

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, JUNE 16, 2008.

Mayor Benton called the meeting to order.

Reverend Ron Engel, Trinity Lutheran Church, gave the invocation.

The Pledge of Allegiance was recited.

Upon Roll Call, those present were: Mayor Robert J. Benton; Commissioners Rufus Alexander, Edward Becht, Christine Coke, and Reginald Sessions; City Manager Dennis Beach; City Attorney Robert Schwerer; and City Clerk Cassandra Steele.

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The next item on the Agenda was Approval of Minutes of the Regular Meeting on June 2, 2008.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve the Minutes of the Regular Meeting on June 2, 2008.

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

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The next item on the Agenda was Presentation by Commissioner Gail Kavanagh, Florida Inland Navigation District, of Grant Reimbursement Checks for the City Marina.

**Commissioner Gail Kavanagh** said it is with great pleasure and pride that she is here tonight as the St. Lucie County representative of the Florida Inland Navigation District. She is here to present the Commission with two big checks. The first one is for 50% dredging of the City Marina basin and that is for \$18,000. And the second check is for \$205,000 and represents a little less than 50% of the cost of the necessary City Marina fuel tank replacement. This project was necessary to update the tanks to stay in compliance so the Marina could continue to provide fuel service. FIND is delighted to be able to give back to the citizens of St. Lucie County and the City of Fort Pierce.

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Mayor Benton presented a proclamation in Memory of Pfc. Andre D. McNair, Jr.

Mayor Benton said this community grieves with the McNairs. He is very sorry for their loss.

**Mr. Andre McNair, Sr.** said right now he is kind of at a loss for words. He would really like to thank everybody for being there for them. Right now it is hard. It definitely hit him yesterday, because it was Father's Day. But he would like to thank everybody who has been there for them.

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

Letter from Louis Palumbo commending Craig Kilgore, City Marina Dockmaster, for his leadership and professional manner.

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

**Ms. Marjorie Harrell** said she is glad they have television because they had to make some changes in the **Juneteenth** agenda. Life happened to the heads of the Committees this weekend. Denise Sirmons at the Lincoln Park Recreation Center lost a major member of her family. And she lost her brother Sunday morning. They talked about it and knew that they needed to postpone Saturday's event for Juneteenth. The festival at the Lincoln Park Recreation Center will now take place on Saturday, the 28th of June, instead of this Saturday, June 21st. All the other events, the drumming and story telling workshops, will continue as planned. The Cee Cee Lyles Libation ceremony at her statue 5:30 p.m. to 6:30 p.m. on Thursday will take place as planned. At 7:00 o'clock at the Lincoln Park Recreation Center, the Uncrowned Kings and Queens ceremony will take place as planned. Friday's events on June 20th will still take place as planned. The children will be bused and she

hopes trolleyed to the Historical Museum where they will participate from the summer camps. They will have over 300 kids there and they will have lots of drums. They will be doing drum circles, learning how to actually beat the drums, storytelling workshops, arts, etc. That will take place on June 20th starting at 1:00 p.m. at the Historical Museum. And then the Rent Party for adults where Dr. Robin Poyner will talk about art and his travels in Africa. And the sculptors who have the sculptures near the museum will continue to do the drumming workshops and talk about their work also. So they are asking that the City still support them, that those of them who are in town come. Mayor Benton is going to be out of town, but maybe he will be back on June 28th and he can join them at the Lincoln Park Recreation Center. She will have the Cultural Affairs Department who has worked very closely with them. The City of Fort Pierce - in case they don't know it - has supported them also. The Fort Pierce Redevelopment Agency has supported them. The Children's Services Council, the Lincoln Park Recreational Center, St. Lucie County Parks & Recreation, County Commissioner Joe Smith, she thanks those people for their support, both monetary and in-kind.

**Ms. Marcia Baker**, 1753 Seaway Drive, said there is an old fable about a scorpion and a turtle. The scorpion gets a ride on the back of the turtle to cross the river, promising not to sting the turtle as it would mean death and drowning for both of them. Halfway across, the scorpion stings the trusting turtle. And as they sink, the turtle asked the scorpion - why? The scorpion answered - because he is a scorpion and it is his nature. Almost five years ago she warned this Commission about Mr. Bernstein and his proposed **Island Village** condo development. Over the years she continued to warn this Commission about his lack of trustworthiness, while this Commission continued to allow itself and the taxpayers and the residents of the City to be repeatedly stung by broken promises, unrealized plans, and well-promoted and overly-promoted advertised speculative schemes. His actions have created a staggering burden of increased costs to the citizens of Fort Pierce, not only in the astronomical unending planning and legal expenses and innumerable hearings, but also in the bloated, artificially inflated valuations on South Beach. Because of these pumped up appraisals, it has increased the cost of City acquisitions, increased property taxes for everyone in the area, drowned responsible development, and created a code enforcement nightmare. A month ago she appeared here and requested that the City protect its own interests by making sure that the historic building at 1770 Seaway Drive was protected from demolition pending the outcome of the six-month extension to the hotel site plan that the City had granted. This was based on Mr. Bernstein's promise to provide rights-of-way for the inlet park. She now regrets having made those remarks, because a few days later Mr. Bernstein's agent obtained a demolition permit. The only thing that was demolished was the unique and beautiful coquina rock spiral staircase on the historic two-story building. None of the condemned falling down sections of the single-story buildings have been touched. At the last FPRA meeting, a request was made to refuse to issue any demolition permits on this historic building. It was too late. If the Commission had given that instruction at the May 19th meeting, this spiteful vandalism could have been prevented. This building has lost its primary unique architectural feature. And the City and its citizens have been stung again, and they have had their chance to make a choice destroyed along with a unique architecture of the building. Tonight she believes Mr. Schwerer will report that no right-of-way agreements were received. So the six-month extension will be presumably voided. Any new developments on that property will not be faced with any impediments to their plans caused by the historic building. Now she will again - as she has tried for the past five years - to urge the City to obtain an insurance bond for any and all future developments. This isn't a frivolous request just to make sure that the cost of the abandoned developments are reimbursed, but to allow the reasonable and responsible practice of having a bonding company investigate the trustworthiness and bondability of any future developers to avoid having any future speculator scorpions sting their City and its citizens, abandoning developments and leaving a trail of broken promises.

**Ms. Denise Sheppard**, 3044 Oleander Boulevard, said she is just here tonight to turn over the petitions for **Doggie Dining**, keeping her paws crossed. These are the originals. She

has also included some simple applications and regulations from Miami and some comments from the Tribune and TC Palm. (Ms. Sheppard displayed a banner petition.)

Mayor Benton asked they have some dogs that signed that petition?

