights over the water, which they are not going to have access to, he cannot see why he would be opposed to their design of a walkway.

Commissioner Coke asked is that why Commissioner Becht asked him to design it?

Commissioner Becht said yes, that is why he asked him to design it. And perhaps come back in two weeks with everything all tight from all the compromises that are...

Mr. Morell said he has not had this conversation. As he told them, the client can make his own decision. Tell him what he wants to do?

Mr. Bernstein said this is the first time this has come up, but he will be happy to work with them and put some preliminary designs together for the walkway, and then work with the City and the staff so that everybody is in agreement and it works for everybody.

Commissioner Becht said okay. He does not know if Mr. Bernstein has had a chance to talk to Mr. Morell since they met today, but one of the things he mentioned to him that he, as one of five Commissioners, if they are able to get full extension of the walkway along the inlet running east from his property line to the inlet, that he does not think they need both of the entrance points to the sidewalk.

Mr. Bernstein said he agrees.

Commissioner Becht said obviously he has not shared that. That is just him; and Mr. Margotta suggested that they retain the one on the western edge. But that would lift some of the burden off of his client at such time they were able to extend it to the east.

Mr. Bernstein said in all fairness to Mr. Morell, he has been working very hard trying to get ready for this hearing and maybe...

Commissioner Becht said he is not criticizing Mr. Morell at all. What he is trying to do is...

Mr. Bernstein said that is an agreement, right. He agrees with Commissioner Becht, they did agree to that.

Commissioner Becht said wonderful.

Mr. Morell said he believes their project provides for valet parking, so people are not going to be able to get into Mangrove Matties to use their parking lot to go fishing. They are going to be the ones to deal with the complaints of everyone else who is double-parked out on Seaway Drive when they walk down there. But his client has informed him something he did not know and he understands.

Commissioner Alexander said they require all the other hotels to have sidewalks on the footage of all their properties. So why are they doing something different here?

Mr. Morell said they have one on Seaway Drive.

Commissioner Alexander said he is asking the Commissioners now, because they make these decisions about other hotels that come into this community that they have sidewalks on the area to their properties surrounding their property - north, west, east and south. He is asking now why it is such a dilemma for them to get a sidewalk along that right-of-way? This is just a question he is asking to the Commission. They require all hotels, is he right, that the sidewalk is extended the entire length of their properties?

Mr. Margotta said it is along public right-of-ways.

Commissioner Alexander asked so is it not a right-of-way on that ACoE?

Mr. Margotta said this is his take on it. Public right-of-ways are generally meant to mean streets and conveyances, means like that. This particular thing by the Army Corps of Engineers is designated a right-of-way on a county record. He does not know as a matter of proof of whether this is some sort of...

Commissioner Alexander said they do not know. And this is something else that they have not talked over with the ACoE.

Mr. Margotta said exactly. It is their property, it is obviously the Army Corps of Engineers property.

Commissioner Alexander asked but it is a right-of-way too, right? It is the public right-of-way?

Mr. Margotta said he would not be able to raise his hand and say it is absolutely a right-of-way.

Commissioner Alexander said okay, that is something he wants it to be brought back to him when they answer the other questions about the Army Corps of Engineers.

Commissioner Nelson said ordinarily since they have gotten the staff to work with the applicant at great length and he has made certain concessions relative to whether or not he would concur with some of the recommendations made by staff, he tries to make people happy. It looks like they have a making for being happy. The only areas of contention he has here would be in the area of that one dealing with the conditions that he is going to use to make the Corps of

Engineers help them to allow for access along that side.

Mr. Morell said they cannot make them do anything.

Commissioner Nelson said maybe the word make is a bad word. But one way or another they would be made to do it, either by them recommending it or their own conscience, somebody would make it. Let him ask a question relative to development of the property and the use of the property in the future. Is the developer contemplating sale of that property in the near future, i.e. flipping it? Is he planning to in fact build that complex over there? Does he have no doubt he is going to do it?

Mr. Bernstein said he has been here 27 months trying to build this property. He has had a contract to build this hotel now for almost two years. All they have been trying to do is get to this point to get approval so they can go forward and build it. He has nobody that he has talked to about flipping this, he has not tried to sell it, he has not looked at selling. All he has been trying to do is develop and build this hotel.

Commissioner Nelson asked so in his heart of hearts he is going to build this project if it is approved by Commission?

Mr. Bernstein said yes. And he has a contract that has been in place to build it for almost 18 months.

Commissioner Nelson asked what is the approximate value of that hotel complex that he figures?

Mr. Bernstein said probably \$100 million.

Commissioner Nelson said they just denied the historic designation, which implies if they do not move those buildings, that he is going to demolish that building as well as all the others on the site. Is that correct, is he going to demolish all the buildings? What buildings is he going to demolish?

Mr. Bernstein said everything will be demolished except Mangrove Matties, which is going to be the restaurant for the hotel and open to the public.

Commissioner Nelson asked the traffic study that was made back in 2003 and 2005, have those been updated?

Mr. Bernstein yes, they have; and it was submitted Mr. Margotta Friday and is as of March 2006, using all updated data.

Commissioner Nelson asked he is perfectly willing to further sit down with staff to reconcile these bullet points that they have cited here to the satisfaction of this Commission and come up with a written agreement on that in the very near future?

Mr. Bernstein said yes, they have already addressed 99% of the items that were given to them, bringing everything into compliance.

Commissioner Nelson asked is there any particular one that he really have some concern with; or does he feel in his heart of hearts that all of these can and will be worked out with staff?

Mr. Bernstein said he feels they can work everything out. The main one is the five feet. Like Matt Margotta said, he wanted either an easement or right-of-way, that it does not affect their setbacks or landscaping.

Mr. Morell said they convey at the point of Certificate of Occupancy.

Mr. Bernstein said the CO, right. Yes, they can work them all out.

Commissioner Coke asked when they talk about the value of this hotel, is it Mr. Bernstein's intent that this will then be added to the tax rolls of St. Lucie County?

Mr. Bernstein said of course.

Commissioner Coke said okay. She had heard that there was talk of bringing in an Indian Tribe as a partnership for tax exempt purposes. It is a small town, rumors fly, so she thought she would ask the question.

Mr. Bernstein said he hasn't heard. He doesn't know anything about that

Mr. Morell said it is in the CRA. The CRA is going to have its tax increment, what they get from the County.

Commissioner Coke said she just thought when she gets two or three phone calls saying the same thing, she thought it was worth asking the question publicly.

Mayor Benton said he did not hear, would there be a commitment on Mr. Bernstein's part to cover the cost of the underground utilities when they reconstruct A1A out front? Harbour Isle covered their costs. Normally they ask developers, especially over \$100 million project.

Mr. Bernstein said he will be happy to sit down with Mr. Margotta and staff and work that out. This is something that was just brought up right now and he is sure he can work that out with staff.

Mayor Benton said for him, that would be the only way he would support it, with the condition that it would be paid for by the developer. When he thinks of a resort hotel, he thinks of a lot of amenities. He sees a couple pools, one nice size pool, but a couple of real small ones. But he does not see tennis courts. He does not see the things that when he goes to resort hotel the kids like to do something. He just sees some beach space and a couple little hotels and they can sit in the sun. But tennis courts?

Mr. Bernstein said they are going to have a spa, they are going to have a gift shop, they are going to have meeting rooms, and they are going to have 24 hour concierge, all the amenities that a high-end hotel does have. They do not have the room for tennis courts or he would have put them on.

Mayor Benton said because to him, this just puts a lot of the family, if the husband or wife are there for a conference, it puts the kids and the rest of the family down in their park.

Mr. Bernstein said no, they have a kids club. Also, that pool is an extraordinary pool with slides and waterfalls. It is a very elaborate pool. And they have a quiet pool at the east end. They have a pool for the spa. The spa will give all types of treatments. They will have valet parking, 24 hour room service, they have a small gift shop, and a bar or a grill around the pool. They have all the amenities that any resort hotel would have.

Mayor Benton said except tennis courts.

Mr. Bernstein said he cannot do tennis courts.

Commissioner Nelson said he has a follow-up question regarding underground utilities. By precedent, they have had Harbour Isle to put most of their utilities underground and the standard has been set. Other than cost, what reservations would he have relative to putting his

underground?

Mr. Bernstein said rather than working out the cost, he does not have any idea. But they would want underground, they would not want them above ground. They would want underground utilities of course. They do not want phone lines and things like that, power lines above ground.

Commissioner Nelson asked did staff review this in terms of underground utilities or not?

Mr. Margotta said no. There is a general understanding that as they are able to underground utilities, they will. He does not recall on the plan whether it indicates that the utilities are above ground or not on that side of the road.

Commissioner Nelson said he did not see it either. But he would think his support of it would be hinged upon the fact that they would have underground utilities. That size project in terms of physical size as well as fiscal cost, he thinks would dictate that.

Mr. Bernstein said they always intended to have underground utilities.

Mayor Benton said they have to put it underground on their property. But with the reconstruction of A1A, it is all going underground, and they just expect them to pay for it out front.

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

Ms. Marcia Baker said she has no objection to the concept of a hotel or condo hotel resort on this property. It is a surprise, she bets. She is happy that the zoning was finally corrected to allow for the legal and proper application process and she wish that her remarks calling to the attention to this problem at the initial hearing had been better received. She would have also been happy to been proven wrong in her reasons for opposing the granting of this developer's prior condo development in October 2003. Since she is tired of finding herself in a role of a Cassandra, the women in mythology who was given the gift of prophecy and the curse that no one would believe her, she is not going to oppose the granting of approval for this latest incarnation of this development. She tried to show the actual effect of having a monolithic expanse one block long and 50 feet high facing all other property owners and people driving by between Hernando Street and Seventh Avenue on Seaway Drive. An expanse tricked up to fool the eye or, as the architect explained, an elevation designed to appear to be several large scale townhouses. She prepared a paste-up that she can distribute. (Ms. Baker displayed photos and drawings.) She took some pictures and took one of the elevation studies from the Island Village Development website and she pasted them onto the views that she took. It is an amateurish little job, but it gives an indication of what it would look like from the road one block long from Seventh Avenue, which is at the eastern entrance of Mangrove Matties, all the way to Days Inn. Those are the views before and that is what it would look like approximately with these monolithic structures. But after she made the paste-ups, she realized she was being foolish, because she believes the buildings as designed could likely never be built. As she can see it - and she obviously is not in the Planning Department or an Engineer or anything - the original Planning Department, when they skated this proposal through the Planning Board, never considered the requirements under the Florida CCCL (Coastal Construction Control Line) that prohibits structures of more than 200 feet. It does not allow the joining of the buildings by parking and closed walkways or any other contiguous footing or foundation. It clearly shows that there must be a minimum of 20 foot clear space, just as there is with the Harbour Isle buildings. This of course might have been discovered if the initial applications had included the required qualified engineering, foundation, soil load tests, elevation studies, wind load designs, other requirements for obtaining a site approval on a barrier island. This unfulfilled requirement is in the application, Number 12, Item A, Compliance with CCCL, Florida Statutes Chapter 161. It is even more stringent of a

requirement for this site as it sits about a foot below the flood level, is in a high velocity wind zone, and has neighboring properties that are not elevated to the current standards. They might wonder why she is not objecting to the approval of this dream development. Well as she sees it, the approval may allow the developer to restructure his finances, pay off the lien from LEB Demolition, who has filed for foreclosure on their liens, thereby providing a local hardworking business to be paid what they are owed for their work tearing down the condemned buildings. It would also allow this developer to continue his ongoing sales of the resort hotel condo units. And since the City has been mowing the weeds regularly and the for rent by day, week, or month sign is gone, the view from her front window is somewhat improved. She does need to go back into Cassandra mode for a few conditions she would like to see applied to any approval. Number one, a bond sufficient to cover all costs if this approval, like the last one 3-1/2 years ago, runs out. She thinks an amount equal to the building permit fees would suffice. That way a year from now, when all the approved hotel units being marketed have been sold and the developer has perhaps again expanded his area of proposed development eastward and sold another couple hundred units and comes back to the Planning Department for a revision of his plan, they will not again have to use taxpayer funds to pay the legal and administrative costs of propping up his public relations and promotional activities. And second, a legal disclaimer that Mr. Bernstein would sign and agree to have posted on his Island Village website and on all marketing and sales materials that would hold the City of Fort Pierce and its staff harmless for any damages occasioned by his marketing practices. As she believes that if the pyramid collapses, the City might have some potential exposure for vicarious liability. Now she would like to add a few remarks for the record, although they have already voted on the historic preservation issue. She spent two weeks of research, and she would like just to have for the record the results of her research entered into the record. The man who built and occupied the building in 1926 ironically was a real estate developer and speculator named George Alexander. He operated his business from his homesteaded residence at 1770 Seaway Drive and is listed in the 1928 and 1930 City Directories along with his ads for sales of land on the beach. In 1943, the Fort Pierce Realty & Construction Company signed over control of the property to the government for use and occupancy as an amphibious training base. She has a map of the base showing all the existing and proposed buildings and their uses made in 1944. (Ms. Baker displayed a map.) The subject building at 1770 Seaway Drive that had had and has no interior access to the single story dental clinic is designated as scouts and raiders officers quarters. She was overwhelmed with the pictures and stories of these exceptional men who did the training and preparation for these special elite units. And stunned she had been so ignorant of the essential role this island that she lives on had in the battles of the Second World War and in particular the D-Day Invasion. After the war, the properties were returned to the original owners. Her house was built on ground that had tent barracks on it and she still finds remains of asphalt when any digging is done. Afterwards, it went into the hands of the Backus family. Whether or not the building is designated as a historic building, which it obviously is not going to be, she has appreciated the opportunity to reawaken memory of the remarkable history of this building, particularly with Memorial Day next week and the Sixth of June nine days later. She thinks of these young men whose pictures she sees in front of their barracks and wonder if it was the land under her home that they were standing on. She looks at the building across the street and thinks of those brave men who lived there preparing for battles and a war.

Mr. Margotta said he thinks they need to understand that when staff looked at this application, there is no indication that the CCCL requirements applied to it. They will check that out, but he does not believe that is the case, they have already reviewed the application.

Mr. Jack Cahill said he lives at 801 South Ocean Drive. He is not sure how many of them have actually developed any property on the inlet, but he did the Mangrove Matties development. The Army Corps of Engineers have easements across those properties and those are there for a reason. They are to service the Binney Wall, which was built by the federal government. On top of that, they have a rule where they had to wait almost a year for the Army Corps of Engineers to approve the easements, to move these easements where buildings would not be. They had to be on vacant ground so they could have access to the Binney Wall. There is a

reason for these things originally. On top of that they had to have them, that is why there is space there right now on the front of the Mangrove Matties property, to allow them to get their equipment in to service the Binney Wall, because that is their responsibility. The thing is, don't think they are giving anything because the Army Corps is not going to let them have access to that property for any other use but their use, because they have a responsibility to service that wall. On top of that, they would not allow any docking, cantilever or anything else. They had cantilever docking up there on what used to be the Navy hospital in the Second World War because the Navy put it in. Of course, they did a lot of things at that time, which everybody was glad to have them there because they were in a war. But they would not allow it again. So do not think they are going to, unless the Army Corps has changed any since 1987 or 1988. They are not going to have it done overnight. They also would not let them even submit a site plan to the City of Fort Pierce until they gave them the right-of-ways to move the easements over to the east side of the properties. Now he thinks there is one or two other easements on that property going all the way up to the west side of the Days Inn. Just so they know these things. It has to be that way because that is the rules they live by as far as the inlet is concerned.