Ms. Sheppard said yes, they sure did. These came from the Farmer's Market, Friday Fest, and the outdoor dining restaurant servers, owners, and dogs.

Mayor Benton said she can give it to the City Clerk for the record.

**Ms. Alice Lewis**, 2708 South 10th Street, said she is supposed to be on the Agenda to see about getting **Pioneer Park** changed to Rufus Alexander, Jr. Park, because he was the one who made the park possible in that section of town.

Mayor Benton said he received her petition and has added it to the Agenda for discussion later on this evening.

Commissioner Alexander said he just wants to be sure that everyone understands, he is Rufus Alexander III.

**Mr. Havert Fenn**, 2601 Avenue I, said he has been a resident of the City since 1962. He is here to speak on Agenda Item #22 relative to the naming of the **Northwest Pioneers Park**. No claim to fame, but he initiated that project. And as the record will show, they went back and thanks to the City Clerk they got information relative to the development of that Park. He served on the City Commission at the time. He was selected to lead the drive to get another park in the northwest section of Fort Pierce. They had a number of persons whose names came up, they had a number of persons to come before them. But the City Commission did ask him to form a committee - and this is shown in the record - which he did. Thanks be to God that some few of them are still around. Mrs. Patricia Hilburn was City Manager at the time when they started this process in 1979. Mr. John Brennan was the City Attorney. He did not find all those names in his document, but he has the document somewhere. He will give them the names of some of the persons who, at his age, he can still remember who they were. Mrs. Cleo Leath was very active on the Committee. Ms. Cora Monroe, Mrs. Algernon Bolen, Mr. Julius Lee, Mr. Prince, the Elks Lodge on 25th Street had representatives there, and Mrs. Pauline Williams. At the time Mrs. Williams was the Director of the Lincoln Park Recreation Center. What they found out in their Committee meeting when the names came up that there were several names and they as a Committee could not come up with any one name. That was not good. They found themselves being split. He used his interest and influence to say to them, they know they have these 10 or 12 names here and he thinks it would be dangerous for them to try to have this Park named for one individual, because they were headed to splitting up the black community. One of the names that was mentioned was Dr. Clem Benton, who at a later time a building was named in his honor. They had some other names that came up. But one of the things he tried to do as a leader of that Committee was not to split the black community, because there were those who said they left their father out, left their uncle out, left their aunt out. At any rate, he was persistent and got the members to say okay, they are going to call it the Northwest Pioneers Park. They also asked that a plaque be built there to put all the names of the people they had recommended to them on that plaque. That was not followed through, that was something Commissioner Fenn did not follow through on, and he is sorry about that. But during the time they were trying to get this, it was in 1981, Governor Bob Graham appointed him to the County Commission and he moved out of this seat and went to the County. He didn't stop working for it, but they should have followed through with the plaque idea and put all those names down there, because they have some outstanding pioneers to helped to make this City grow. One such name that came up was Reverend Stone. He was the founder of the Stone Brothers Funeral Home. Of course, that name rang a bell, they said they had to find something to honor Reverend Stone. But to his knowledge that has not been done. So he is saying to

the City Commission, pleading to them, let's not split the black community, because if they put one family name on that park, they are going to find they are going to split the black community. They have about eight to ten names that should go on a plaque of some sort. Not Havert Fenn, he was not a pioneer. He does want them to, as they peruse through that item tonight, to remember this is the voice of experience and he hopes they take heed to it.

But if at all possible, let's get a plaque in concrete or whatever and put it out there, and have it listed and have an opening for the Northwest Pioneers Park on North 29th Street and Avenue M.

Mayor Benton said he thanks Mr. Fenn for bringing that up tonight, because earlier today it was brought to his attention. He put this on the Agenda because a petition was brought to him. He was given a list from way back when of almost 30 people. But he wanted to put this petition on the Agenda for discussion. He thinks this must be a list of those pioneers. So when that discussion comes up, that information is here. The last thing this Commission or this Mayor wants to do is split any part of this community. He knows there are a lot of roots there and a lot of family there. So they are not going to do that, he has his word.

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The next item on the Agenda was Public Hearing on Applications for **Conditional Use & Site Plan Review** - Preliminary & Final Redevelopment Plan - submitted by Gallery 34949, Inc. for **St. Lucie Court** mixed-use retail and residential development at **301 South Ocean Drive**; said property zoned PUR, Planned Unit Redevelopment Zone.

Mr. David Carlin, Development Review Planner, said the applicant is requesting approval of a Preliminary & Final Redevelopment Plan and Conditional Use to construct a 3,600 square foot mixed-use development at 301 South Ocean Drive. The property is zoned PUR, Planned Unit Redevelopment. Conditional Use approval is required for construction on the seaward side of the coastal construction control line in accordance with Section 22-66 of the City Code. The property is zoned PUR, Planned Unit Redevelopment, and located in the southwest corner of Ocean Drive and St. Lucie Court. It is currently occupied by a small convenience store. The parcel to the north is zoned C-5, Tourist Commercial, and occupied by a real estate office. The properties to the east are zoned R-4A, Hutchinson Island Medium Density Residential, and consist of single-family homes and also a 50-foot wide beach access point to the ocean. The property to the south and to the west is also R-4A, which consists of vacant parcels and multi-family developments as well. The proposed development is consistent with the surrounding land uses. The proposed development will incorporate both retail and residential elements and will be completed in two different phases. During Phase I, the convenience store will continue to operate while a new 2,220 square foot building is constructed immediately to the south of the convenience store, which will accommodate retail tenants. In addition, the building will include a new pavilion on the second floor, which will allow pedestrians to go up and enjoy the view of the ocean and there will be seating for those patrons. Phase I will also consist of putting in the infrastructure, which will include the required parking for the development. Phase II will include constructing an additional 1,380 square feet of retail space on the ground floor in addition to four residential units on top. The project will yield a gross density of 7.8 units per acre, which complies with the South Beach Overlay District requirements of 8 units per acre. In addition, the applicant will be providing right-of-way along Hernando Street and St. Lucie Court of 5-feet total. Sidewalks will also be constructed along Hernando Street and St. Lucie Court. In addition, the A1A reconstruction plans will also have sidewalks along Ocean Drive. In terms of landscaping for this particular development, there will be a total of 27 new trees and adequate landscaping strips will be provided around the perimeter of the development. Stormwater retention for this particular development will consist of exfiltration trenches. Seen here is a rendering of the proposed building. The height will extend to 43 feet, which also complies with the South Beach Overlay District requirements of a maximum height of 45 feet.

Commissioner Coke said she sees they have 43 feet to the bottom of the roof line. Can he tell her what the height is to the highest point on the roof?