Ms. Carole Mushier said President of the Fort Pierce South Beach Association. She guesses she is going to join the love fest. They support Staffs recommendation for approval of the site plan for Island Village if all of the seven conditions are met. She would like to add that when they are talking about underground utilities, she thinks they are talking about on their own property. Along A1A is whole different ball game, so the Mayor might want to add that. They particularly do want to see public access walkway through the City, she assumes, for the entire length of that project. They envision it, as does Commissioner Becht, to have a walkway that runs the entire length of the inlet as much as possible. And since this project will serve as the precedent for all future development of the C-5 zone along the inlet, they support the application of the South Beach Overlay to this project. She noted in one area in the staff report it was talking about parking and gave an alternative that the South Beach Overlay would require x-number of spaces and otherwise the hotel would require. She does not think they can use one form for one and one for another. Either the Overlay is applied or it is not, they cannot cherry-pick, they cannot take the best from two possible worlds. What she is hearing and what they support, it is the South Beach Overlay that is the rule of the land for South Beach C-5. As an afterthought, they did support denial of the recommendation from the Historic Preservation Board; not that it matters at this point, but it was their position. She trusts this is the last they have to speak on this issue.

Mr. Bill Oliver said he is a resident at Harbour Isle, one of the largest tax bases on South Beach. He moved here December 1st. He came here to see how serious the Commission was about developing South Beach. And he is very happy to see all of the remarks this evening, to see the way it is progressing, been watching them all on TV. Commissioner Coke's remarks regarding the ultimate denial of the historical designation he thinks is very accurate with that. Regarding this particular project, one of the questions that he has for the developer is, with a 243 unit condominium hotel and all of the amenities that they are talking about, he does not hear adequate employee parking. It sounded like they had a little bit more than one parking place per unit. And with added amenities from concierge on, the parking for employees was a question that he had for them, and he thinks that should be part of the consideration. They all know the problem with traffic and transport in. They only recently got the downtown bus to even stop at Harbour Isle. As far as public transportation to that area, he sees that as a potential problem. The Commission has an opportunity to make South Beach a tourism destination far beyond a fishing excursion. And with this ability, they are thoughtfully planning and developing what could and hopefully will be the crown jewel of Fort Pierce, which is South Beach.

Mr. Steve Weaver said he is a resident of South Beach. He does share hopes that they will approve this project per Staffs recommendation. He knows the staff has been working real hard with the developer and it has been a long time. The community does need the economic benefit of having some projects start; and he thinks they will see several more projects if they get this one approved.

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

Commissioner Coke said she has one more question of staff. She might have misinterpreted when they were bringing up parking requirements. It was her understanding that the parking along with all the other conditions in the development now meet the South Beach Overlay. Is she correct in that assumption?

Mr. Margotta said that is correct. It so happens that it meets the South Beach Overlay District. He believes staffs whole intent to bring that out is to help mollify or at least let them understand that the plan is acceptable.

Commissioner Coke said so they have succeeded in raising the bar.

Mr. Margotta said he hopes so.

Commissioner Becht said for clarity on that, he thinks they meet the South Beach Overlay if the restaurant operation is limited to 2,500 square feet, if he is not mistaken. If they leave it at 4,500, he does not think they meet the South Beach Overlay. Is that correct?

Mr. Margotta said that is correct.

Commissioner Becht said he is not sure what they are going to do tonight. He had mentioned to Mr. Bernstein in the last couple of months they were brought a conceptual plan and staff had recommended approval, but they had so many conditions on it that he could not see the conceptual plan. He thinks he is there tonight, which is where he cannot see what it is they are approving. He sees the words, he sees the conditions, and hears him and he does have a lot of confidence in staff. And tonight he has a lot of confidence that Mr. Bernstein and his attorney are going to meet them halfway to bridge the gaps they have, but they still have a lot of gaps. He thinks he would prefer to have a hard drawing in front of him in two weeks with these gaps met rather than throw it back at him and have issues pop up as they come along. He is going to go through the issues that are bothering him right now. It should come as no surprise to anybody that one of the issues that is bothering him is he does not see clearly the pavers going down for the walkway along the inlet. He had met with Mr. Bernstein and suggested the he either deal with the Corps or he agree to give them the public access on the northern edge of his property line. That is not depicted in the site plan they have tonight and that is not what they talked about tonight. Because that is not what they talked about tonight, he can see a circumstance where they would not get the right-of-way from the Corps to build this boardwalk that is a dream of his and he thinks it is shared with quite a few others; and they would not have a key part of that puzzle, which he was hoping that this project would kick start and which he truly believes in his heart would benefit the project. They only as of Friday got the updated traffic study. There were some serious, in his opinion, deficiencies with the earlier traffic study for neglecting to include Harbour Isle, not that it generates any traffic on South Beach. And also an assessment that 60% of the traffic exiting this facility will travel to the east rather than to the west. He really needs his staff, the Engineer, to go through that updated traffic study and make sure it meets technical standards, it is accurate, and there is not going to be a dramatic and appreciable impact on their street system over there, because it is a very fragile street system as those of them that live over there or travel over there know. There was not any discussion tonight, but the breezeway, he would like confirmation that the breezeway is what it is supposed to be. When Ms. Baker spoke earlier, she talked about the appearance of what he would call the canyon. And he thinks the breezeway, if it is what it supposed to be... They call it a breezeway or a view corridor. If they can show people that there are view corridors or there is at least one view corridor, he thinks that would calm some of the people down. The five foot for A1A, he asked Jack Andrews (City Engineer) tonight if he thought the commitment of that now or in the

near future would help them with the A1A plans; and Mr. Andrews did not say this, but he thinks he is scared to death to talk to FDOT (Florida Department of Transportation) about changing their plans to accommodate the additional five feet. They did not talk, but he would like to talk about whether there is the capability of taking any the water flow off of A1A and into Mr. Bernstein's system. He does not know if it is designed sufficient to accommodate any of that flow, but he would like for there to be discussion with him about that. He thinks that when Mr. Arias (former City Engineer) was here, that there was some dialogue about whether that could or could not take place. There is an Army Corps of Engineers easement, as Mr. Cahill mentioned, that is 20 feet in width that goes north and south on the property. That needs to be located whether it is or is not under the improvements and they need to know what is going to happen with that. There was a mention of a monetary contribution to the Jetty Park. He would like for staff to talk with Mr. Bernstein about, since he is saving approximately \$85,000 or thereabouts from moving the building, whether he might be able to do anything there. If he understood his comments correctly, against the advice of counsel, Mr. Bernstein will participate in the design of the sidewalk, perhaps with some low level lighting on the Corps property. And he did commit to the South Beach Overlay in the limited respect to the kitchen facilities. He is expecting that the applicant will meet as he said the seven bullets that are in the staff recommendation of May 15, 2007. And he has now given him the benefit of what his thoughts are for, as he wants to call it, a five star resort. And he thinks if Mr. Bernstein will do that, that South Beach may really have a five star resort.

Commissioner Alexander said this question is for staff. Out of the whole length of the project, he does not see any turning lanes. Other than Seaway Drive is a two-way lane, he does not see any turning lane or acceleration lane, is that what that is?

Commissioner Becht said coming west, this is a decel lane.

Commissioner Alexander said this is a decel lane here, okay. Is he looking at the sidewalks on the outside of that?

Commissioner Becht said what is not depicted here is, as they are traveling east, is there a median or a turn lane to get into the facility for hopefully the occupants of 200 some odd rooms.

Commissioner Alexander said that is what he is asking, the bottlenecking of traffic in that area there. It is rough there now, especially when they have these large dump trucks in and out down that area. Have they not taken that into consideration?

Mr. Margotta said a couple of things going on. They have the A1A improvements that have already been planned. The intent is, which he is quickly going through right here to see that particular portion. But one of the reasons staff needed to look at that traffic study was to see if there was any mitigation requirements. And of course a left turn, something like that would be glaringly obvious to them in the traffic study.

Commissioner Alexander said so that is still in the works.

Mr. Margotta said he believes so.

Commissioner Nelson said he endorses quite a few of the comments made by Commissioner Becht. He wants to ask the question as to whether or not they are going to bring this back for a final resolution as to various points that they have made here?

Mayor Benton said to do that what would have to happen is it would have to be postponed tonight; and staff and the developers sit down and put this in writing.

Commissioner Nelson said he feels confident that they are going to have this in writing. But at the same time, how harmful is it going to be to wait another couple of weeks to get it finalized?

And everybody is saying that yes, they agree, if they were to bring back a plan that says this is what they agree upon?

Mayor Benton said it has been 27 months. He would think two weeks would be nothing.

City Manager Beach said if he understands the recommendation of staff, it is to approve this with those conditions that were delineated. Nothing would be permitted on that site until there was a site plan and a compliance with all of those conditions.

Commissioner Coke said except, not to be argumentative with Mr. Beach, not this staff, but they have had staff sit here and tell them that they should approve this beautiful 65 foot boat storage building that was going to look lovely, even when they sat here and said, what do you mean a 65 foot building that is one-story? As much as she would love to sit here and say lets move forward with this this evening, she is kind of leaning toward Commissioner Becht's idea. Because she would much prefer to have Mr. Bernstein know what they are expecting and they know what he is expecting, and it is all in black and white. So six months from now Mr. Morell is not going to stand here and yell and say but you guys said... And they are going to say something different.

City Manager Beach said that is a Commission prerogative.

Commissioner Nelson said he does not know why they have to take his points and work them, but that is all right. They are getting ready to do Seaway Drive or A1A improvements, major improvements that is going to entail underground utilities. Did they consider fair-sharing anything in that regards? Because he does not know whether this project is going to be done before or after that improvement is made and whether or not they are going to have some contribution to the Jetty Park complex.

Mayor Benton said there were some developments along A1A that now the site plans have expired, but they did make them commit to paying for the underground out front. And like he said earlier, he would not support this unless the developer committed to paying for that. And he would want to see an accurate figure from Fort Pierce Utilities Authority, if this goes two weeks, when they come back. Because they do not even know whether it is \$1 million or \$3 million a mile to do this.

Commissioner Nelson said he hates delaying projects.

Mayor Benton said he also likes to make everybody happy.

Commissioner Nelson said right; and that is why he wants to make sure they all agree and on the same accord as to what they are going to do. What is expected from him and what is from them and then everybody will be happy. Let him ask Mr. Bernstein, how much would two more weeks for him to reconcile these things with staff hurt him in any way? Hopefully, not at all. He could agree with that?

Mr. Bernstein said believe it or not, two weeks is a tremendous carry on this project, it is sizeable amount. It is a burden, he cannot tell them it is not. They have turned things around so quickly, whatever Mr. Margotta has asked for and staff, trying to comply. And if the Commission wants them to, they can put it on and show them the hard plans show everything they have talked about tonight.

Commissioner Becht said he is not going to show him a plan tonight that has their public access across his northern property line or on the public access. So there are things that are missing.

Mr. Bernstein said that is the Corps property. He does not own that property.

Commissioner Becht said he did not hear him earlier. What he said was - and actually he and Mr. Bernstein have had this conversation - what he said was, if Mr. Bernstein can get the Corps to give the City the public access, then they will not take it off of his property; but if he cannot get it off of the Corps property, then he was asking Mr. Bernstein to model it in to the front of his property so that they would have that public access. He does not know if there are three other Commissioners up here that support him on that. He is ready to make a motion to continue this for two weeks to a hard date so they have a plan in front of them, a plan that they can show to the public that shows them what they have approved, and they do not really have that tonight. Because even if he puts up what he has drawn, his staff has not had a chance to work through that with all the engineering and everything else that goes into that.

Mr. Bernstein said he agrees, they haven't. But they only had a couple days to provide it to them also.

Commissioner Becht said Mr. Bernstein has responded extremely quickly. And if he can respond quickly for the next two weeks, he feels like they will be able to clearly show him what... If they give him an approval tonight, he is not going to know what he has tonight until he goes through the process with staff. The five Commissioners have given him full dialogue tonight so that he has an idea of what they are going to approve; and furthermore, staff knows what they are looking for.

Commissioner Nelson said he does not want any disconnect on their parts. He thinks all of them, to include the people in the audience here, really think this is a viable product and they want it. But they want the best product possible based on the best available information possible. And if they can come back with some type of firm verbiage as to what each of them is going to do, he thinks they will be much better off. He is for the project, but he wants those resolutions indicated that they have talked about generally tonight. In all due respect to him, he does not think two more weeks versus 27 months is going to hurt him that badly. But it might. He will make a deal. Why don't they go to lunch and he will let Mr. Bernstein buy him lunch or something.

Commissioner Coke said she will put it to Mr. Bernstein that if they were this evening to reiterate that they were looking at these seven points and the landscaping and the undergrounding A1A, and she would like her staff to give her more clarification between now and June 4th on the parking, that she would put it to him if they were to tonight as a Commission postpone this to June 4th, that that would put everyone in a deadline situation. Whereas if they were to approve this conditioned upon etcetera, etcetera, etcetera, it could take two or three months to work those things out. If they postpone him today until the June 4th meeting, she thinks it would be in everybody's best interest to have a comprehensive plan in front of them on June 4th. Not to delay him any further, but she would move that they postpone this to June 4th and ask staff and the developer to come back with a comprehensive plan of all the things they discussed this evening.

Motion was made by Commissioner Coke, seconded by Commissioner Nelson, to postpone the site plan for Island Village to June 4th, and ask staff and the developer to come back with a comprehensive plan of all the things they discussed this evening.

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

Mayor Benton said they want to see those details at the next meeting. And please check with Fort Pierce Utilities Authority. He himself wants to see an accurate number in there because it is a very costly project.

Commissioner Nelson said they are going to say that they have resolved these points, they agreed on these points. And hopefully not a single one stands out saying this is one they disagree on.

Everybody is happy.

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Ordinance No. K-486 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED ON THE WEST SIDE OF SOUTH OCEAN DRIVE, KNOWN AS RE-PLAT OF SURFSIDE PLAZA UNIT ONE, BLOCK 16, LOT 5; 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: Fred & Margaret Badaracco)

Ordinance No. K-487 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED ON THE WEST SIDE OF SOUTH OCEAN DRIVE, KNOWN AS RE-PLAT OF SURFSIDE PLAZA UNIT ONE, BLOCK 16, LOT 9; 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: FMB III LLC)

Ordinance No. K-488 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE SEVEN PARCELS OF APPROXIMATELY 46.93 ACRES LOCATED AT THE SOUTHWEST CORNER OF HARTMAN ROAD AND WHITEWAY DAIRY 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: Hartman Road Project LLC)

Ordinance No. K-489 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE 3201 MEMORY 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: Florida Conference Association of Seventh Day Adventists)

Ordinance No. K-490 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS

OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE 3080, 3098, & 3124 MCNEIL ROAD; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF THE FINAL DATE OF ENACTMENT OF THIS ORDINANCE; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Armando & Anita Gil, Judge Black, and Lowell & Zenaida Sasser)

Mayor Benton declared a Public Hearing on Ordinance Nos. K-486, K-487, K-488, K-489, and K-490 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. K-486, K-487, K-488, K-489, and K-490 be passed on second and final reading.

Those voting in favor of the passage of Ordinance Nos. K-486, K-487, K-488, K-489, and K-490 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

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Ordinance No. K-491 entitled, "AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, ABANDONING A 10-FOOT ALLEYWAY WHICH RUNS NORTH/SOUTH FROM ATLANTIC AVENUE AND LIES BETWEEN SOUTH 32ND STREET AND SOUTH 33RD STREET; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE." was placed on second and final reading and read by title only. Mayor Benton declared a Public Hearing on Ordinance No. K-491 in session and asked if anyone in the audience wished to be heard.

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 Becht, that Ordinance No. K-491 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-491 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

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Ordinance No. K-492 entitled, "AN ORDINANCE OF THE CITY OF FORT PIERCE, FLORIDA, AMENDING CHAPTER 22 OF THE CODE OF ORDINANCES "ZONING" BY ADDING ARTICLE XV "SIDEWALK CAFES AND SUPPLEMENTARY SIDEWALK REGULATIONS" SECTION, WHICH SHALL PERTAIN TO REGULATING SIDEWALK CAFÉS AND PROVIDING RESTRICTIONS TO SIDEWALKS; PROVIDING CONFLICTING PROVISIONS; PROVIDING FOR A CONFLICTS CAUSE AND SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE." was placed on first reading and read by title only.

Mr. Travis Gibbons, Planning Administrator, said before them tonight is the ordinance for the sidewalk cafes and supplemental sidewalk regulations. In December 2006, they brought before them a draft model of the proposed sidewalk café ordinance at the time. Tonight before them is the final completed document in full format and he has a presentation that goes over the pertinent details of the ordinance. Sidewalk cafés encourage additional pedestrian traffic. Due to the

vacant land and high density corridors such as their downtown and also along the corridors along U.S. #1 and Avenue D and Orange Avenue, there exists a need to provide sidewalk cafés along public right-of-ways. The establishment of sidewalk cafés requires conditions set forth to protect and promote the general health, safety, and welfare of pedestrians. The ordinance sets up a permit requirement that would take effect for all zoning commercial zoning districts in the City of Fort Pierce, which would be the C-2 through the C-6 zoning districts. The only one excluded would be C-1, Office Commercial. Permits would be issued and maintained by the Planning Department and they would be valid for one year beginning from October 1st until September 30th. Permitting must reapply each year just like a Business Tax in order to make sure they are in compliance. There is a nominal fee that would be charged with this, probably in the range of \$20 to \$25. That fee would be in front of them at a later date when they update the fee schedule for that. The application requirements for an applicant would be a copy of their Fort Pierce Business Tax Receipt, written approval from the owner of the building if they are not the owner, a copy of a current certificate of liability insurance, a drawing showing the layout and dimensions of the sidewalk and proposed chairs, tables, awnings, etc. Also any photographs, drawings, or manufacturers brochures describing the appearance of the tables and chairs to make sure they are having quality materials and design being used on the public right-of-ways. The criteria in the application review process sets up that the sidewalk cafés must be restricted to the frontage of the abutting business. The sidewalk café must be located on a sidewalk with a minimum width of 8-feet. The Americans with Disabilities Act (ADA) requirements requires unobstructed pedestrian path of 5-feet for passing space for citizens in wheelchairs. Posts, columns, and other features may be located in the rights-of-way of public sidewalks when given approval by the applicable governing authorities for other improvements, such as facade improvements. All tables and chairs must be of uniform design and quality materials. And no part of the sidewalk café area may be located in a clear vision area. Before them is an illustration showing how the actual 5 foot pedestrian can meander. As they can see, they have an 8-foot minimum width sidewalk, a 5-foot unobstructed pedestrian path that goes along the entire width of the sidewalk. Here is their tables and chairs, benches, trees, things of that nature. Here is some examples of downtown that he took some photos of. As they can see, along Avenue A they have 9-feet. There is an here where some of the amenities on the street, such as trash receptacles or the trees, would block some certain areas. He will go into that in detail about how to rectify some of these issues as they can see here. Once again, here is a corner clear vision area, they would have to keep that open. Also some other photos along Avenue A, here they have 10-1/2 feet, a minimum for sidewalks, so this would be areas of interest for sidewalk cafés. In addition, there is some supplemental sidewalk regulations that will take effect for citywide as well.

Commissioner Coke asked can they go back to the other picture? She has a concern when they are looking at putting tables and chairs for people to sit at and eat and have a beverage or two, that there is no barricade from the street, if they are directly on the curb. Her concern is two-fold. If they are at a corner and a driver comes around the corner too sharply and goes up on the curb, and the tables and chairs are right at the curb, there is not a setback the way some of them are set up and somebody is going to get hit there. Or if they turn the chair around, somebody is liable to fall into the street because there is not a barricade of any form between where these people are sitting and the actual cars.

Mr. Gibbons said that is a very good point and that is one that was not contemplated in the ordinance. One of the conditions they can put forth would be that tables and chairs would have to be placed up against the abutting building. That way, they do not have table and chairs going alongside the right of way or curb.

Commissioner Coke said she is not sure if that is exactly what she is looking for. But she is looking for either a couple of feet setback or something from the street; so people are not leaning back and falling into the street, or somebody parallel parking - which not everyone is very skilled at - goes up on the curb and runs into a table.

Mr. Gibbons said he understands. The minimum of 8-foot requires a 5-foot pedestrian path. That would allow them a 3-foot area for bistro tables and chairs, things of that nature. They could have it amended to say that those areas need to be placed along the abutting building instead of along the street for safety. And that would be a condition he would recommend. The other supplemental sidewalk regulations that take effect citywide is there would be no display of goods or merchandise on sidewalks except for events that are approved by the City Commission - Farmer's Market, parades, Friday Fest. Any type of event that has been approved by the Commission, that would be acceptable. No vending machines, fruit and vegetable stands, or other commodities would be permitted on a public sidewalk. And that is the key. Also, awnings must be erected and maintained at least 9-feet above the surface of all public sidewalks. And also for all sidewalks citywide, any posts or columns would have to receive approval from the applicable governing authority. At the Planning Board on February 13, 2007, they recommended approval with three conditions. One was that staff provides language concerning the revocation of licenses, the authority of the Planning Department for that. Staff is worked with the City Attorney's office to amend that and have that removed from the ordinance. Also, allow staff to work with applicants to make a non-conforming condition reasonably conforming. For example, in front of the old Pizzoddes Restaurant there is a trash receptacle and there is also an area for trees, the landscaping there. They would actually be able to have the bistro table if the trash can is removed. And that is something that the City Attorney's office worked with them to provide language to work with the applicant, at the expense of the applicant to remove the trash can, and they can work with those types of applicants. Also, the third condition was that the ordinance was not to take effect until after May 2007 after the busy season; and here they are in June, so that has been taken care of. The ordinance has been reflected to meet all the conditions of the Planning Board's conditions and staff recommends approval. On another note, staff did go door to door with the ordinance and slide shows and met with business owners in the downtown region, talked with them. They were very amenable to it. There were the conditions and some of the concerns were the 5-feet, the liability issues of insurance. Those are considerations the Commission would need to consider.

Commissioner Coke said when they are talking about the setting of fees for allowing these businesses to utilize public space, which is the sidewalk, she hopes they are going to take into consideration the cost to the City for these fees; not just to process the paperwork and send out a renewal notice, but she is sure that it requires time for them to send a staff member out to measure the sidewalk, to say this is where their 5-feet ends, this is what they have to do, and then to go back on a periodic basis to ensure that these people comply. She thinks it is a great thing to have these restaurants utilizing the outdoor space, she loves to see it. But they have to remember that these people are then going to be making extra money that they are not paying rent for. They pay an awful lot of rent per square foot on their interior building, and she is not looking for the City to rent them that space at the same \$12 or \$15 a square foot. But she is looking, if they are going to have to send an inspector out monthly or quarterly to ensure that they comply, to be definitely sure that permitting fee covers all the City's expenses, because the taxpayers should not be bearing any expense enabling someone else to make their business more profitable.

Mayor Benton said they have had people in here complaining and the Lincoln Park Business Association had some concerns about cookers and smokers, people just setting up shop. This outlaws that unless they have a business?

Mr. Gibbons said correct. On all public sidewalks, no vending, no fruit machines, or anything of that nature would not be allowed on a public sidewalk.

City Manager Beach asked unless he is mistaken, isn't that already prohibited by code?

Mr. Gibbons said yes.

Commissioner Nelson said he was very much concerned about that issue relative to having cooking situations on the sidewalk. But this appears to be an extension of ones business on the

public sidewalks. In prior cases he has known them to have situations wherein the garage mechanic had use of some of their public streets to store his cars while waiting to repair them. He took a position then that it was not fair for them to allow a business to extend its business operations by using public streets. The streets are supposed to be for cars to drive up and down. Sidewalks are supposed to be for people to walk up and down. And when they allow people to extend their businesses onto the public sidewalks, he thinks they are depriving the average citizen, who is authorized to walk up and down those public sidewalks, his due right. How does he reconcile that?

Mr. Gibbons said one of the things about the ordinance is that it sets up the condition that the sole purpose of the sidewalk is for pedestrian connectivity and for access. That is why a minimum of 5-feet is still preserved for pedestrian movement, that is plenty of room for people to navigate. And there are some circumstances that the ordinance does let that happen in their busiest areas. If they happen to have a 20 foot sidewalk and they have thousands of people on the sidewalk, this could be in the future, they could require it to be more than 5-feet in that condition to make sure that there is adequate access for pedestrians. What this is, it is an economic generator, it helps economics and increases pedestrian flow and it creates more activity along the streets. In essence, they are extending their business so to speak, they are paying a fee, they are making sure of the safety of the pedestrians, and the sidewalk still has its integrity for that purpose.

Commissioner Nelson said he does not think they have many 20-foot sidewalks around here. A matter of fact, the widest one he thinks they have is in the area of Yellowtail Grille. And Avenue D has 10-foot sidewalks and all that. He is concerned with it. He just does not have a good feel for them doing that. And as a result of some things going on right now with sidewalk tables or extensions of businesses on sidewalks, they have somewhat a proliferation of that type of thing throughout their business community, particularly the restaurants. If they do it for one, they are going to have to do it for others. And he thinks it is causing a slight problem because it encourages confrontation between people. They can imagine a person sitting at a table there and somebody passes by and they pinch them or fall over their feet or whatever the case may be.

Commissioner Alexander asked the sidewalks down Avenue D are 10-feet wide?

Mr. Gibbons said yes. He has the surveys from the Engineering Department. The sidewalks are 10-feet wide along Avenue D.

Commissioner Nelson said that was one of the things when Avenue D was built. This was from when they reconstructed Avenue D.

Commissioner Alexander asked they are 10-feet wide?

Commissioner Nelson said yes.

City Manager Beach said he wanted to describe that one of the purposes of this ordinance was to legitimize a number of things that are currently taking place. If they take a strict application of their existing ordinance, sidewalk cafés would simply not be permitted. Just through the process, those have started to take place in Fort Pierce, and this ordinance legitimizes that. Another aspect of it that is very important is the ability to construct a structure on the sidewalk such as a piling or whatever to hold up the awning. As they will recall the ride they went through over that issue in downtown and they are trying to make that work. And what this ordinance does is it places a set or regulations on there that can allow the City to have its input on that process and how that takes place. He thinks it will work better for everyone if they have something of this nature.

Commissioner Coke said there are a number of businesses that are not restaurants that put a table and a couple of chairs outside for people to sit at while they are waiting, like at beauty parlors or

outside of real estate places. There are a couple of places in downtown that already have tables and chairs. Are they going to then require them to also pay this permit fee and carry the insurance since it is on the same public right-of-way, or are they going to require that they remove those?

Mr. Gibbons said this ordinance just specifies the sidewalk café.

City Manager Beach said there are certain businesses who have park benches out in front of their businesses. In fact, some of those belong to the City. But this ordinance is really about the sidewalk cafés.

Commissioner Coke said she understood that. But her question is, if they are requiring some people that are using the public right-of-way to provide insurance naming the City, should they not then either be providing City seating in front of other businesses, which they would have some control over the safety level of it, or then requiring them to also have a permit and provide insurance for using the right-of-way?

City Manager Beach said he would suggest that unless they obstruct the sidewalk in some form or fashion or they exceed those parameters, then they would not have much to do with it, unless that is something the Commission wanted to get involved in. Their concern here is dealing with the circumstances that exist today and the fact that they have had restaurants downtown actually block pedestrian traffic, people could not get through there, they had to walk out in the street to get around the tables. And what they are trying to do is deal with that.

Commissioner Becht said he is going to thank staff. He thinks this is a very good stab at something they are trying to do. He also thinks it is going to need some tweaking as they apply it in the real world and not the theoretical world. It is going to be an economic generator. If they price their fees correctly, it is also going to pay for itself. Economic generator in that it is going to create additional value on properties that the owners or the occupants take advantage of this. Since it is happening, he would rather much regulate it and make money off of permitting it, than fire up Code Enforcement to go out there and try to stop these guys from doing it. In regard to Commissioner Coke's comments about the non-restaurant activities, he can see a day when eventually they would expand this to include them and have a different fee structure for them. Maybe one day they would have a different fee structure based on the number of tables that they have in the public space. He compliments staff on getting it this far. And he knows it is going to need tweaking later on.

Commissioner Nelson said the café guy or gal wants to have the tables out there where they can make more money. How about the furniture guy, he wants to put his furniture out? How about that guy that has a little gift shop? It boils down to basically the use of public property.

Commissioner Alexander said they are just talking about cafés.

Commissioner Nelson said he does not want to limit it to cafés. It should be dealing with use of public property.

Mayor Benton said remember when they all went to Washington, he thinks all of them ate at several cafes that had very limited space and old sidewalks, the people had to walk out in the street to get around.

Commissioner Nelson said it is common practice, but he never looked into the legal aspect of it. But again, use of public property. If they let this café guy do it to enhance his business, why can't they do it with the guy on the furniture store?

Commissioner Coke said she is going to weigh in on Commissioner Nelson's comment. She thinks the reason they do not want to expand this is they then would have a city that looked like a large flea market. If they allowed every business to clutter up the sidewalks and sell from the

streets, then they would have a flea market. She knows there are some stores on U.S. #1 that roll furniture out and other things every day, and it looks like trash out there.

Commissioner Nelson said so if they want to eat from the public trough, they go out and run a café.

Mayor Benton declared a Public Hearing on Ordinance No. K-492 in session and asked if anyone in the audience wished to be heard.

Mr. Flip Gates said he is president of Visions of Fort Pierce and also president of the Downtown Business Association of Fort Pierce. He opposes the proposed sidewalk ordinance. The proposed ordinance will create an unnecessary burden on small business people downtown. This unfortunate example of excessive regulation that will interfere with downtown redevelopment and its vitality. Downtowns throughout Florida have thrived because creative entrepreneurs have had the opportunity to fix old buildings in historic areas and provide services to the community. In successful downtowns, the City has been a full partner in this process and has provided incentives for sidewalk cafés, as Commissioner Nelson told them about Washington D.C. He is concerned that the Fort Pierce City Hall is moving away from a climate of collaboration to an unproductive and unneeded climate of over-regulation. The proposed ordinance is a disincentive. It increases the costs for entrepreneurs and sidewalk cafés and restaurants at a time when the economy of Fort Pierce is not booming. As the real estate market has cooled and local taxes have gone through the roof. And as Mr. Westbury so eloquently pointed out in his column, businesses were down by 15% and 20% this year. To impose additional expense and insurance costs to enact an activity that is most visible symbol of downtown's vitality would be a mistake and would set them back many years. Please do not attempt to fix something that is not broken, reject the ordinance. Do not make it harder for hard working people who want to keep building Fort Pierce one business at a time, because they are doing a hell of a job. Do not make their customers go to cities such as Stuart that have a more effective and time-tested approach to this issue.

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

Commissioner Coke said she would make a motion to approve, but conditioned that when staff brings this back for the second reading, it has a setback from the street to ensure safety, and that there is something in the ordinance, an idea of how they are going to calculate fees for this, whether it is going to be number of tables and seats, whether it is going to be a specified cost that they believe it will cost them to implement this program.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, that Ordinance No. K-492 be passed on first reading.