Mr. Carlin said the highest point to this roof, the height does extend 43 feet, which is to the top of the roof line. It does not go to the bottom of the eaves or anything like that. It goes straight up to the top flat portion of the roof. Also, there is an architectural feature, almost a tower. He believes that is for the elevators. That will extend up to a height of 48 feet. The South Beach Overlay District requirements does allow architectural features such as towers and spires to extend 20% higher than 45 feet, which would be a maximum of 49 feet.

Commissioner Coke asked is Mr. Carlin saying that is a flat roof?

Mr. Carlin said from this perspective the roof does pitch up slightly. But the top of the roof where it does peak, it is hard to discern on this particular three-dimensional picture. On the architectural elevations provided, the top of the roof is 43 feet.

Commissioner Coke said okay, she just wanted that on the record.

Mr. Carlin said for this particular development, the traffic statement provided by Boyle Engineering, which was dated October 2007, indicated that the proposed development would generate 218 daily trips onto the surrounding roadway network. The report also specifies that there will be no significant impacts to the surrounding streets. The City Engineering Department has approved the traffic report and finds that it is also consist. As far as notifications, 95 notifications were mailed to property owners within 500 feet of the subject development. As of today, 20 responses have been received - 17 approve and 3 oppose. All affected departments have reviewed the submittals and have approved the proposed Preliminary & Final Redevelopment Plan and Conditional Use, based on it meeting the requirements of the City Code. At the May 13, 2008 meeting, the Planning Board voted to recommend approval of the Preliminary & Final Redevelopment Plan and Conditional Use with conditions that have been addressed. As the proposed Preliminary & Final Redevelopment Plan and Conditional Use meets the requirements of City Code, Staff recommends approval.

Commissioner Becht asked what is the total acreage of the site once they lose that five-foot strip?

Mr. Carlin said right now the total size of the parcel is .51 acre. He would have to reference the actual plan to see if they put the proposed right-of-way dedication on there.

Commissioner Becht said they have a mixed-use development. Staff is saying it meets the four and eight. He is okay with it. But he is just curious as to how Mr. Carlin made the calculation, because they have four units on half an acre, and then they have a decent amount of retail. Mr. Recor attempted to explain that to him, but he is not sure he understood it.

Mr. Carlin said the proposed density calculation for this particular development is based on .51 acres, so it would not appear that the right-of-way deduction was accounted for in the calculation of the density requirement. The density requirement was based on the total acreage of .51 acres.

Commissioner Becht said that is not really his question, although he wondered whether they did it before or after the 5-foot deduction. The question he has is, they have both residential and commercial on the property, so they are getting a full four units for the half acre and they are also getting 3,600 square feet for that. He met with the applicant and he is in favor of the project, don't get him wrong. He is just curious as to how they are going to apply this formula going forward. Because it appears to him the applicant got a full residential allotment and he got a full retail allotment. As Mr. Recor had explained that to him, he didn't think that was the way it was going to work.

Mr. Carlin said he is not sure what Mr. Recor was referencing in regards to that and unfortunately he is not here this evening. They have reviewed this project in terms of its mixed-use residential and retail components, which is consistent with the PUR zoning requirements.

Commissioner Becht said he will get with Mr. Recor when he gets back.

Commissioner Coke asked have they reviewed this to insure that it meets the standards of the South Beach Overlay District?

Mr. Carlin said that is correct.

Commissioner Coke asked it is going to go through the architectural review committee?

Mr. Carlin said that has already been approved and reviewed by the Design Review Board, which is the Planning Board. And it has also been reviewed by Planning Staff for the Design Review Guidelines.

Commissioner Coke said she thinks it is going to be an improvement to what they have there now. Her only concern is she needs some clarification, because it was her understanding when they talk about eight units per acre, that there needed to be some kind of calculation taken into effect for retail also. In essence, they are giving eight units per acre here, because it is half an acre and there is going to be four residential units; but they are not taking into account the retail that is there in that calculation. She personally needs some clarification on what the actual ordinance requires them to look at when they have a PUR.

Mr. Carlin said the function of the non-residential component for any development is not a density-related issue, it is a calculation for parking. It is how much they can put on the site based on the number of parking spaces that are on the Site Plan. This Site Plan meets the City Code requirements, there is enough parking based on the amount of retail development that will be on the site, in addition to the parking requirements for the residential units.

Commissioner Becht said Mr. Carlin refreshed his memory. That is what the discussion evolved to, they were trying to figure out a formula for how to address it. His recollection what they resigned themselves to was if they could park it, if they could landscape it, if they could meet the setbacks, then they could be as creative as they wanted to as long as they could do that. That is what he thinks they boiled it down to at the end of the day.

Commissioner Coke said now he refreshed her memory. She does believe they had discussions about that initially too.

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

**Mr. Greg Boggs**, Lucido & Associates, said it is very good to be here with this project. He doesn't think anyone is happier than Richard Allen other than himself. They have been working with Mr. Allen since 2003. It has been a little bumpy, but they are happy to be here. He thinks they have a good project. He appreciates Mr. Carlin's report. They are naturally all for that recommendation of approval. If they have any questions, he is here and Mr. Allen is here.

Commissioner Coke asked when are they going to start?

Mr. Boggs said they need to get the City Commission's support tonight. And then coastal construction permitting, which is going on six to nine months these days. They are going to try to not have to come back and request an extension. These projects out on the island

are difficult to build within a year, particularly when they need to go to Tallahassee. They are committed. Mr. Allen is extremely committed to have this underway.

Commissioner Becht said he would compliment Mr. Boggs. He probably gave his client a scare when he started talking about what he was talking about. But it is Mr. Boggs creative juices that got all of that on the property in what appears to be a logical and marketable fashion. They had some discussions about Lucido & Associates providing some engineering services across the street from this project for a boardwalk. He doesn't know what the end result of those discussions were. They had his client on the phone and talked about a bunch of different things. Does Mr. Boggs have anything else he can add to this project?

Mr. Boggs said he could explain what they had discussed with Commissioner Becht. If they remember, a couple of years ago his firm did a series of schematic designs for each of the beaches, including the little 50 foot access strips. What they would do, if it is okay with the Commission, is to proceed with their efforts to provide Jack Andrews (City Engineer) a construction drawing for a dune crossover. And he thinks that is a field permit, if he is not mistaken. But all things begin with a concept and then a working drawing. What they said on the telephone a couple of days ago was their firm through Mr. Allen could provide the construction drawings at least to begin.

Commissioner Becht asked what does he think the value is?

Mr. Boggs said in the office they estimated it to be \$10,000 to \$12,000 fee that they would provide through Mr. Allen to the City.