Those voting in favor of the passage of Ordinance No. K-492 on first reading were: Commissioners Becht, Coke, and Benton. Those opposed: Commissioners Alexander and Nelson.

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Ordinance No. K-493 entitled, "AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, ADOPTING THE COMPREHENSIVE PLAN RE-WRITE WHICH PROVIDES GOALS, POLICIES, AND OBJECTIVES FOR GUIDING AND CONTROLLING FUTURE DEVELOPMENT WITHIN THE CITY; PROVIDING FOR ADOPTION AND TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING CONFLICTING PROVISIONS; PROVIDING FOR A CONFLICTS CAUSE AND SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE." was placed on first reading and read by title only.

Ms. Lorraine Tappen, Senior Planner with Calvin, Giordano, & Associates, said they are back here with the draft Comprehensive Plan and this is the first reading for their consideration for adoption. They received the Objections, Recommendations, & Comments (ORC) Report from the Department of Community Affairs (DCA) and they have looked at it very carefully and made a number of changes based upon that report. She is going to highlight some of the changes. Most of the changes are clarifications, definition changes describing acronyms and things like that, but she will highlight some of the more significant ones. First is that the Department Community Affairs felt that they needed more details on intensity on the non-residential land uses. So what they did, with DCA's blessing, they added the building height for each of those designations as derived from the City's own zoning code. For example, for the general commercial land use designation, the maximum building height would be 65-feet. For those land uses that were adapted from the County's Comprehensive Plan, they used the building height as they designate in their own zoning code as well. In order to accommodate this change, they also added a policy describing building height, as the City describes in their own zoning code as well. She heard there is a concern that this building height might be extended to things like a sailboat mast or a crane on a property; but really this is only for buildings, only for structures where people might do business, where they might live, and so forth. It is not really to restrict other structures on a property. The DCA said what they are really looking for is what kind of mass will be created by the land use designation; so that way concurrency requirements for utilities, roadways, and so forth can be estimated. The DCA also wanted more clarification on the density bonuses. So what they did is put a little more detail into the density bonus program, including specific maximum density bonuses allowed for each land use category, and then also the criteria for determining that bonus when the Commission has that opportunity. DCA also recommended that in the density bonus program that they allow for a density bonus when affordable housing is allowed within that development. They proposed a one-for-one deal. If a developer offers one affordable housing unit on the property or possibly fees paid in lieu of, then they would be able to have another market rate dwelling unit on that property up to the maximum density bonus. One thing that is really important to notice is this density bonus is already in the zoning code. This policy basically just provides more detail. So it is not actually increasing density in any of those land use categories. As they were working through that, she looked at the central business district commercial land use designation. They previously had in the transmittal draft that buildings in the central building district land use designation, those that had first floor retail and residential above that, they would be able to have 30 units per acre as a density bonus. But actually she thinks that was probably not rightly put into the density bonus program and currently the zoning code does allow that by right, so that has been added back into the land use designation. And that reflects the existing zoning code and actual existing buildings that exist in the downtown area here in Fort Pierce. In the Capital Improvement Element, some of the details that DCA wanted was that they wanted them to show where the projects were coming from, to show the commitment of the other entities that were doing work in the City of Fort Pierce. So for FDOT (Florida Department of Transportation) projects, each of those FDOT projects are coming from the five year work plan. For the County projects, those projects are going in their own Capital Improvement Element of their Comprehensive Plan. And for the Utilities Authority projects, that is coming from their own Capital Improvement program. So there are some changes in that schedule of capital improvements in the back as they have tweaked it. They have also taken a look at the City's current capital improvement program from the Engineering Department. They got the latest and greatest Capital Improvement Program as of April 2007, so they have altered that whole list. Another DCA request was that they need to show a five year planning period after adoption, so they moved up the schedule of capital improvements to show the Fiscal Years 2008 through 2012. So that is another reason why they went back to the Engineering Department to see if there was any new projects coming up. That is about it for the Future Land Use and Capital Improvement Elements, those are probably the most significant changes there.

Commissioner Becht asked do they have a survey of structures such that he would know what they may or may not have made non-conforming by their height limitations in the Comp Plan?

Mr. Travis Gibbons, Planning Administrator, said currently no, they don't have that survey right now.

Commissioner Becht asked does anyone care to comment to that?

Mr. Gibbons said what Ms. Tappen just said was that these heights are just being specified, they are being derived from the land development regulations now. The current Comprehensive Plan that dates from 1990 didn't specify height, whereas DCA is requiring that the City regulate and put in height. So now what they have done is, instead of creating a new height category, they have just integrated the land development regulations from the County and the City.

Commissioner Becht said so his representation is that these heights are pulled straight across from their existing land development regulations.

Mr. Gibbons said all of them except for the Industrial I-1 category, there is not a height specified in the land development regulations.

Ms. Tappen said there is a couple of land use categories that have come from the County - County Commercial, County Industrial, and Mixed Use Development. Those have come from the County land use designations. She is not a legal expert on non-conforming uses, but she believes that if something is already a non-conforming use under its existing zoning code, then she guesses it would continue as is.

Commissioner Becht said she is correct; but she is correct to the extent that the height limitation comes from existing LDRs. If they do not come from existing LDRs, then somebody has got to walk him through that.

Ms. Tappen asked is he thinking about the County land use designations?

Commissioner Becht said no. Ms. Tappen just said that they don't have a zoning category, Industrial. And he does not have a land development regulation that specifies a height limitation in a zoning classification, and he is going to create one in his Comp Plan - if he understood what they are doing here correctly and that is probably a big assumption.

Mr. Matthew Margotta, Director of Planning, said the matter of heights as a discussion of intensity. DCA expected Staff to be able to describe the heights across zoning districts through the land use. Keep in mind that the Comprehensive Plan is their guide. It is a policy document that leads to those land development regulations that they need to still create after this to attach those heights to each one of the zoning districts. Consider the industrial districts right now do not have height standards at all applied to them. It is a matter of design on the property, what they can do on the property that they are building on that meets the design guidelines. What he is trying to point out is that the height limits that staff is looking at is kind of a conglomeration or an evenness across all the other zoning districts. So they expect to see a 65-foot building in the downtown area, or at least that is allowed in their ordinance right now. Why wouldn't they continue that? Their current development pattern is about that 45-feet, 50-feet, maybe 65-feet is allowed. So as a general development pattern, Staff picked a number that has some rationale to it for the existing situation and put it in the Comprehensive Plan as a matter of policy. But they are still creating non-conformities that are not identified.

Commissioner Becht said now he thinks he understands what they have done. But Ms. Tappen said this does not apply to cranes, it does not apply to sail masts. Does it apply to container stacking?

Mr. Margotta said he would not expect it to apply to container stacking. It is a building that is subject to building codes.

Ms. Lisa Colmenares, Calvin, Giordano, & Associates, said they had a couple of minor changes that were made to the Transportation Element of the Fort Pierce Comprehensive Plan. There are three major points she would like to point out. One of them is the insertion of Level of Service standards for the Strategic Intermodal System (SIS) and Florida Interstate Highway System and TRIP funded facilities as required by State Statute. They amended the Level of Service for these facilities where applicable, so they adopted a Level of Service standards as per the Florida Department of Transportation in Policy Statement 2.1.2. And the only mere change was on State Road 70, which is Okeechobee Road, and that would be Level of Service C as opposed to Level of Service D which they have identified for the rest of the roadways in the City. According to Rule 14-97, I-95 and the Turnpike would also be a Level of Service D. So the only change is State Road 70, Okeechobee Road, on some segments. The other main change was more clarification and a concept definition of what the County's congestion management process coordination with the MPO and mitigation strategies would be. They added that to be pursuant with DCA's comments. The main one was to insert data pursuant to the Treasure Coast Transportation & Analysis Hurricane Evacuation Study Update for 2003 by PBSJ, which are hurricane experts and they did this for the Treasure Coast. They describe the hurricane evacuation model and critical evacuation links in the City of Fort Pierce in efforts to maintain the levels of service on these facilities in the form of policies. If they have any questions, she would be glad to entertain them.

Commissioner Becht asked could she walk him through where she has changed the Level of Service standards on Okeechobee Road from D to C?

Ms. Colmenares said yes.

Commissioner Becht said start with why would they want to do that. Because his understanding when they do that, naively before he thought this is great because they are going to have better roads; and then he had somebody explain it to him that what it means is that the road fails when it goes from C to D and that could stop development. And maybe some want that, maybe some do not want that. He for one would not want to stop that on Okeechobee Road, that is a major corridor for Fort Pierce. Let's start with why they are changing it from D to C?

Ms. Colmenares said for the facilities that are part of the Florida Interstate Highway System or part of the Strategic Intermodal System or TRIP funded facilities, the local governments have to adopt the Level of Service standards established by the Florida Department of Transportation. When they go to Rule 14-97, for FIHS, SIS, and TRIP funded facilities for urban areas with population of below 500,000, the Department of Transportation standards would be for controlled access facilities, which is the case of State of Road 70, it would be a Level of Service C.

Commissioner Becht said she has completely lost him. Why then would this standard not apply to U.S. #1, Virginia Avenue, Airport Road, and everything else?

Ms. Colmenares said because it is only the roads that are part of the SIS and the FIHS.

Commissioner Becht asked Virginia Avenue is not part of the SIS?

Ms. Colmenares said no, it is not. It is only the roads that are in the system.

Commissioner Becht asked is this all of Okeechobee Road or just parts of Okeechobee Road?

Ms. Colmenares said it is segments of Okeechobee Road east of I-95 and the Turnpike, it is between I-95 and the Turnpike.

Commissioner Becht said he thought the Feds had responsibility for funding road improvements within a quarter mile of...

Ms. Colmenares said the good news is, these roads are eligible for TRIP grants or TRIP funding. And they are identified in the County's needs, these segments of Okeechobee Road, so they do have plans to be widened.

Commissioner Becht asked does he have a choice with the adoption of this? Or is she telling him that by statute, he does not have a choice?

Ms. Colmenares said by statute they do not have a choice.

Mayor Benton declared a Public Hearing on Ordinance No. K-493 in session and asked if anyone in the audience wished to be heard.

Mr. Johnathan Ferguson said he is with the Law Firm of Ruden McClosky. Just a couple of quick comments. He was not going to comment on that height limit. And he understand DCA's position, they always want as much detail as possible. But he would caution them about putting specific height limits by land use category in their Comprehensive Plan because it obviously gives them far less flexibility to adopt and change as circumstances change. He thinks if someone did a survey, they would probably find a majority of Comprehensive Plans throughout the state do not have that level of detail. They save it for the LDRs. They may have a maximum, like Martin County that has a four-story maximum; and then everything else, all the details, are worked out in their LDRs. City of Port St. Lucie ran into a problem with their new City Center and the Tesoro Development, because both proposed buildings were taller than what they had in their Comprehensive Plan; and before they could actually approve those projects going forward, they had to go back and do a Comprehensive Plan amendment, whereas obviously LDRs are much easier. So he would suggest that they push back a little bit with DCA and try to come up with looser standards. His primary comment is on the last page of the proposed changes which has to do Land Use Amendments and what DCA, roughly a year or so ago, started trying to implement which was adopted, basically a concurrency review for land use amendments. Those of them in the business thought, and that included planners - although he will not speak for the planners representing the City - but most of the planners he dealt with thought that DCA had really crossed the line and had forgotten what comprehensive planning was all about when they started to apply concurrency management techniques and analysis to land use amendments. They had a very specific situation that both St. Lucie County and one of his clients ran into because of deficiency on King's Highway. They came through with a Land Use Amendment and DCA said they are not in compliance because there is a deficient roadway segment that they may affect by this Land Use Amendment, even though it was not tied to a specific project. It was not going to put a single car on the road simply by the Land Use Amendment. Found out that DCA was taking that position statewide, everybody was sort of up in arms. They were sort of going along, they were doing their best. In St. Lucie County they were able to get out of it because St. Lucie County had their own self-interest to fix King's Highway in order to get their Research Park moving and they were able to tag along with that. But otherwise, they could have been put in a box. Since Secretary Pelham took over DCA, their position as they understand it has softened and changed. The language that it is being proposed - and he understands why their staff is proposing it based on earlier representations by DCA - in his opinion goes too far and basically adopts a concurrency review for Land Use Amendments in their Comprehensive Plan. That is going to have two problems. One, it is going to be a problem for him and his clients, because if they come in with a Land Use Amendment that they think is a good idea for the City and for his client, but they have a road segment like King's Highway or Okeechobee Road that somehow is beyond their control but is now failing, arguably under this language they cannot approve that Land Use Amendment. That is a private problem they may or may not have a problem with. But let him pose a potentially bigger problem for the City. Arguably when they do an annexation, they are also supposed to then do a Land Use Amendment. Assuming once the new Comprehensive Plan is adopted, they go back to the process of doing Land Use Amendments when they do annexations. They may want to annex property, they can annex it, but if they cannot then do the Land Use Amendment because they have a concurrency problem and they have a concurrency standard in their Comp Plan that

requires them to do that, then that property is now in limbo, it cannot go forward, it cannot go backwards, it cannot develop until they fix that concurrency issue, which can be a very expensive proposition that one property or development cannot solve on their own.

Commissioner Becht asked does he have proposed alternate language?

Mr. Ferguson said unfortunately he only saw this today. His suggestion, and he is sure his staff could soften it, the statute that DCA was relying on had this vague language about financial feasibility. DCA pushed that to concurrency. He would back up and put in fuzzy language that simply says Land Use Amendments will be reviewed for financial feasibility.

Commissioner Becht asked is that a technical legal term, fuzzy?

Mr. Ferguson said absolutely a technical legal term, just ask the Florida Legislature, they are the ones that put that term in there. This language does not say exactly that they do a concurrency review, but it uses some of those buzz words that refer to the Capital Improvement Plan, which is what they look at to solve concurrency issues. There is a concern that will get hung up and also that the City will get hung up. And he would rely on their consultants, if they direct them to address that, he is sure they can come up with language to do that.

Commissioner Becht asked is she able to respond to that tonight with any comment; or does she need time to digest that and make recommendations?

Ms. Tappen said she would like to digest it, but she thinks it is a good suggestion. She would like to consider putting in financial feasibility and softening it.

Commissioner Becht asked what about the height issue?

Ms. Tappen said the height issue, basically her impression from DCA is they have a choice of either using a floor area ratio or using building coverage and height. At this point with the zoning code as it is set up, it is really set up to use building coverage and building height, so that is really the most appropriate standard for their land uses.

Commissioner Becht asked so her response to the height issue would be that she disagrees, she thinks they need what they have?

Ms. Tappen said yes.

Mr. Ferguson said that may not be a problem.

Mr. Ken Shields said he is here tonight to represent the owners of King Maritime Group, The Port of Fort Pierce, Inc., Indian River Terminal Company, and the properties located at 18 Fisherman's Wharf and 910 North 2nd Street that are zoned I-2, Marine Industrial. Basically tonight he is just going to cover their objections to the inclusion of the proposed height limitation amendment in the Comp Plan Rewrite. Basically he is going to outline four objections and then he is going to offer for consideration some proposed alternative language that they can take a look at and see if it will work. First, the consultants have stated in their response to DCA's ORC report, that "height limitations were added to reflect current City and County zoning regulations". This statement is false. The current Marine Industrial zoning I-2 regulations do not call for any maximum height restriction or limitation. There is only a provision for a conditional use regulation of structures over 65 feet. In fact, under current zoning regulations in the Marine Industrial I-2 Zone, some buildings over 65 feet may be approved as a conditional use. The recommendation of this 65 foot height limitation amendment is clearly in conflict with current zoning regulations in the I-2 zone and also a clear violation of their current zoning rights.