Commissioner Becht said so the City is going to get that for free.

Mr. Boggs said the City will get that design pro bono from Lucido & Associates. That could then allow that to be an improved access, which is now beginning to be improved. But they really shouldn't be walking on the sand. They need a legitimate wooden dune cross over, which could then be conforming to the coastal construction regulations that basically require a dune crossover to get to the sandy beach.

Commissioner Coke said she assumes Mr. Boggs is going to, in addition to Mr. Andrews, work with Mr. Hood (Director of Public Works) who has been spearheading the fine job he is doing out on the beach.

Mr. Boggs said yes.

Commissioner Coke said Mr. Hood is in constant contact with the South Beach Association, their Parks Committee.

Mr. Boggs said he wasn't quite certain as to who the point of contact would be on that. But if it is Bob Hood, then they would go right to Mr. Hood.

Commissioner Coke said she thinks Mr. Hood and Mr. Andrews work well together.

Mr. Boggs said together with his firm doing the construction documents, they did say that Mr. Allen would lay a \$5,000 cash contribution on the table at the time of receiving the building permit. They would like that money and their efforts to be concentrated on the St. Lucie Court beach access strip, such that there is a direct relationship to the City being improved and Mr. Allen's project being improved, because it is adjacent to the St. Lucie Court beach access strip. Anyway that is what they discussed and that is what they are offering. If that would be accommodated tonight, Mr. Allen is ready to accept that.

Mayor Benton said he thanks Mr. Boggs and Mr. Allen. This has been many years, the obstacles they went through. Thanks for bearing with them.

**Ms. Marcia Baker** said she has reviewed all the Minutes on this development from over four years ago. She wants to commend Mr. Allen and the Planning Department and Mr. Allen's engineers and legal team for what she can only describe as a marathon effort to show what good developers can accomplish if they are operating in good faith and honesty and with real cooperation between themselves and the public and the Planning Department. This project is not only well-planned and aesthetically designed in keeping with the beauty of its site, but it meets her personal design review preference of simplicity, since it does not come burdened with overblown kitsch embellishments. She has only one question involving a slight logistical legal problem. She hopes the Commissioner and perhaps Mr. Schwerer can help rectify it. The original Site Plan and its concurrent PUR zoning lapsed over a year ago. The requirements are that the PUR zoning be reversed and reverted back to its original R-4A zoning. That wasn't done. In order to prevent future developers, who may not be as scrupulous as Mr. Allen is, from using this approval of this new site plan on an old PUR zoning as a precedent, there must be some legal way of getting around this. She doesn't know what that legal way is. Obviously this should be a PUR development. She would guess, and Mr. Schwerer could probably figure it out a lot better than she can, that the City Commission can make a motion to abolish the normal reversion of the PUR zoning that is required and to have this entered as an amended site plan to the original PUR. That way they won't have any precedence of having a PUR which has lapsed with a new Site Plan. She doesn't exactly know how that should be done, but she believes it should be done, because otherwise it will set a very bad precedent. She commends Mr. Allen on his patience and honesty and she looks forward to the success of St. Lucie Court.

**Ms. Carole Mushier**, President of South Beach Association, said their earlier question about retail and residential, that is the function of a PUR. Without a PUR, they could not have mixed-use in an R-4A zone. So the fact that they can separate out the residential and have it meet the density requirements and also have retail is a function of a PUR. As it appears that this Site Plan meets all the City codes and ordinances particularly as they relate to a PUR, they have no objection to the project. She understands the conditions that were brought before the Planning Board have been met. Is that correct?

Mr. Carlin said yes.

Ms. Mushier said she had asked at the Planning Board that the developer be prepared to come forth with some dollars for their beach parks when he came to the Commission, because he would be asked for that at any rate by the Commission, and she is pleased to see that he has. She gets a little leery when somebody says they will do it when they get a building permit. They all know when that might happen. So perhaps they might want to consider that both the construction plans and the \$5,000 be put on a time line of the Commission's choosing.

**Mr. Steve Patterson** said he owns the lot next to it. In his past experience - and he doesn't believe Mr. Allen had anything to do with it - his lot was used for construction storage and bulldozers and all of that. He is seriously considering marketing that lot. But with all this construction and things parked there, which he doesn't have any control with. He tried to speak to Mr. Allen, but he didn't have the opportunity. He would like some help in that area if they pass this, a postponement or something like that, because he doesn't want to have to live with that.

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

Motion was made by Commissioner Sessions, seconded by Commissioner Coke, to approve the Conditional Use & Site Plan - Preliminary & Final Redevelopment Plan - submitted by Gallery 34949, Inc. for St. Lucie Court mixed-use retail and residential

development at 301 South Ocean Drive with the conditions that Lucido & Associates will provide construction drawings to the City Engineer at no cost to the City for a dune crossover at St. Lucie Court and a \$5,000 cash contribution to the City upon receiving a building permit.

Commissioner Alexander asked are they going to do anything about the vacant property the gentleman just spoke about, staging on his property?

Mayor Benton said he is sure Mr. Allen during this development will just have to make sure there is no...

Commissioner Alexander said if it is posted, that would take care of it.

Mayor Benton said he thinks it is up to them to keep an eye on it too. If there is any problem over there, between Code Enforcement and the Police Department, they can... He knows the apartments next door also have been using that lot. They will do what they can to keep people off that lot.

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

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The next item on the Agenda was Public Hearing on Application for **Site Plan Review** submitted by S&S Land Company LLC for **White's Tackle Shop** at **1106 - 1110 South U.S. #1**; said property zoned C-3, General Commercial Zone.