In addition, DCA's recommendations for intensity standards did not even include industrial land use designation, they referred to certain non-residential and commercial uses, but they in fact did

not mention any general industrial or marine industrial land use designations. Secondly, the proposed language in this amendment, and once again he quotes, "Industrial: Maximum height 65 feet" is completely indiscriminate. One cannot possibly conclude if the intent is to limit building heights, storage heights, equipment heights, or all objects. As a matter of fact, he believes Mr. Tappen, one of the consultants tonight, even seemed to indicate that the intent of the amendment is to apply a height limitation to buildings only. That should be clarified in some kind of a language he would think. Third, the process by which this amendment was constructed lacked any public input. This violates the public participation provisions of growth management. This height limitation amendment should have been proposed only after public hearing notice, public workshops, and public hearing discussion. In closing, the last objection they have. In 2001, when their property owners purchased their land, they did so after exhaustive research into the Marina Industrial I-2 zoning regulations and the property rights that those regulations constitute. The adoption of the 65 foot maximum height limitation amendment in the industrial future land use category frustrates their property owners legitimate investment-backed expectations that they had when they purchased their port property in 2001 with no existing height limitations. In short, in 2001 their owners looked for a marine cargo port with no height restrictions, they purchased a marine cargo port with no height restrictions, and are currently operating a marine cargo port with no height restrictions. Lastly, he would like to bring forth some alternative language that they feel will satisfy everybody here. Their recommendation is: "Industrial: There is no maximum height limitation in the Marine Industrial I-2 zoning district in the zoning code. Section 22-35(c)(16) requires conditional use approval for building heights exceeding 65 feet." They feel that this language will satisfy DCA's recommendation of providing an intensity standard without compromising or injuring current permitted uses and property rights.

Commissioner Becht said what he wants to do if he can, before Mr. Shields sits down, while he is here maybe they can iron this out. Can Ms. Tappen comment to that, does she think that is going to meet DCA's requirements; or is that also going to need some tinkering?

Mr. Tappen said she would like to change where it says maximum height to maximum building height for each one to be sure it is specific to buildings. But it seems that the existing zoning code does, under the conditional use, limit building heights to 65 feet, so there is justification for that 65 feet. She thinks it should stand.

Mr. Margotta said what he thinks is going on is staff sees a normalcy of 65 feet across those zoning districts. He thinks the exception should be their conditional use, that a building over 65 feet should seek a conditional use. It is basically the same process for a site plan, it just means that they all get to decide and they get to look at it under that kind of scrutiny. He thinks that is the compromise that should be sought.

Mayor Benton said that was always the intent of that language.

Mr. Margotta said he thinks they have it backwards in their code though. It might have been the intent, but it is backwards in their code.

Commissioner Becht asked is that what is being proposed to DCA, that they have a sea of 65 foot buildings with the conditional use to go higher?

Mr. Margotta said no. What Mr. Shields brought out and Mr. Ferguson before him regarding the height restrictions, their zoning code right now does not state that. What is being proposed back to the DCA is a flat 65 foot ceiling for building height.

Commissioner Becht asked so if they adopt and transmit this language, are they going to be able to do in their LDRs what he wants to do?

Mr. Margotta said actually, yes. He thinks that when they get to the LDR stage, they could have

created the 65 foot height and then a conditional use higher than 65 feet. In general, he thinks the 65 foot height is a normal height that is somewhat expected across the City.

Commissioner Coke said they just need to specify building.

Mr. Margotta said he does think so.

Commissioner Nelson asked how high are they going to allow the containers to be?

Mr. Margotta said they haven't quite fixed that one yet. That is coming.

Mayor Benton said that is another issue.

Mr. Michael Morell said they just heard an admission from their staff that they are not disputing the fact that DCA did not require any intensity standards in referencing the industrial standard. Their client has suggested the mere addition of the same language in the regulation, in the land use designation, that is in their code. The problem they are going to have if they adopt Mr. Margotta's language and that suggested by their consultant, is that the next time they grant a development order approving a conditional use greater than 65-feet, that development order can be challenged on the ground that it is inconsistent with the Comp Plan under Section 163.3215, and they just bought a lawsuit. His research of the history going all the way back to 1990 when Commissioner Benton was Chairman and served on the Planning Board, is that there is a very clear statutory intent. Mr. Walker was very clear in drafting this ordinance as to what he intended. They rejected the staff recommendation that there be a maximum height restriction within the port area. What they substituted instead was a conditional use for heights over 65-feet. That means some buildings will be higher than 65-feet, some will be less. All they are asking them to do is to tell the truth and put what is in their zoning code in their Comp Plan, and they will address with them any changes to the LDR's including the outside stacking issue as it comes. Now as a last word he would say to them, he thinks they are being a little disingenuous when they reflect what they are doing to the public with this standard. Why don't they put the 200 foot maximum height for condominiums on the coast? They are talking about at a time in which they should be preserving working waterfront. Mayor Benton has a number of excellent proposals in to develop working waterfront on Taylor Creek. At a time in which they should be developing incentives for working waterfront to combat the highest and best use of the conversation of those properties, they are applying disincentives. Yet they are not also telling the public that they are going to have 200 foot condos rather than maybe a 75 foot in and out boat storage. They are just asking them to tell the truth and protect the property rights under which they relied. They do not want those lawsuits, if they can convince them to grant a conditional use approval for in and out boat storage facility, perhaps 70, 75, maybe even 80 feet.

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

Commissioner Coke asked did she miss something, did they sneak in a 200 foot condominium in there some place?

Ms. Tappen said no, they did not.

Mayor Benton said what the ordinance said - and he had to fight for this years ago after they built the silos - was 65 feet. They could go higher with a conditional use and the maximum was 200 feet. And that was the only language that they would allow him and this was from the Planning Board.

Commissioner Coke said that was her understanding of it. But she was thinking it was a done deal, that they were doing something 200 feet.

Mayor Benton said lets make that clear, they do not want to do anything 200 feet. And he knows the conditional use to him is good because they have had a lot of development looking at that area, and they have had people talking five star hotels that tell him they might need to go higher than 65 feet, not much. But they want to have the ability if somebody comes in with that five star hotel maybe. Since he has sat on this Commission, he has not seen anything approved over 65 feet in the City that he knows of.

Commissioner Becht asked why can't they go back to DCA and say maximum height 60 feet without conditional use?

Ms. Tappen said they could ask them that.

Commissioner Becht said he is looking for the compromise. It is not to help anybody in particular. But he does not want the City's hands tied if Hyatt, Marriott, whatever comes in and they need 100 foot building, and the community will accept a 100 foot building. Based on this, doesn't he have to go in and amend the Comp Plan in order to make that happen?

Ms. Tappen said that would be correct.

Commissioner Becht said he does not think that is wise. They would probably would have to go back in and amend the Comp Plan on some major developments, but he would really hate to lose somebody because of a six month or a year window with DCA and he gives DCA a shot at somebody if he does not have to. He is sorry, he does not know how to word it to get around that. And there are people that are terrified of buildings over four stories or 45 feet. He knows they are trying to balance that with everything else they are doing. He is sorry, he does not have the alternative language to give them that will help them fulfill their job of getting this through the DCA. But at the same time, he does not want to kowtow to the DCA if he does not have to. So he for one is willing to push them a little bit on this issue and also he is willing to push them on the issue Mr. Ferguson mentioned with land use. She is not telling him that she cannot compromise more with DCA is she, on the height issue?

Ms. Tappen said they definitely can go back and talk with DCA more about that. She thinks the answer may come back, if not height, they need to provide an FAR, a Floor Area Ratio. That might be the alternative.

Commissioner Becht said he does not know if that is better or worse.

Mr. David Recor, Deputy City Manager, said he thinks Mr. Shields provided some language that may be worth considering actually; and that is, enough specificity to provide for a 65 foot ceiling with the discretionary approval to allow above 65 feet by conditional use. Lets float that with DCA, lets get some feedback on it. That is currently what their LDR's provide for. They are not doing anything inconsistent with the way the regulations are currently drafted.

Ms. Tappen said that may be worth checking out.

Mayor Benton said this is the first reading, so that language could be adjusted before the next meeting.

Commissioner Becht said he would move approval of the ordinance as presented, with the modification suggested that they go back and revisit the issues Mr. Ferguson raised and Mr. Shields raised. If those two gentlemen have not provided Ms. Tappen with their e-mail address, he would ask that they do that so that she can communicate with them via e-mail.

Motion was made by Commissioner Becht, seconded by Commissioner Coke, that Ordinance No. K-493 be passed on first reading.

Those voting in favor of the passage of Ordinance No. K-493 on first reading were: Commissioners Alexander, Becht, Coke, Nelson and Benton. Those opposed: None.

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Ordinance No. K-494 entitled, "AN ORDINANCE AMENDING THE 2005-2006 BUDGET OF THE CITY OF FORT PIERCE, FLORIDA, BY INSERTING THEREIN A SCHEDULE CONSISTING OF FOUR (4) PAGES ATTACHED HERETO AND DESIGNATED AS THE 2005-2006 FINAL BUDGET AMENDMENT. THE SAID SCHEDULE PROVIDES FOR THE INCREASES AND/OR DECREASES IN REVENUES AND APPROPRIATIONS IN THE GENERAL FUND; 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-494 in session and asked if anyone in the audience wished to be heard.

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

Motion was made by Commissioner Becht, seconded by Commissioner Alexander, that Ordinance No. K-494 be passed on first reading.

Those voting in favor of the passage of Ordinance No. K-494 on first reading were: Commissioners Alexander, Becht, Coke, Nelson and Benton. Those opposed: None.

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The next item on the Agenda was Mr. John Donahue, LBFH, Inc. to give State Road A1A Status Update.

Mr. John Donahue P.E., LBFH Inc., said he came before them last month extremely frustrated with the process and the Mayor agreed to help with some phone calls to FDOT to get them moving. He believes that the phone calls the Mayor made worked. They did get approval from FDOT for Phase 3 and for Phase 2B, all the final approvals. He believes Mr. Andrews (City Engineer) had a pre-construction meeting with the contractor for Phase 3 last week. Commissioner Coke even saw some signs up there along the roadway. So they moving forward.

Commissioner Coke said putting the signs up that say "Road Work Ahead" and having no road work ahead, does not really make her happy. She got excited. The signs said road work 1000 feet ahead, road work 500 feet ahead. She was looking for road work. Nothing.

Mr. Donahue said he thinks they just need to instruct the public on what is going to happen in the future.

Commissioner Becht said he did see some staking on the east side of A1A next to the sidewalk. It has 759 and those kind of FDOT numbers.

Mr. Donahue said probably stationing from Dickerson, he would imagine.

Commissioner Becht asked that is progress then, right? At least they have got some staking done. If Commissioner Coke would walk the sidewalk instead of driving in her car, she would see this stuff.

Mayor Benton said since the last meeting, when they did speak with the folks down in Ft. Lauderdale with FDOT, that is what really hit him off. When the Fort Pierce Utilities Authority almost doubled the cost of the underground utilities out there, he was thinking had this project been started in a timely process, this would not have happened, they would not be looking at newer codes for underground utilities. So he is going to ask everybody sitting up here, once the Special Legislative Session is over, if they can sit down with all of their delegation members from Tallahassee starting with Senator Pruitt. Put the numbers together and ask FDOT and ask

Tallahassee to come up with that additional funding, because it was them tying this project up, he means DEP, FDOT. And that is why the costs have come up such an overrun. It is not the City's fault. He thinks they need to ante up for the additional costs.

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The next item on the Agenda was Ms. Elise Rollins, Lincoln Park Main Street to give presentation on Youth Entrepreneurship Summer Camp and Cultural Activities.

Mr. Havert Fenn said he comes to them as President of the Lincoln Park Main Street Program tonight asking for some help, to help them help their community. A plan which they have dealing with the Florida Main Street Program has a variety of goals that they can achieve. But in order to achieve those goals here in Fort Pierce, and especially the northwest section, they need some financial help. Ms. Rollins will give them the details of the program which they are talking about having summer camps, not just one camp. They all live here in the City of Fort Pierce, they raised their families here. And now that he is a great-great-grandfather, he wants to see his great-great-grandkids grow up and remain here. His grandchildren, some of them left the city, one or two came back to the city. But now he hopes their great-great-grandkids will continue to live here. They have a number of playgrounds and parks. They want to thank the City of Fort Pierce as they have done in the past for providing those facilities. But they do need some additional help with all the help the City has been giving them. They cannot do it alone, they need each other. And when Mr. Rollins comes before them, she will tell them about they how are talking to people about starting businesses in the northwest section. And in doing so, they kind of shy away from there because crime and especially murders are still prevalent. And it is not just on one street or two streets, it is all over. He was very pleased the other day to hear Police Chief Baldwin say what he and Sheriff Mascara are going to do for that particular area. It was enlightening to know that they have public officials who recognize that there are problems and are willing to help them. And God helps those who help themselves. They are asking the Commission to please consider the things they are trying to do. He looks over here at Commissioner Nelson. When the change was made out at the Human Development & Resources Centre to go with the gymnasium first, which was in the second phase, he was very pleased about that because they do need that type of facility that they can use and it does not have to be tied in with the school system. The school system has been very helpful, but having something like the HDRC, they are in a position to pull in more persons and especially their teenage males. He thanks them for listening to him and hopes they can garner up the 120 to 125 young people and do something for them to keep them off the street. This is what they are working for.

Ms. Elise Rollins said the shooting in Sheraton Plaza stemmed them to do several gang forums. And the information that came out of those forums was that people in the community were not living a healthy lifestyle, that they were not feeling the community pride, and they also felt that they needed more involvement from the parents of the youths that were involved in some of the situations. They were prolonging to see who would take the lead on putting forth an initiative to assist the different agencies already established. When the other shooting occurred with the young man in the last couple of weeks, they felt that since no one had really taken the helm to put forth some of the points from the gang violence forum that they had, that they needed to take the lead on it to facilitate putting a process in place at least to instill community pride. So the camp focuses on not just receiving from the City but to give back to the City, to show the youth they live in a beautiful city, that they can be safe, that they can communicate together, and even if they get angry, that they do not have to go to all these other steps and levels that would require them to use guns, knives, or whatever, that they can be in a different type of gang of sorts where they are being productive citizens. They hear a lot of times that they are saying no one loves them, but they want to show them that they do love them. They brought in several agencies that will help them do this, she would like to give the names of those agencies. First of all, she does want to thank Commissioner Rufus Alexander and Commissioner Eddie Becht, because they have really helped them in getting the word out about this. Commissioner Alexander is also allowing them to use some of his property to plant flowers, to give the youth some activity in agriculture. They are also using Esposito Farms out west to do some additional gardening that

they will have the youth to sell at the Farmer's Market area. They are partnering with the Fort Pierce Housing Authority, Fort Pierce Utilities Authority, Affinity Teen Center, St. Lucie County Fairwinds Golf Course, the Adult Role Models Program, St. Lucie County Health Department, Weed & Seed of St. Lucie County, the Community Mobilization Team of Weed & Seed of St. Lucie County, Judge Cliff Barnes, MADD Dads, the University of Florida, Esposito Groves, Mike Adams, Mike Simone, Bank Atlantic, Liberty Truth of Deliverance, Fort Pierce Neighborhood Coordinator Reggan Ellis, Arbor Education and Training, Jay Lundy with Work Force Development, and St. Lucie County Cultural Affairs. They just asking them to please help them with these groups so they can keep their kids safe this summer, give them something really forward to achieve, something new and exciting other than what they have been getting into. They are asking the City to help them.

Commissioner Becht said he is happy she is here tonight and happy he can do anything he can do. As he mentioned to her on the phone, the City has adopted a new policy in terms of not issuing grants midyear. The reason he wanted her here tonight was so that she can give her name, her phone number, and a post office box for those citizens that might be watching this tonight so that they can mail her a check so that she can fulfill her mission. She did not get into the particulars, but she has adopted a budget with the help of Gloria Johnson, so it is a budget that has had some crunching attached to it. Can she tell them how many young people they are hoping to work through the camp during the summer months?

Ms. Rollins said they hope to work with 100 to 150. And they already secured through these different agencies 50 slots for additional camps, 10 slots for work incentive training, 5 slots with Fairwinds Golf Course for Hook a Kid on Golf.

Commissioner Becht asked how would a parent get hold of her to enroll their...

Ms. Rollins said their number is 772-462-2481, Lincoln Park Main Street. And their address is 1323 Avenue D, Fort Pierce, Florida 34950.

Commissioner Becht said they are needing to raise, from what he looked at in her budget, about \$42,000.

Ms. Rollins said yes. But they don't want to turn any children away if they cry out.

Commissioner Becht said he is trying to make sure she hits her points. She has money in here for youth counselors, so she is going to be able to pull teenagers off the street, give them a job; and at the same time, pull some of the younger kids off the street and show them that there is more to do than get out on the street and do criminal things. What he wanted to do was get this word before the Commission and then he wanted to make certain the community knew. He does not think there is anything the City can do for her directly, but they do have CDBG possibilities and FPRA opportunities and obviously the public they are going to put pressure on.

Commissioner Coke said she wants to thank her for taking the lead on this. It sounds like a wonderful program. She did not hear her mention the City's golf course as participating.

Ms. Rollins said they were notified of Fairwinds through Sheriff Ken Mascara, and she is sorry for omitting his name in assisting them. But Indian Hills Golf Club they are contacting this week. She does not know if they have a program like this, but they will be looking into that so they can access that. If not, they hope to have a pro golfer here that one of their group has been talking to that they will be able to take some kids over there to get in the golf environment there.

Commissioner Coke said very good. The other thing is, this is the Lincoln Park Business Association and Lincoln Park Main Street working together for this. She understand that the City only funds the Main Street for \$90,000, which they need that money for other things. But she would suggest that the FPRA's donation to the Weed & Seed Program is \$335,000 a year, so

they ought to be able to participate in this.

Mayor Benton said it is not that much.

Commissioner Coke said she just got the figure from Mr. Beach.

City Manager Beach said that is what is in the budget.

Mayor Benton said they will have to talk about that at the FPRA meeting because he does not believe it is that much.

Commissioner Coke said she is just suggesting that there is other monies they have contributed to organizations that should be helping them to participate with this.

City Manager Beach said he does recall now, that amount was for some police equipment acquisition that was going to go through Weed & Seed, now that he remembers it.

Mayor Benton said right, for the cameras and other things. As far as funding, he had asked Reverend Fetterman to find out how much they have left in that account with Weed & Seed.

Commissioner Alexander said concerning the Weed & Seed, he does not know how truthful this is, but he understood that the funds that they had available, that they send it to the Lincoln Park Recreation Center because they would only fund individuals that had history of doing summer camps. Since they are just coming into this one, they have not had that. So the funds that they had available went another direction, which is still helping the community. But school is out this week; and if they did not prepare last year to do something this year, they are going to be on the low end of the totem pole next year. He heard them say there is no funds available. But have they gone out to try to find any funds available from anywhere?

Mayor Benton said through the FPRA and he believes they meet next week.

Commissioner Alexander asked that is the only source that they have funds, is that what they are saying?

Mayor Benton said they set up guidelines.

Ms. Rollins said they also want to add that they were very fortunate to secure an account director from Port St. Lucie High School, Ms. Cynthia Matthews, she is the guidance counselor there. She has a Master's Degree in Education. And also they will be focusing on the FCAT. A lot of people are saying why is Lincoln Park Main Street who is supposedly doing business development so involved in this process of gang violence and doing summer camps? She was riding with some people that were interested in putting up some buildings and also the consultant from Tallahassee that came to their board retreat three weeks ago who said that her mother was concerned about her coming to Fort Pierce and she did not want her to take this particular consultant job. That let her know that the perception was that in their particular area in the northwest section of Fort Pierce, it is not safe. The perception is that it is not safe. So they have to pull in every point they can to deter that type of thinking. They get a lot of sensationalism on the violence. So what they would like to do now is show that they are building, they are building new relationships and they have new partners, and they are working with them to show that they can do business development in the Lincoln Park community also.

Mayor Benton said they want to partner with them. He thanks Ms. Rollins for taking the lead in this. Gang violence affects every community in this country. Fort Pierce does get a little bit of a bad name there, but they have done a lot toward that compared to a lot of the cities to their south, but they still have a long way to go. That is a problem in this country. So they need to help out, because if they can help some kids early on, it keeps them out of the system. And if

they want to bring business in, these are young business people they are dealing with here. They will be partnering with her, he expects.

Commissioner Alexander said he knows they will be looking forward to attending the FPRA meeting. But he is just thinking of the avenues. And he is sure if they put the whole entire staff of the City of Fort Pierce and put their heads together, they can come up with some of these ideas as far as some type of fundraiser or something utilizing city properties or city buildings without cost to this Lincoln Park Main Street, that they can allow themselves to go out and have some type of functions. Not that they are comparing to Fort Pierce Main Street, but they are new kids on the block with the Lincoln Park Main Street. And he assures everyone that is listening with a tentative ear tonight that they can come up with some ideas. And he is just extending that courtesy from that Board to this community to get on board with something positive.

Mayor Benton asked any flyers that they can put out on this? He just found out about this about a week ago. If she can put a little flyer together.

Ms. Rollins said they have a flyer. She gave one to just about everybody in the room.

Mayor Benton said leave some in his office. Because every time these developers come visit all of the Commissioners, they give them a handful of these flyers; and they expect when they come back to see them, that they are supporting something in this community. They also have to look forward to next year.

Ms. Rollins said just one other point. The young man that was killed two weeks ago, just give them a taste of what they are expecting, it is her understanding, she has not seen it in the paper yet and they can confirm that with Chief Baldwin, but there were incidents at his funeral and at the gravesite. So this is the mindset that they are dealing with and they really need to work hard to deter this.

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The next item on the Agenda was Mayor Benton to discuss Animal Licensing in the City.

Mayor Benton said this is on the agenda because the County just approved this new license fee (SLC Ordinance No. 07-010 and Resolution No. 07-077). When he was at the County, he committed to bring it to the City Commission. He thinks they have all had lots of discussion on this. Twelve years ago when he was first elected, the City was paying somewhere around \$80,000 a year toward the Humane Society. This year it is almost \$250,000. What he thinks this will do is make some pet owners more responsible. It is a one-time fee. Some of the feedback he has had, some of the comments about people turning in their animals, he thinks that is ridiculous. First of all, the ordinance has not even been adopted yet in the County, so for people to say that they are giving up their animals... It is a one time \$10.00 fee. They already have that each year in Fort Pierce if they license their animal.

Commissioner Coke said she is a firm believer that animals should be spayed and neutered. She has had mutts, she has had full-breeds, most of them come from the pound, she had every one of them fixed. She has some concerns with this because there is a lifetime license. As it is now, when they apply for their license on an annual basis, they have show proof of rabies vaccinations. She has a concern if someone gets a lifetime license, that gives them no reason to go to the vet once a year and get the dog properly vaccinated. So then they may have less dogs running around, but they may not have their proper vaccinations. So she has that concern, number one. Number two, she got on the phone today, because she had people calling her. She agrees in theory with everything in here. Her phone was ringing off the hook all weekend at home, once this was advertised, with people talking to her about the vets in St. Lucie County were not aware of it. So she called several vets. The ones she spoke to, none were aware of the details of it until after it had been passed by the County, no one had asked their opinion, and two out of the three that she spoke to were adamantly opposed to it. She sees the City of Port

St. Lucie is not going to be bringing this up and has stated clearly that they are not going to. She guesses her concern becomes, the City of Fort Pierce - and she does not know how accurate these figures she was sent late this afternoon are - they have about 50 pet licenses. So obviously, they do not have and she has said this all along, and she knows Ms. Steele has a lot more important things to do then to send out renewal notices for pet licenses, because they do not do that. She guarantee that there is more than 50 dogs and cats inside the City limits. But her concern is, they are establishing another layer of bureaucracy that they do not have the manpower either through the City Clerk's office or Animal Control to enforce, they only have three animal control officers. And even if they can find a way to fix that, before she could cart blanche say this is a good thing and they should do it, she would need some input. She would like to survey all the vets in the County and get their feedback. Because the several she spoke to had some very interesting points that were counter to what she had been told previously. So she thinks they need to do more research on it before they just accept what the County has done.

Commissioner Becht said he was at the County last week and they had probably 30 to 45 minutes of public comment on the adoption of the ordinance. So if they are going to move forward, he would also like some veterinarians to weigh in on it. In his opinion, it is an emotional issue and they are going to have strong advocates on both sides of the issue. Just so Ms. Steele is not taken by surprise, it is probably going to take close to two hours to work through something like this. When they advertise this ordinance, to bring it back, he thinks some folks got caught unaware at the County. If they are going to spend 45 minutes talking about it at public comment at the County, and if the City moves forward with it, he suspects that there is going to be an hour of discussion for it and an hour of discussion against it, and they then are going to be charged with weighing in on what direction they want to go. He does not have a problem with moving forward with it, he just does not want anybody else moving forward thinking this is going to be a five minute...

Commissioner Coke said her point was equally as important. Before moving forward they need to know, do they have the manpower in animal control to enforce this? Do they have manpower within the Police Department to enforce this? Do they have manpower within the City Clerk's office? And one point she wanted to make before when they were talking, last year when the Humane Society came to them with increased costs, she looked very clearly at the number of animals that they were servicing. The number of animals really had not risen dramatically. What had risen dramatically was, for lack of a better term, the layers of bureaucracy that were added to educate people. They had added some people to go out and do public outreach. Her concern is, if they do not have the manpower behind it to do this, they are adding another layer of bureaucracy that they cannot do anything to enforce.

Mayor Benton said it is a problem enforcing it. But the point is, it is going to cost more and more people are going to get hurt with these animals that are roaming the streets. He thinks what originally got this started was the amount of animals that they see in certain areas of Fort Pierce. They have three officers working on this now in animal control?

Chief of Police Sean Baldwin said yes, that is correct.

Mayor Benton said he wishes they were here tonight. That is why it takes a public hearing. What he is looking for is to take it to the next step. But they were very involved in it and he believes they support this.

Chief Baldwin said he believes that is exactly the answer they would find from the animal control officers, yes.

Mayor Benton said he would like to have them. He just wanted to take the next step, give the public the ability to come in. He sat through that public hearing at the County, it was a couple of hours at least; but the majority of people that stood up and spoke were the Humane Society and a lot of responsible animal shelters out there. And it is time that they just got a grip on this

problem. It has worked in a lot of communities. Yes, it is hard to enforce. But they do expect their veterinarians to buy into this, some have, some have not. It is going to take a team effort or they are going to have animals roaming worse than they are now. All he is saying is, lets give it a shot, advertise it, and see what the public has to say. Because they already have a licensing ordinance which is not being taken care of now, it is not being used.

Commissioner Coke said at this juncture she could not personally support it until they had some feedback from the local veterinarians, and some hard and fast figures from the Humane Society. Because what this is doing is, they are establishing a spay and neuter program. Do they know who is going to pay attention to this? The responsible pet owners. The people that do not take care of their dogs or cats to begin with are not going to pay attention to it, they are going to do whatever they want. Certainly, Animal Control is not going to go out and check to see if the animal has been fixed. They do not have the time to go out and check and see if they have licenses. They are there if there is a problem situation; and once it becomes a problem situation, it does not matter if the animal is spayed or neutered, is her point. So she would like to see some feedback from some local veterinarians just to be sure they are looking at the whole picture.

Commissioner Alexander said just to weigh on it, he heard the word excessive regulation tonight and he thinks it just put a stamp on top of this. His understanding is that this is just for discussion tonight. They are going to be coming back with better information. Reading here it is speaking about lifetime, it gave synopsis of a lifetime, and then regulation identification tags should be valid for one year from date of issuance. So they are telling him that after that one year these individuals are not responsible to come back to register dogs again?

Mayor Benton said the one time license he believes should be good for the lifetime of that dog. He does not know where it has to come back.

Commissioner Coke said that is the concern. If they go to get a license at the City Clerk's office for their animal, if they are a responsible person and they go to get the license, they will get it, but they have to show proof of recent shots. If they get a lifetime license for their animal, there is no proof of recent shots; and therefore, some people might just give up giving those shots, because the shots are not cheap by any stretch of the imagination.

Commissioner Becht said he has an idea. Why don't they have the Chief or his three Animal Control officers poll the veterinarians that have Fort Pierce Occupational Licenses and get back with them and that is a starting point. Report back at the next meeting or thirty days.

Mayor Benton said he cannot think of that officer's name, but maybe if he can put a brief presentation on, he knows he has been working on this for some time with Jack Southard with the County.

Chief Baldwin said he will make sure they poll all the local veterinarians and get their input as to the ordinance. And specifically, one of the questions is whether or not they agree with a lifetime license, is that correct?

Commissioner Becht said yes. He has gotten material on both sides of the issue. It is hard to... This is very clearly beneficial and then this is very clear it is not beneficial, so he needs somebody smarter than him to weigh in. And he is hoping the veterinarians are the right people, but maybe they are not. Maybe the Humane Society needs to be polled, the vets need to be polled, and the Animal Control officers need to be polled. He cannot think of anybody else.

Commissioner Alexander asked someone outside the City that has a working program?

Commissioner Becht said the literature he has gotten, if they are for it, then the cities have achieved great success; and if they are against it, and some of the breeding associations he thinks

are against it, they say it is a dismal failure. There is literature both ways and he does not know how to ferret out what is true and what is not true.

Mayor Benton said he thinks the good and legal breeders are the ones that would support it. It is the illegal breeders and the ones that are just creating the problem they have.

Commissioner Coke said she would like to see when they get back in 30 days is what is the cost to implement it. The other side of the coin is, they are talking about right today now they have 50 dogs and cats with licenses in the City of Fort Pierce. So is it even worth discussing for 50 dogs and cats?

Mayor Benton said somehow they have to make people go by the rules. His concern is the \$200,000 it is costing them for the Humane Society each year.

Commissioner Coke said she would agree 200% with the Mayor, if he can find a way to have everyone in the City of Fort Pierce license all their dogs and cats. If it was \$10, \$15, or \$5, it would pay the Humane Society bill every single year. However, she would put to him, if they only have 50 of them licensed now, they have not walked around the block in her neighborhood.

Commissioner Alexander asked can they surely come back with some true numbers on the cost? Because that is not the cost he heard that came across his table. And within the concern of St. Lucie County as a whole, when they are speaking about 6,000 dogs being euthanized, so that means the cost on that alone would go far exceed \$250,000.

Mayor Benton said in the County, they are looking at probably close to \$1 million in St. Lucie County.

Commissioner Alexander said that is the numbers they need to know for sure when they come back. If it is all administration and just less dogs, they need find another avenue.

Mayor Benton said lets get some information and take it from there.

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The next item on the Agenda was Report by Finance Director on proposed additional Senior Homestead Exemption.