Mr. David Carlin, Development Review Planner, said the applicant is requesting a Site Plan approval to construct a new 5,000 square foot tackle shop located at 1106-1110 South U.S. Highway #1. The vacant 1.16-acre parcel is zoned C-3, General Commercial, with a future land use of CG, Commercial General. Properties to the north, south, and west are also zoned C-3, General Commercial. With the exception of the property to the east which is occupied by the Indian Hills Golf Course and zoned OS-1, the proposed land use is consistent with the surrounding land uses. The tackle store will be located in the northwest portion of the property. This facilitates on-site vehicular movements between U.S. #1 and South 3rd Street. It also complies with the City's Design Review Guidelines. Access to the development will consist of two entrances - one on U.S. Highway #1 and the other on South 3rd Street. Both entrances will allow unrestricted turning movements. In addition, right-of-way will also be dedicated along South 3rd Street. As far as drainage is concerned, everything will be channeled to a dry retention pond. Adequate landscaping buffering will be provided around the retention area as well to comply with the new stormwater retention ordinance. Here is a rendering of the proposed building, which incorporates a Key West style. The height of the building will extend to 20 feet. Adequate landscaping has been provided for the property. Twelve trees that are already present there will be relocated. In addition, 27 new trees consisting of Fox Tails, Coconut Palms, and Cabbage Palms will also be integrated to mimic the Key West style. As far as traffic impacts are concerned, a statement was provided by Kimley-Horn & Associates. This development will generate 222 daily trips. Of those, 5 AM and 14 PM trips would be generated. The report also specified that U.S. Highway #1 south of Virginia Avenue operates at a Level of Service F. The applicant has proposed a fair share contribution to satisfy concurrency requirements. Staff has reviewed the proposed fair share contribution and ultimately believes that the contribution will help construct a right-hand turn lane that will be located at the corner of Virginia Avenue and U.S. Highway #1. All affected departments have reviewed the proposed Site Plan and have approved it based on it meeting the requirements of the City Code. On May 13, 2008, the Planning Board voted to recommend approval of the Site Plan. As the proposed Site Plan meets the requirements of the City Code, Staff recommends approval.

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

**Mr. Randy Rodgers**, Friscia Engineering, said he is representing the applicant. He doesn't have anything to add. He thinks Mr. Carlin covered everything very well. He is here to answer any questions.

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

Motion was made by Commissioner Becht, seconded by Commissioner Alexander, to approve the Site Plan submitted by S & S Land Company LLC for White's Tackle Shop at 1106-1110 South U.S. #1.

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

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Ordinance No. L-31 entitled, "AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, AMENDING SECTION 8.5-27, CREATION OF THE **AFFORDABLE HOUSING ADVISORY COMMITTEE**; SPECIFICALLY AMENDING SECTION 8.5-27(c) TO CHANGE THE MEMBERSHIP ON THE AFFORDABLE HOUSING ADVISORY COMMITTEE FROM NINE (9) MEMBERS TO ELEVEN (11) MEMBERS, IN ACCORDANCE WITH THE PROVISIONS OF F.S. 420.9076; REPEALING ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE." was placed on second and final reading and read by title only.

Mayor Benton asked is there anything Ms. Cooper wants to add to this?

Ms. Sadie Cooper, Program Specialist, said no.

Mayor Benton declared a Public Hearing on Ordinance No. L-31 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 Coke, seconded by Commissioner Alexander, that Ordinance No. L-31 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. L-31 on second and final reading were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

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City Clerk Steele introduced the following Resolution by title only:

RESOLUTION NO. 08-27

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, APPOINTING MEMBERS TO THE STATE HOUSING INITIATIVES PARTNERSHIP (SHIP) PROGRAM **AFFORDABLE HOUSING ADVISORY COMMITTEE**; PROVIDING FOR AN EFFECTIVE DATE."

City Clerk Steele said she will read the names so they will know who is on the resolution: Toby Philpart, Jim Van Hekken, Roderick Waller, David Nisivoccia, Leroy Bennett Jr., Patricia Scott, Barbara Moore, Leslie Olson, Eddie Whitfield, Gena Spivey, and Zella McDuffie-Smith.

Motion was made by Commissioner Alexander, seconded by Commissioner Becht, that Resolution No. 08-27 be adopted.

Those voting in favor of the adoption of Resolution No. 08-27 were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

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Ordinance No. L-32 entitled, **AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING CHAPTER 2, ARTICLE V, TRAVEL EXPENSES, SECTION 2-83 (MAXIMUM RATES AND LIMITATIONS); SPECIFICALLY AMENDING SECTION 2-83(e)(3); CHANGING THE MILEAGE RATE ALLOWANCE FROM \$0.405 CENTS PER MILE TO \$0.505 CENTS PER MILE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.**" was placed on first reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. L-32 in session and asked if anyone in the audience wished to be heard.

**Mr. Richard Wilson**, 1611 Surfside Drive, said he would like to voice his opposition to raising this. They already have enough travel expenses in the City. They need to follow through with cutting the expenses like they did with the insurance. If they have any extra money to spend, he would rather have Chief Baldwin have it and keep their streets safer. He is just against raising the automobile rates.

Mayor Benton said he would like to ask Mr. Wilson to do something. In the newspaper the other day Mr. Wilson had a Letter to the Editor saying that he owned a Harbour Isle unit. If Mr. Wilson can ever find his name on anything when it comes to a Harbour Isle Unit, please find it. If not, he wishes Mr. Wilson would stop using that information because it is false. It is an outright lie. He has never owned anything in Harbour Isle. So if Mr. Wilson can find something different, good luck. Hopefully he will get that clear.

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

Motion was made by Commissioner Alexander, seconded by Commissioner Sessions, that Ordinance No. L-32 be passed on first reading.

Commissioner Becht said he opposed this he the last time it came up and he is going to oppose it again. One of the reasons given last time was the amount of money. The amount of money in the big scheme of a \$41 million budget is that this is not a great deal of money. The unfortunate thing is, about a month ago they passed a motion that took personally about \$100 a month out of his paycheck. He approved it, he still would approve it. But it also hit a lot of other people at \$100 a month and it hit them across the board with the reduction of what the City pays for the health insurance for dependents. He thinks the total amount of mileage reimbursed in a given year is about \$14,000. They raise it 20%, it is probably \$2,800. The problem with that is that the perception here is that the benefit from the mileage reimbursement is primarily for upper management. He thinks it is just the wrong message at the wrong time, so he will not be able to support it.

Commissioner Coke said she too opposed this the last time and she opposes it again. First of all she doesn't think this is going to be a benefit that accrues across the board to their employees. But more importantly than that, they are living in a time frame when they have citizens filling these chambers saying they can't afford to pay their utility bills. They don't get raises to cover the increase in their utility bills. Citizens are traveling just as much as they used to in order to go to and from work and no one is giving them an increase to be able to get to and from work. As a matter of fact, many of their citizens are just grateful to still have jobs and still be able to work the same number of hours. Across the board, their economic state in the country is in such a state that people are having their hours cut,

people are losing their jobs. She thinks this just sets a very poor example. They need to live within their means. Although their cost of living goes up, John Q. Citizen can't vote himself a cost of living increase. She just doesn't think it is the fair, right, or reasonable thing to do, so she can't support it.

Mayor Benton said he would like to make something clear. He received some information from the City Manager's office which showed the City employees who have been reimbursed this year since October. He disagrees with Commissioner Becht. The majority of them are not management. Probably 80% of it goes to the ordinary working employees who are using their own car, that either has to go to an educational class or something to do with their job. That information was provided. The other thing is, last year Commissioner Becht and the Fire Board unanimously passed a resolution or a motion to raise their rate to the straight rate which was \$.445 cents per mile and that was unanimous. So it is hard to believe that for some reason the City employees take back seat to the Fire District, the School District, St. Lucie County, and everyone else who works for government. Their policemen use this to go to classes that they are required to attend and he thinks their police deserve equal to the Fire Department. This is mainly to help their employees when they are doing work for this City, bettering the City, and bettering their position and education. When it comes to travel, it is to better this community.

Commissioner Alexander said he just wants to ditto that conversation the Mayor had, because he thinks of their employees. It is not a big benefit. But every day prices go up. So if they can't keep in touch with reality, it is going to make the employee suffer. They have to go to certain places to make the City a better City. That is why he is in support of it. It is a minute amount.

Mayor Benton said he knows they talked about raising the bar. They have good employees who work for this City and they are the ones who make them look good. When Commissioner Coke talks to Bob Hood about the work that is being done in their parks, it is their employees who are doing that work. They need to be keeping up with everything when it comes to education and learning how the rest of the world does these things. Sometimes there is a price to pay and they should be paying what everyone else is.

Those voting in favor of the passage of Ordinance No. L-32 on first reading were: Commissioners Alexander, Sessions, and Benton. Those opposed: Commissioners Becht and Coke.

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The next item on the Agenda was Public Hearing on the 2008-09 **Community Development Block Grant (CDBG) Annual Action Plan.**

Ms. Dorina Jenkins, Community Development Assistant Director, said tonight they have before them the proposed use of the Community Development Block Grant funds for Fiscal Year 2008-09. No formal action is required tonight.

Commissioner Coke said she knows there has been a lot of talk and discussion about Esther's House and the availability of running some federal grant, HOPWA (Housing Opportunities for Persons With Aids), through the CDBG and they could apply for those grants. The Esther's House Committee is set up to help HIV positive women and there is grant money available for it. She believes in the Annual Action Plan it is listed as an eligible activity, but they don't have it included. Can Ms. Jenkins tell her the reasoning or logic behind that, or can they amend the Annual Action Plan to include that grant application?

Ms. Jenkins said the application was submitted to the Communitywide Council. They did not have a quorum on that particular evening in order to make a decision on it. But this would be the opportunity for them to come before the Commission and ask that that proposal go back before the Communitywide Council. There are members here tonight who can speak on that if they have any questions as far as moving forth with applying for

those funds. Ms. Moore-Ford did meet with Christa Razem (Grant Writer) in her office and she gave her some direction as to how to apply for the additional funds.

Commissioner Coke said she had spoken with Christa Razem and she was going to send her some information on some avenues that could be pursued. But what she doesn't want to do is approve an Annual Action Plan that does not include the possibility of their applying for and receiving those funds. If there is a lot of federal money there, they certainly have a great need in their community for this type of assistance.

Ms. Jenkins said it doesn't require approval tonight. They have 30 days in order to make any revisions to the proposed plan.

Mayor Benton said the Communitywide Council meets monthly. They spent over a year going through many groups who asked for this money. So if this is going to come up for discussion about altering who is getting money, if Ms. Jenkins could bring a list for the next meeting when they have the final approval of all the people also who were turned down. There is only so much money.

Commissioner Coke said this group was not asking for money. This group was asking to be included in the Annual Action Plan so they could partner with the City to apply for federal grant money that is available for this.

Ms. Jenkins said no, they did ask for money.

Mayor Benton said they are asking for money. That is what this is about.

Ms. Jenkins said they asked for money for operating expenses and some other items. They did ask for money.

Mayor Benton said they want to change the Annual Action Plan so they are allowed to ask for money. So the Commissioners need to know how many groups, because there are so many. That number used to be close to \$1 million. Now it has come down to half that. And they still have a lot of good organizations out there. They have to make decisions.

Ms. Jenkins said in this particular plan, she does not think anyone was turned down. The amount of funding they requested was decreased, but she doesn't think anyone was turned away.

Commissioner Sessions said with regards to the total funds available, when they look at the statutory requirement to obtain these dollars, it would certainly appear that they do meet those qualifications. Does Ms. Jenkins have any explanation or know why the amount has been reduced substantially, almost in half, since last year?

Ms. Jenkins said it is a formula that is used by Washington in order to determine the amount of funds that the entitlements receive. However, they must keep in mind that the City of Fort Pierce receives a special allocation because they do not meet the population threshold to actually be an entitlement because of their poverty level.

Commissioner Sessions asked so it has to do with the population?

Ms. Jenkins said yes - it is population, poverty, housing, overcrowding, age of housing, community needs. It is a variety of items they use in order to create the formula. However, the starting threshold for a population is 50,000. Fort Pierce does not meet that population, so they provide them with special funding in order to meet their community needs.

Mayor Benton said in fact, this whole City Commission went to Washington a couple of years ago and that was one of their issues. Each year Congress has been cutting the

revenue going out to the cities on Community Development Block Grants and it has been going on now for about eight years.

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 been a member of the Communitywide Council for six years. She had to leave for one term because of term limitations. She reviewed the Esther's House proposal very carefully, she examined it. She does want to explain her position. This was discussed at the last Communitywide Council meeting, although there wasn't a quorum, there was an in-depth discussion of this proposal. The proposal basically asks for them to fund a new housing project development. This is not the same as what they have been doing, which is to assist ongoing organizations that are doing community assistance or to provide assistance to people to buy homes or to repair homes or to rehabilitate homes. This is a program that is proposed to acquire and rehabilitate real estate for a program which is not in operation, which has not been in operation, which has no way of them being able to check or see what the validity of the operation could or would be. Plus even if it were a program that had been in operation somewhere else for instance and had come in and wanted them to change the programs around so they would qualify for federal grants, the limited amount of federal funds that are available from grants for anything would then be diminished to the people who they have already been helping. This would include the SHIP Programs, the Hurricane Recovery Programs, the Rehabilitation Programs, the Housing Assistance Programs, as well as all the programs they are assisting people with their ongoing programs they have the list of that they are doing. The people involved she has checked out as far as she could. She has not found any basis for this application in any way, shape, or form that could fit in with any Annual Action Plan with the CDBG.

**Ms. Brenda Moore-Ford**, 3108 Mura Drive, said the reason she is coming before the Commission is because they are faced with a silent epidemic in this City. Right now according to the statistics, they have 78% of their black people walking around with HIV. They have absolutely no housing and no facilities for these people. They have Project Response who has partnered with them saying they have to put them in hotels and they can only keep them there for up to 90 days or 120 days maximum. After that, these people are sleeping in abandoned buildings, one house to the next, they have no stable housing right now, and they are under the bridges. This may not be something that is in the Annual Action Plan and it may not be something that the City is doing. But right now they have a silent epidemic and somebody needs to do something. She is just stepping up right now to say there are a lot of people in the community who have stepped up and they are willing to do what they need to do. Right now they need some support to help these people out here. It may not be in their homes right now, but everybody knows somebody who has been diagnosed with HIV or has lost somebody. What is this City going to do? If not this, then what? If not now, then when?