Mr. George Bergalis, Director of Finance, said they have the report he believes they had requested. He contacted the County Property Appraisers office, got the information, the number of residents of the City of Fort Pierce that they have qualified for the exemption on the County level. Hopefully his memorandum is self explanatory as to what effect it would have on the City of Fort Pierce if they were to enact it and all those people participated at the maximum level.

Mayor Benton asked if they were to move forward with this, would they have to advertise it as public hearings? Or is this just something that this Commission can do?

City Attorney Schwerer said no, to the last question. They have to advertise this as a regular ordinance, it cannot be an emergency ordinance. It has to go through various procedural steps and it has to be put on file he thinks by a certain deadline with the Tax Collector and the State to be effective for the January 1 timing for 2008.

Mayor Benton asked what is the pleasure of the Commission, is there three votes to take this to the next step and advertise it?

Commissioner Alexander said his only concern is they are expecting the State to come down with something as far as the tax basis in this community. Why are they in a rush?

Mayor Benton said because this is something that was on a referendum that the voters already said they wanted. And what the State did was put it back on them - if they want to adopt it, that is fine; and if not...

Commissioner Alexander asked if they come in with 20% or 40% reduction on taxes, where is this going to fall at?

Mayor Benton said this is \$109,000. He cannot see them doing that, but that is in the works. But this is something that the people that put them up here are the people that voted on this and he thinks they are just doping what they asked them to do.

Commissioner Becht asked why don't they wait and see what the State does to them? It needs to be enacted before January 1, 2008?

City Attorney Schwerer said prior to December 1, the final reading has to be done and submitted to the State and the County.

Commissioner Becht said in an abundance of caution, he would like to wait and see what they can find out about the State. That \$109,000, they may really be regretting having done that. Prudence tells him that they should wait.

Commissioner Coke said she would agree with that. If they bring it back for discussion in September, they will have an idea of what is going on.

Mayor Benton asked after the special session, after they see what happens in Tallahassee? (The Commissioners agreed.)

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The next item on the Agenda was Report by Neighborhood Group Facilitator on the Keep Fort Pierce Beautiful Program.

Mr. Reggan Ellis, Neighborhood Group Facilitator, said what they have before them is a report on Keep Fort Pierce Beautiful. Before he gets into that report, he kind of wanted to give them a history of how Keep Fort Pierce Beautiful evolved, and it is a story that is very near and dear to his heart about it. Before preparing for this, he called for a meeting with City Manager Dennis Beach and also Deputy City Manager David Recor was present. He was prepared to go over with Mr. Beach what he felt they should do in terms of going back to how this program came about, which was through a gentlemen named Henry Moore who came here and held a neighborhood survey, they paid good money for him to come in. And eventually that is what sorted created or spawned the job that he has now. He was going to suggest to the City Manager that they contact Henry Moore and bring him back and try to revisit where they were. But just as he was giving his delivery, Mr. Beach informed him that Mr. Moore had died just a couple of weeks ago he believes it was. And everything that he had planned to talk to Mr. Beach about at that time that he practiced and thought about, it all went away. Then he realized that since Mr. Moore is gone on, he has to take what he learned from him coming here and by him going up to his workshop and now apply that. He had been applying it earlier, but after going through several hurricanes, working closely with Weed & Seed - which is near and dear to his heart because of his involvement with the police - and lately working with Lincoln Park Main Street, which is another program that would be under the umbrella of what Mr. Moore would feel that they should be doing, he sort of forgot the tool that they have here, which is Keep Fort Pierce Beautiful. Yes, he has done some clean-ups and he has met with some people about tree planting. But he has to review what has happened and come up with a better approach. And that approach is what they have before them, like Mr. Beach suggested when he met with him, mimic what is going on in other cities, mimic what is going on with Keep America Beautiful, and it is just as simple as that. That is what he did, he went back and he looked over what they are doing in other cities, what is successful. So he came up with a four quarter approach, starting with working with the kids this summer in planting trees. As Ms. Rollins told them earlier, they already secured some property from Commissioner Alexander to plant some

flowers. All of this was coming together until tonight. Found out that with the drought that is going on, they might not be able to start planting trees or planting seeds because they have to be very aware of conserving water now. So even with what they have before them tonight, it is already been sort of swayed. But they can replace some of those things with hurricane preparedness. Now as they move on to the next quarter with the recycling.

Commissioner Coke said before he moves on to the next quarter, at the last Commission meeting it was presented to them that there was some grant money available, she believes for the 2005/2006 fiscal year, that they did not provide activities for, and therefore lost that grant funding.

Mr. Ellis said they have had that same grant which comes from FDOT, Florida Department of Transportation, for two years now. That funding was the first year 2004/2005 for \$24,000 and 2005/2006 for about \$19,000. Now the first grant, to his knowledge, is still there. The second grant, the \$19,000, he was told that it was sent back, but he did not know about it.

Commissioner Coke said she guesses that is where this discussion at the Commission level began because she knows that when she first came on board this Commission, they were constantly kept up to date on what Keep Fort Pierce Beautiful was doing. And it was pretty much at least quarterly they were asked as Commissioners to show up and participate with a particular neighborhood, whether they got with the neighborhood groups to have a clean-up day. She has picked up trash walking Avenue D one year, one year it was Orange Avenue, one year they worked up on Sunrise Boulevard. But in the last couple of years, she has not been asked to participate in anything, not that she misses picking up trash. But that is her concern, when she is looking back in the last previous 12 months, it pains her to think that their community would lose a \$19,000 or \$20,000 grant because they did not do what they were supposed to do as far as planning activities throughout their entire city. And it would seem to her, with the advent of this Commission under Commissioner Becht's leadership formed that NEAT program. That was the perfect avenue for them to utilize the Keep Fort Pierce Beautiful funding and to plan activities. She guesses her big concern is, when she looks back on the report that she has been given, she really sees no activities in the 12 months. And when she looks forward for the next 12 months, she sees some things in June through September. Of course, that means they have already missed October through June for this fiscal year. And she does not see that they have activities planned that relate to the entire City.

Mr. Ellis said there were activities, he does not know why she was not invited. There were flyers that were passed around.

Commissioner Coke said not only not invited, she does not see what activities they had listed in the report she was given.

Mr. Ellis said those activities were clean-ups and tree plantings that they did with the St. Lucie County Extension. Those activities were not as far reaching as they should have been and he will have to take full responsibility for that. But going forward they will try to include the entire City. And that was one of the problems with this program is that each area wants their own spending, he guesses is the best way to put it. He has people on the beach that want to do beach clean-ups, he has people in each neighborhood that want to do their own clean-ups. And it was beginning to cause a problem in terms of unity, trying to do one thing one place and one thing the other place. Again, that was what he was trying to lead up to with Mr. Moore's concept. He had completely gotten away from that so to speak. A better job of doing that is to try and get all those groups together, plan one big cleanup, the way Keep America Beautiful does. He was trying to go around in each different neighborhood and do small clean-ups, which was not being effective. That is why what they have before them now is a whole different approach to this whole program.

Commissioner Coke said she would appreciate it if he could, when he has an event, prior to at

least stick a memo in her mailbox; and afterwards, if he can give them a recount of how many participants there were, what they did, what areas were covered, and what the cost involved in the event was.

Mr. Ellis said absolutely.

Commissioner Coke said she does not want to see them lose another \$19,000. It is going to be spent someplace in the country, it might as well be spent in their City.

Mr. Ellis said he does not know who sent the money back, but he would never send FDOT money back.

Commissioner Alexander said he knows Mr. Ellis fell himself upon this sword, but he will not allow him to do that, not in his presence. Because he knows for the last year he has been requesting certain things to be done in this community, to even just put it under the auspices of Keep Fort Pierce Beautiful. And he knows through memos that is how he found out that the monies was sent back because he asked Mr. Beach about it. But the thing about it is the program, the efforts of the projects that was sent forth, was not recognized. And like he said, he is not going to just let Mr. Ellis take the blame on himself because those funds should never have been returned. And at the 12:00 o'clock hour, again he is not pointing fingers at anyone, but if they do not step up to the podium and take responsibility as he did, then he does not have much choice but to speak his piece on it. He asked several times several efforts to be done to be put on the burner to have done, and there was no response, no response to his communication to his boss or whomever. He does not know if it went to Mr. Beach, he did not think it got to Mr. Beach, because he thinks he would have taken a little effort to that. He remembers a couple years ago when Ms. Betsy Haddock, it was beautiful and fitting. Now at the point she left and it was put in his lap, he means it does not take a rocket scientist to know that someone is going to set him up to fail. And he is not going to be there to let no one to put him that position when it could have been done a different way. That is why he brought it before this Commission the last meeting about Keep Fort Pierce Beautiful. Other than that, no one would have said or mentioned about Keep Fort Pierce Beautiful; and they would have been having the same perception that nothing being done and there was something done, just no action or reaction on it.

Mr. Ellis said one thing he can assure him is that from his communication with Mr. Beach, he has a direct line to him now, and they will not have to worry about that anymore. They are going to be very successful.

Mayor Benton asked Mr. Ellis is going to take this and move forward with it now, his recommendations? And he is going to add to that also some other ideas and get this rolling again?

Mr. Ellis said yes, he will.

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

Commissioner Nelson said the one dealing with the garbage trucks (Item 23e).

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

- a. Approve Alcohol Beverage Permit (approved by City Commission on April 2, 2007) issued to Bottom's Up Beverage for St. Lucie County Chamber of Commerce 11th Annual Fishing Frenzy, changing the date of the event from May 18-19 to June 15-16, 2007.

- b. Approve Police Department contribution of \$1,000 to support the Florida Police Accreditation Coalition Conference in June; Funds from Law Enforcement Trust Fund.
- c. Approve submittal of an Application to the Florida Department of Environmental Protection, Land and Water Conservation Fund, for reimbursement of costs for the acquisition of the Rollins Property at Jetty Park.
- d. Approve purchase of materials and labor for Hurricane Shutters for the Public Works Buildings from Sharp General Contractors in the amount of \$26,000. Bid No. 5704

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The next item considered was Item 23e, which had previously been removed from the Consent Agenda: Declare two Solid Waste Bulk Trash Collection Vehicles as surplus; and approve sale to Conrad Enterprises for a total of \$23,125.00.

Commissioner Nelson said his concern with that was the fact that the backup material indicated on Page 10 of the bid sheet, Specifications, these units are in good condition and are fully operational. Please tell him why they are getting rid of vehicles with good condition and fully operational? He thinks they cost in the neighborhood about \$150,000 to \$190,000 apiece.

Mr. Robbie Creswell, Solid Waste Operations Manager, said yes. As a matter of fact, the one vehicle is 11 years old, it has 135,000 miles on it. Due to the years of service and miles and hours of operation, this vehicle is no longer effective to maintain.

Commissioner Nelson said but he says they are in good condition and are fully operational. That is the part that caught his attention. They approved for them to buy a couple of vehicles at another Commission meeting for a total of about \$399,000. Here they have two vehicles that are in good condition and fully operational they are going to give away to somebody for a total \$23,000.

City Manager Beach said one of the things the Fleet Maintenance Department does is keep maintenance records of vehicles. They keep a running tally on a monthly basis of what it costs to maintain a vehicle. When it reaches a certain level of maintenance, when the maintenance costs reach a certain amount, it triggers a decision to replace that piece of equipment as opposed to continuing to maintain it or to rebuild it or something of that nature. They have consistently been replacing those trucks. These are 11 years old. He thinks the statement that they are operable and in good condition is a statement for the buyers. These do operate, they operate the trucks right up until they retire them. They cannot operate them unless they keep them in serviceable condition and working condition.

Commissioner Nelson said that might be a take on his part, but it certainly...

City Manager Beach said that is what he meant it to be, that is his take on it.

Commissioner Nelson said as he has said many times, that these vehicles, some of them 153,000 miles on them, the same vehicles with the guys running up and down the road these Peterbilts and Volvos, the transmissions are good, the engines are good, the bodies are good. And when he puts in his own words the fact that they are in good condition and fully operational, and don't give him any information saying that he had to replace ten transmissions or so many engines or they had to fix rusted cabs or something of this nature, or salt is eating up so many vehicles, then he can see why they are getting rid of them. But he can assure them that it concerns him when he sees the private sector buying up their vehicles off the auction block in some cases. He is not sure if they are not even repainting them after they have them buy them up. Because he is frankly not convinced that their vehicles are worn that much to the point that they can get rid of them. He frankly believes that they can get greater usage of their vehicle stock. He frankly believes that their vehicle stock, not only the Solid Waste Department but throughout the entire City, is somewhat rather high on the hog so to speak in terms of brand new vehicles. It is

costing the taxpayers a whole lot of money just for them to ride around in air-conditioned vehicles, the latest thing, extended cabs, leather seats, and all this kind of business. He does not think government is supposed to be that way. The government he is accustomed to is sort of austere and long drawn out. Some vehicles he knows for a fact for the military, and he hates to use this as an example, B-52's are three and four times older than the guys who fly them. And some of the tanks they have got. Anyway, he just does not think they should be doing that.

Commissioner Becht said he would move approval to sell the 11 and 14 year old trucks.

Motion was made by Commissioner Becht, seconded by Commissioner Coke, to declare two Solid Waste Bulk Trash Collection Vehicles as surplus; and approve sale to Conrad Enterprises for a total of \$23,125.00.

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

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Ms. Elise Ann Rollins said she has to bring up a point that some people seem to find quite comical that is occurring in the Lincoln Park Main Street area, but she doesn't. They have an overrun of chickens from U.S. #1 to 25th Street. They can pretty much go down every street and see chickens and roosters with their biddies. She had some friends visiting and one laid an egg right in the middle of Avenue D. She has to bring this to their attention. They have a chicken problem. And considering the bird flu and other types of things that can occur from this. She has talked with Animal Control, she has talked to everybody that she can. They say they are having a hard time catching them. They can't catch them. They have a problem with the chickens, they are just everywhere. So she really has to bring this to their attention. Some people find it comical, but it is just really not funny. Because if they scratch or bite a kid or something like that, then they have another problem on their hands. They have a chicken problem, overrun with chickens.

Mayor Benton said they have had that for some time. He remembers he made a comment about that and the City Manager had put it in memo form and the press went all the way to the midwest. He had a phone call from somebody in the midwest who wanted to come down here on vacation, but he was going to eliminate their chicken problem, same as Key West has. He knows it is bad. His comment to Animal Control was, when they see them out on the street, catch the ones they can. But he is told these chickens fly very well and are very difficult to catch too. That is their job, to try to catch them.

Ms. Rollins said the babies aren't flying. She is seeing more. For one chicken, she is seeing about ten babies. Let's get the babies.

Mayor Benton said when Code Enforcement sees them too they should make a note of that and they can get over there. Because a lot of times they are sometimes in pens when they start off that young.

Ms. Rollins said she is notifying Code Enforcement when she sees them again.

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Mr. Henry Clayton said he is the newly elected Commander of American Legion Post 171 (1814 North 21st Street). He would like to take an opportunity tonight, on behalf of the St. Lucie County Veterans Association and on behalf of all veterans, on May 27th at 3:00 o'clock, he would like to invite the entire City, the Mayor, Police Chief, all the Commissioners. For those people who have never been to American Legion Post 171, they have missed a treat. He would like for them to come out and honor their veterans. They have a wall out there that honors every veteran from St. Lucie County killed from World War I to the present day. They honor those veterans. They have a place called Post Everlasting where they honor their veterans that have come home and passed on. They honor every veteran in St. Lucie County every day. They are asking them to come out and be a part of it this Sunday at 3:00 p.m. Not only that, the meal is

on them afterwards. So they can't beat that. They get to honor their veterans and they get a free meal. He just wants to make sure that everybody knows that they are invited. Some of them got written notices. Some of them didn't, and he apologizes for that because that is his responsibility. But he is inviting every man, woman, and child here to attend this function to help honor their veterans. For those that have never been there, if it is their first time, don't let it be their last time. Again, May 27th at 3:00 p.m. at 1814 North 21st Street at American Legion Post 171. He hopes to see the entire body there to join in honoring their veterans.