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

Commissioner Sessions said there is a pretty large item here, \$70,000. Certainly they could address some other agencies such as the one that was just brought to their attention. With regards to Rehabilitation Acquisition Activities, the Code Enforcement line item of \$70,000 he fails to see where that fits into the plan itself. What is that for?

Ms. Jenkins said that is to fund a position. It is one of the rehabilitation specialists in which they work closely with Code Enforcement in order to create a liaison as to informing them when they have houses on their waiting list before they proceed with any condemnations. So that individual is just pretty much working the target area. It is an individual who is funded. They have an allocation, they have a cap on allocation that they can utilize for

administration. So when she put this plan together, she creates different activities in order to fund individuals in order to provide those services.

Commissioner Sessions asked does Ms. Jenkins see that as being a necessity in light of what they are doing, a Code Enforcement officer?

Ms. Jenkins said yes. It is not a Code Enforcement Officer. It is an individual out of her department who works closely with Code Enforcement.

Commissioner Sessions said so that is a staff member.

Ms. Jenkins said yes.

Commissioner Sessions said okay. One position is \$70,000?

Ms. Jenkins said they have to think about insurance, that takes care of the operating expenses, anything that comes under that. They allocate the \$70,000, but the \$70,000 is not always used. They have to allocate an amount, but it is not always used. But that is not only to fund a position, it also funds the expenses and all the expenditures for that individual.

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The next item on the Agenda was Presentation of **Comprehensive Annual Financial Report** (CAFR) by DiBartolomeo, McBee, Hartley, & Barnes, P.A.

**Mr. Mark Barnes**, DiBartolomeo, McBee, Hartley, & Barnes, P.A., said he is here to present the annual audited financial statement. Before he begins he did not get a chance to get this in their packet. Rather than go through the CAFR they received last week of 190 pages, they did something a little smaller to go through it a little quicker. The handout he brought goes through and does a comparison. They try to compare this year and last year. Rather than go through 190 pages, he just highlighted some of the major increases or decreases. On Page 1 are two things he really wanted to discuss. They see the large increases. Highlighted in blue is the fixed assets. There is a \$38 million increase in fixed assets. There were significant land purchases - Seaway (Fisherman's Wharf Property), Jetty Park (Rollins Property), and Moore's Creek properties - and then buildings like the Parking Garage, which to date was around \$8 million, and the R. Duke Nelson Human Development & Resources Centre building was about \$3.5 million last year spent. There were also some significant dollars spent on road improvements. The long-term liabilities he highlighted increased \$27 million. There was one new issue last year, it was the Sunshine State Debt issue. Those were the two major increases on their balance sheet last year.

Commissioner Alexander asked could Mr. Barnes elaborate on the Parking Garage a little bit? He said \$8 million. Maybe Mr. Beach could elaborate on that. What Parking Garage did they pay \$8 million for?

City Manager Beach said he thinks the figure they are using was a figure as of a specific date at the end of this budget year. It would have been the allocation at that time. The balance - and he thinks what Commissioner Alexander is referring to - they actually have \$12 million in the Parking Garage as opposed to \$8 million. But this audit stopped as of the end of September 2007. That figure reflects that date.

Commissioner Alexander asked why is it listed as a land purchase?

Mr. Barnes said no, it says increases due primarily to land acquisitions and buildings. There was a \$38 million increase in their fixed assets for the last year, but he just highlighted the significant purchases. There were three significant land purchases and two significant building constructions in progress. He doesn't know that either building was completed by September 30th. On Page 2 is the Governmental Fund Revenues. They

have a five-year comparison. The only thing he really highlighted, they can see the Miscellaneous Revenues is a good bit higher than normal. That is due to they received some State reimbursements for some work along AIA that was close to \$3 million. Some of the others, the \$22 million under Taxes is made up of ad valorem of \$16 million, sales tax of about \$2.5 million, and franchise taxes of \$4.5 million. Their Intergovernmental Revenues, their other large revenue, \$10 million of that is the FPRA, and then they have some state revenue sharing at about \$5.5 million of grant revenue last year. At the bottom of the page, for each of the five years they divide that by the population, and that gives them their revenue by citizen. That is just something interesting for them to look through. They can see how it has increased through the years. In 2003 it was \$725 and it is now \$1,358 per resident. Page 3 is their Governmental Fund Expenditures. He highlighted a couple of the significant items. Their General Government expenditures increased by about \$1.5 million. The main reason for that is their contribution to the FPRA comes out of the General Government line item. That is probably the main increase there. Their Economic Environment is basically community redevelopment and where their grant dollars are spent. They can see that has gone up as well over the last few years. At the bottom they will see the per citizen basis. One thing to highlight is, because they spent so much money on these large projects this year, they can see the capital outlay per resident is very high this past year.

Commissioner Coke said he is kind of losing her. Under Operating - General Government, he mentioned the City's contribution to the FPRA. Is he listing that as an expense of the City?

Mr. Barnes said yes. The Fire District pays a portion, the County pays a portion.

Commissioner Coke said no, the Fire District pays nothing.

Mr. Barnes said here they did. They don't do that any more. So yes, they bring in their ad valorem and then they pay their portion to the...

Commissioner Coke said she would assume he also listed some place the money that the FPRA pays back to the City on a monthly basis as an income?

Mr. Barnes said that comes back either in administrative revenue or as a transfer.

Commissioner Coke said the problem always is with these forms, they need to have the FPRA broken out as a separate entity and clearly defined. Because the FPRA by statute, although it is part of the City, it is separate. She just gets very confused if they are listing the City's contribution to the FPRA as an expense, the City is the one who is benefitting from it, so they need to then have some place here delineated exactly how much that was and how much the FPRA paid of the property acquisitions that they talked about on the first page. Some of that was FPRA funding - road improvements, the R. Duke Nelson complex, the Parking Garage - a lot of that stuff was paid from the FPRA. So he is kind of listing that as the City doing that, which would be fine with her, except for the fact that then he is listing the City's contribution to the FPRA as an expense.

Mr. Barnes said he is not trying to point it out as a negative. He is just saying that increased. Because when property values increase, the amount of dollars that go to the FPRA would obviously increase as well. So it is actually positive.