Mayor Benton said they do appreciate their veterans, or they wouldn't be here today and have it so good.

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Mr. Henry Clayton said the other day at Indian River Veterans Memorial Park he was walking through there. The eyes on the statute of CeeCee Lyles is missing. Can they please have someone check on that to find out why those eyes are missing and nobody has bothered replacing them? He knows it has been like that for about a month at least.

Mayor Benton said they will check on that.

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Commissioner Coke said she is sure they all received the Florida League of Cities awards criteria. She would like to see if she can get a consensus to turn this over to Anne Satterlee (Assistant to the City Manager) once again to place the appropriate nominations in. (The Commissioners agreed.)

Commissioner Nelson said the Florida League of Cities awards has a special category wherein they recognize employees of cities who have been there 25, 30, or more years. He thinks they have some of those employees and they should be considered for those awards for longevity.

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Commissioner Coke said she really has a problem with the Public Meeting that Mr. Margotta is planning for the Rollins Property (Jetty Park). It is June 9th in South Florida and he would like to have a meeting outside from 10:00 to 2:00? Would he like everybody to keel over from heatstroke? Could they not go there from 10:00 to 11:00 and he could show everybody what he wants, and then convene to an air-conditioned place, please?

Mr. Matt Margotta, Director of Planning, said maybe he can explain some of the rationale behind that. Probably the first hour or so will be a presentation by staff and some normal workshop type ideas. But the whole reason they are going to be there is to actually gather in some of the park users. The entire intent is to be there when the park users are there.

Commissioner Coke said she has gotten calls from all different kinds of people saying there is no way on June 9th from 10:00 until 2:00 in the afternoon they are going to be out in that heat.

Mr. Margotta said they will be underneath a cover.

Commissioner Coke said as a matter of fact, people have said staff really doesn't want them to show up and participate, do they? They are planning it out in the heat.

Mr. Margotta said that is not his take on it.

Commissioner Coke said she is just telling him the feedback she has.

Mayor Benton said hopefully there will be a nice breeze coming off the water there. It will be a lot cooler than it was at the Fairgrounds the other day for graduation.

Mr. Margotta said he needs to explain something else. It might not be obvious or known right now, but they intend to have that period where people can just give them comments. But he needed time to have that presentation and to be there for the public.

Commissioner Coke said from a personal standpoint, she will have a tough time attending; and it is something that is very important to her. And many people she has already spoken to cannot spend four hours outside in the heat in the middle of the summertime in Florida.

Mr. Margotta said he only needs five minutes of their time.

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Commissioner Nelson said a real serious problem he had the other day with the shooting on Avenue O and 16th Street. The problem he has is the fact that one of their citizens was killed and laid out in the street in excess of two hours with a sheet over him. In his opinion, that exacerbated the anxiety on the part of the crowd that was gathering around there. And the time laying out there was excessive in his opinion. To what extent have they developed protocol wherein they have various cognizant entities address situations like that or what is their protocol on that?

Chief of Police Sean Baldwin said it has been a long time since he has had this type of complaint about a body being on the street for so long. He fully understands the problems that causes and the emotions that are tied around that. In fact, that is one of the first things they try to do is remove that, so they can continue to do their job without the crowds of people around. Unfortunately it is out of the Police Department's direct control because it is a function of the Medical Examiner's office, which contracts with a service that provides for that transportation. He understands in this particular case they had to call more than once in order to get that process moving along. He hasn't had the opportunity to speak with Dr. Middleman about it directly, but he will do it because it falls under Dr. Middleman's control and he will assure them he will take care of it. This was not a normal experience. It was an extraordinary event. The protocol is simple. The Police Department calls and they normally will arrive within about 20 to 30 minutes. They are also putting some backup procedures in place to try to screen and so forth, to make sure they are being as respectful as they can if they do have to wait.

Commissioner Nelson said he can understand where it might not be within the Chief's or Sheriff's authority to remove the bodies from the scene prematurely, because they have to preserve the crime scene and protect all the evidence they can gather there. But the Chief says it is out of the Police Department's authority. He is not sure it is out of their authority to at least talk with and get a response from the authority that has responsibility. To what extent have they communicated with them to indicate that they are quite dissatisfied with that effort and they want something positive done about it.

Chief Baldwin said that communication was made from the supervisors on the scene the day that it happened. He has not spoken directly with Dr. Middleman, but he will before this weekend to make sure that the concern is addressed at his level.

Commissioner Nelson asked from what source is this communication? Are they registering a legitimate protest? He does not think they should let it go unchecked. He does not want to see anything like that happen again in the future wherein the body lays out in the street with a sheet over it and blood running out of it for two hours. People sitting out there on the side of the road there screaming and hollering and carrying on, gathering up the numbers of the crowd and all that. That is just absolutely horrible. He thinks it is basic, whether or not it is directed at him as a Policeman or his organization as a Police Department or not, it is bad police work. They have to move that bad element, that element that causes the crowd to gather, from the scene.

Chief Baldwin said he hears him loud and clear. He will do everything that he can to take care of the situation and make sure that it doesn't happen again.

Commissioner Nelson asked can they get a formal response from whomever the authority is - the coroner's office, the state attorney's office? Whose office handles that?

Chief Baldwin said absolutely. It is the Medical Examiner's office for the 19th Circuit.

Commissioner Nelson asked have they committed a letter to them in any way?

Commissioner Alexander said he would suggest, he saw on the Turnpike these tents they had. Maybe they can utilize something like that. Again, it falls under the State of Florida; and the cities and local municipalities don't have any say on it.

Chief Baldwin said there are times when they will need to leave a body in place for multiple hours - 12 hours, 20 hours. And that is the backup plan he was talking about, is to make sure their crime scene people are equipped with that ability to screen a body or another piece of evidence from the crowd. Nevertheless, he understands the importance of taking care of that situation quickly. He will speak with Dr. Middleman personally and he will get some type of written response to the complaint.

Commissioner Nelson asked will Mr. Beach follow through on that?

City Manager Beach said yes. As per previous discussions he and Commissioner Nelson have had on that subject, he will be following through with it and will be getting a response from the coroner's office.

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Commissioner Nelson said the use of the Plaza at 13th Street and Avenue D. He does not know how they are proposing to use that facility. Are they allowing people to use it as a Farmer's Market? Do they have to have permits to use it? How is it being used and what is the process for using it?

City Manager Beach said he is unaware of any permitting processes that are currently underway on that site. He does know that there are some market activities that takes place there and it may be through either the Lincoln Park Main Street or the Lincoln Park Business Association. But he does not have an organized activity for that site.

Commissioner Nelson said he is getting feedback on it saying that the vendors are being kicked out, that they have to have special fees and licenses and permits for the use of it. And it just causes him some concern. What are they trying to accomplish?

City Manager Beach asked can he tell him what is happening or where he is getting this information?

Commissioner Nelson said some of the people who actually have had little vegetable stands there and little cookers. Does Ms. Rollins have some feedback on that?

Ms. Elise Ann Rollins said just to give a brief history. When she became President of Lincoln Park Business Association, she thinks the site had only been set up for about two or three months. She was told as the new president that the Lincoln Park Business Association had authority to allow vendors to utilize the site, something like what they do with Fort Pierce Main Street with Old City Hall. She never got that in writing, even through she did try to get some information on it. When they became a Main Street Program, they continued to let people come on the site like the Farmer's Market downtown, to generate additional business. But she was informed by Ms. Steele's office that there were Special Events Permits required to utilize the site and that they would have to pay a certain amount of insurance to duplicate what was being done downtown. That is a hardship. They just don't acquire enough funding for that. So they discontinued use of it until they can get clarification on exactly how they oversee it, how much they have to pay, who can they allow to be there, the whole nine yards. They had made up an application process, but they wanted to make sure that they were the authority to oversee that site under the Lincoln Park Main Street and Lincoln Park Business Association dual programs there.

City Manager Beach said he believes the way that would have to work would be a similar

arrangement the City has with the Downtown Fort Pierce Farmer's Market. Isn't that worked through one individual who brings in all the permitting needs to the City Clerk's office? They have a manager there that works on all of that.

City Clerk Steele said that is correct, it is a Special Events Permit. And there is an individual that comes in and gets all the permits and pays the fees and the insurance. They have had this conversation.

Ms. Rollins said right.

Commissioner Nelson asked why don't they try to duplicate what they are doing down there at Main Street Fort Pierce. Bring them a positive report on how it can work at the next Commission meeting.

City Clerk Steele asked what report is he asking for?

Commissioner Nelson said how they want to do it, who handles the permitting, who is allowed to be there, etc.

Mayor Benton said they just need somebody to take the lead.

City Clerk Steele asked the organization?

Ms. Rollins said they have been taking the lead, they have maintained the site, they work with Public Works. It looks really nice now. They inform them when things were occurring negative in the area. The Police Department, Captain Kirk's office, has been helping them with safety. But the problem is the insurance. Does each vendor need a Special Events Permit? Or does the one organization need the permit? They also have a manager.

City Clerk Steele said on at least two occasions she has asked Ms. Rollins to come in and they can sit down and discuss this. She hasn't called her back yet. They can work this out if she would call and set up an appointment and come in. They can sit down and walk through the entire process. They talked about it on the phone twice.

Ms. Rollins said she understands what she is saying, but that is not what she is asking of the City Commission in working them through this. It is other extenuating circumstances. They do not have the money for the insurance. It is quite expensive. And each and every vendor do not have the money to pay for a Special Events Permit plus them utilizing the market. They want to adopt the plan that they have with Fort Pierce Main Street like they have with Old City Hall, because they do not have a money-making unit. So that is what they are trying to acquire. There is not a building at this time for them to utilize as a money-making unit, so they are asking to use the market site for that. And some additional assistance.

Commissioner Coke said if she is making a formal request, can she maybe put it in the form of a business proposal that the Lincoln Park Business Association would like to do this - they will maintain it, rent it, etc. That they are looking to do that as a parallelism to the Fort Pierce Main Street utilizing Old City Hall. Can she put that in the form of a business proposal?

Ms. Rollins said yes, she can.

Commissioner Coke said then they can look at it and have something concrete? It is 11:20 at night. She is looking to help, but she needs to be able to think clearly, because then they can all have better ideas on it.

Commissioner Alexander asked when they can up with this idea to spend \$168,000 of public money to put that Farmer's Market there, why didn't they have all this in line? He is saying this

to only say it doesn't take a rocket scientist to say they are going to make that available to the public or not.

City Clerk Steele said it won't be available to the public if they turn it over to Lincoln Park Main Street. Lincoln Park Main Street didn't exist when they built it.

Commissioner Coke said when they made the original investment to build it...

Commissioner Alexander asked can he also request the properties across the street that is City-owned on that corner to be included in that, so there can be some off-street parking? Don't the City own some property across the street from that?

Ms. Rollins said yes, they do. Or the FPRA.

Commissioner Nelson said he does not think so.

Ms. Rollins said it is a vacant lot. One part is owned by a private owner and the other part by the City Commission. The problem is that the land is landlocked, they can't put any parking there because of the City acquiring it. So that is another conversation.

Commissioner Coke said give them a business plan. That way they can consider it and look at all their needs and go forward.

Commissioner Alexander said get Ms. Steele's blessing on that and bring it back to them.

Ms. Rollins said right. She knew Commissioner Nelson was bringing it before the Commission and she wanted to hear from the Commission before she could devise a plan.

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Commissioner Becht said Staff did a wonderful job working with Island Village. They are going to be back in two weeks. His concern is that Mr. Bernstein has to date ducked what he wanted him to do and he thinks other Commissioners wanted him to do, which was to provide access across his northern border for the public. If this is a real hotel, he does not understand what his objection is to allowing a public sidewalk on the northern edge of his property if they can't get it on the Army Corps of Engineers property. He fears that Mr. Bernstein is going to come back and is not going to have that folded into his project, that he is going to dump on the City the argument with the Corps or the task with the Corps of trying to get that public access across there. And he is not sure they are ever going to be able to get it. It would be his preference to at least task Mr. Bernstein with creating the public access on his northern property line; and if Mr. Bernstein can get this through the Corps, that he do it.

Commissioner Coke said that is a great idea, she likes that.

Commissioner Becht said he just wanted to be clear with Staff where his head was at. And at the same time, this is the only way he can communicate with the other Commissioners.

Commissioner Alexander said along that line, they have the Rollins Property. Why can't they in conjunction with Mr. Bernstein go to the Army Corps of Engineers? Because they are not likely going to allow him to encroach on that 15-foot setback. So he does not know, just not repeating anything someone said, that they sent a letter to the City of Fort Pierce, the Army Corps of Engineers, requesting that they get...

Mr. David Recor, Deputy City Manager, said he has initiated discussions with the Army Corps of Engineers. He has not heard back from the representative. So they are moving forward with that to determine exactly what kinds of public improvements can be constructed in the rights-of-way.

Mayor Benton said they might work a deal with them, because there are several docks that are still piled up there after the hurricanes. Maybe it is something they can deed or lease that land to the City if they get those docks out of the water, which is something the Army Corps is supposed to be doing. There are docks that have been destroyed that they told the owners of these properties that they wanted removed and they couldn't put them back. Mr. Bernstein has bought most of the properties there, but there are still several that aren't owned by him.

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Mayor Benton said there was a memorial service last week for all the fallen Police Officers and the County Sheriff's Deputies. He got to thinking, they don't have anything for them. Maybe they should have a memorial in Indian River Veterans Memorial Park like they do with CeeCee Lyle, acknowledging their fallen police officers, sheriff deputies, and firemen that have given their lives for this community. There is not many, but he thinks they should be recognized.

Commissioner Nelson said that is for veterans.

Mayor Benton said CeeCee Lyle wasn't a veteran.

Commissioner Nelson said he would like to see her moved out of there too.

Mayor Benton said he thinks they should consider doing something for their fallen law enforcement officers.

Commissioner Coke said it is a good idea.

Commissioner Nelson said in the past he has talked and written about them having memorials for significant people like Martin Luther King or CeeCee Ross Lyles or Benjamin Pierce, the founding father of their City. But that is separate and apart from the veterans.

Mayor Benton said there is a war going on in their streets and officers have been killed. They are providing a service similar to what the Army and Navy is doing. All he is saying is, if there is enough interest here to look into it...

Commissioner Coke said there is plenty of room.

Commissioner Alexander said he agrees.

Commissioner Becht said he would like to respect Commissioner Nelson's distinction between a veteran and the others, but he thinks there is enough room there where they can be respectful to the veterans and also accommodate the other issue.

Commissioner Nelson said he has tried to get them to delineate and define the parameters of Veteran's Park. That should be solely, strictly, and only for veterans.

Mayor Benton said they could do it at City Hall.

Commissioner Nelson said he does not care where they put it, just not in Veterans Park.

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Mayor Benton said people have come to see him about lights on the South Jetty. They have heard issues with the Army Corps of Engineers. If they could have Staff come back with some numbers on what it is going to cost to put lights back on the Jetty. He is sure it is a safety issue. Since the hurricanes, the lights have been gone, but there are still people going out there all hours of the night. It is for safety purposes. It has been a request of people who have come to see him.

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There being no further business, Mayor Benton declared the meeting adjourned at 11:28 p.m.

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Adjournment.

ATTEST:

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CITY CLERK

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MAYOR COMMISSIONER