Commissioner Coke said the point she is trying to make is, he is mixing the two entities. She believes that the FPRA funded the \$3.2 million for Moore's Creek. She believes the FPRA funded the R. Duke Nelson complex out there. The FPRA was instrumental in the funding of all these other things here. Which is fine except for the fact that on the balance sheet he is showing the City as having expended those funds from the City and then he is also listing the FPRA as an expense to the City. So it doesn't work.

Mr. Barnes said these are governmental funds; and with governmental accounting, there is no question in governmental funds they are going to have revenues and expenses.

Mr. George Bergalis, Director of Finance, said to clarify one point, yes the FPRA did purchase Moore's Creek property, yes the FPRA did use its resources to buy property on the beach. But also yes, when the City - not the FPRA - received the funding from the Sunshine State Loan Program, those monies in those two instances were repaid to the FPRA.

Commissioner Coke asked Moore's Creek too?

Mr. Bergalis said yes.

Commissioner Coke asked is Mr. Ward concurring with that?

Mr. Jon Ward, Director of Fort Pierce Redevelopment Agency, said yes. He hasn't had the benefit of reviewing the CAFR yet; but as Mr. Barnes has pointed out, the amount of assets that accrued to the City this year have greatly increased and those were in large measure generated by the FPRA. The fact that it is a reasonably transparent relationship, he thinks is appropriate, because the FPRA is the strong right arm of City government but still part of the body. So when they notice that their assets have improved and increased by \$30 millions of dollars, most of those assets were purchased through the FPRA. So that is how the money comes back to them. Obviously there is a direct transfer of funding through the TIF to the operation; but then in fact it is returned to them through he thinks \$400,000 or \$500,000 transfer back, and also the acquisition of additional assets which the City does not pay for out of the General Fund, but in fact accrue to the City's benefit. The best example would be the Parking Garage. This \$12 million garage is a \$12 million asset the City got as a result of the FPRA's work. So his point is, there are a number of assets that are accruing to the City that have a great benefit.

Commissioner Coke said she doesn't argue any of that.

Mr. Ward said in other words, the FPRA is not shown as a stand alone agency with a series of assets. They don't consider that they own a lot of buildings and that sort of thing. They consider that the City owns them.

Commissioner Coke said right. First of all - not to complain, but she is going to complain - they don't normally accept anything the night of the meeting, because they don't have time to review it. Can Mr. Barnes tell her where on the Governmental Fund Revenue (Page 2) he is showing the income that the FPRA transfers on a monthly basis to the City?

Mr. Barnes asked revenue coming back from the FPRA would be part of the Miscellaneous Revenues.

Mr. Ward said it is about \$600,000 he thinks this year.

Mr. Barnes said if they go to Page 44 of the CAFR, they can review the FPRA Fund. On Page 44, the second fund column, they will see the Community Redevelopment Agency. The Revenue is \$10 million, their Economic Environment Expenditures are \$4.3 million, the Capital Outlay is \$500,000. The reason Capital Outlay is so low in that fund is because there is a separate capital project fund and also a lot of the large projects were done by the Sunshine Fund Capital Projects fund. They will see those are all on Pages 44 and 45. If they move to the right, they will see a Redevelopment Agency Capital Projects fund and they will see \$11 million of capital outlay. So those were certainly FPRA dollars spent. In the Sunshine Fund Capital Projects, they have \$22 million of capital outlay and that is what paid for the parking garage and the land and the different things they discussed. The Community Redevelopment Agency transferred out \$3.9 million. A large portion of that he

thinks went to the Sunrise Theatre, some of it went to the General Fund, and also probably over to some of the construction funds.

Mr. Ward said specifically \$750,000 to the Sunrise Theatre, \$600,000 back to the General Fund.

Commissioner Coke said she doesn't recall any \$3.8 million going to the Sunrise Theatre. And she tries to keep a good eye on that.

Mr. Ward said no, \$750,000.

Commissioner Coke said she doesn't want to beat this dead horse, but didn't Mr. Bergalis just tell her that the Sunshine State Fund was to the City and then the City paid for these projects and reimbursed the FPRA?

Mr. Bergalis said yes. One important thing too with the Sunshine State Loan Fund is the tax exempt portion of that loan which was borrowed in the amount of \$11 million, although the parking garage is an FPRA approved project, the majority funding of the parking garage was done out of those tax exempt proceeds of the Sunshine State Loan, which is a General Fund debt obligation.

Commissioner Coke said so now they have the Sunshine Fund Capital Projects listed as part of the FPRA on Page 45 of this balance sheet, and they were talking a minute ago that the Sunshine Fund Capital Projects were actually City projects where the City reimbursed the FPRA, so the City paid for them.

Mr. Barnes asked the Sunshine Fund Capital Projects?

Commissioner Coke said they just like to make fruit salad, apples and oranges always together. She doesn't know why she can't just get one page of one and one of the other.

City Manager Beach said he thinks this is a combined financial report that they are looking at. It is clearly a tremendous amount of information. He would encourage each of them to take their time and review that information and jot down their questions and meet with both Staff and the Auditor on anything that is unclear and they would like additional information on. He thinks that is the most effective way to resolve those questions.

Mr. Barnes said in the past they have always met with the Mayor and the Commissioners. They thought originally they were going to be presenting it at the July meeting, that is why he didn't get this done in time, he was out of town. They were preparing for a July meeting, so they thought they would have a couple of weeks to meet with the Commissioners on an individual basis and go through it like they have done in the prior years. They certainly would like to do that over the next couple of weeks.

Commissioner Coke asked can they not just move the remainder of this report to the July meeting after they have all had a chance to meet with them.

Mayor Benton said they are almost through it now. Why don't they let the presentation go on?

Mr. Bergalis said this is no excuse, but several years ago the Governmental Accounting Standards Board implemented GASB 34, which took what at the time were relatively simple financial statements and made them extremely difficult financial statements. But this was done supposedly for the benefit of the end user. What they see now is not particularly user-friendly as they have seen, but there is no choice but to do it this way and to comply with the statements. As Mr. Barnes said, it has done in the past whereby he has made himself available to each one of them on a one on one basis to go over and try to explain

these in more detail. He would encourage that they do that again if they can. It is not going to make it simple, but it is going to make it a little more understandable, he thinks.

Commissioner Becht said one of the comments he really didn't understand was on journal entries in their Management Letter.

Mr. Barnes said they had one Management Letter comment. They noted during the audit, that several journal entries were not reviewed. He is on Page 188. The comment wasn't such that it needed to be placed in any of the Internal Control letters. It was what they deem to be a small, not a real significant comment, but something they wanted to comment on. It mainly related to the Pension Funds where one of the Staff had made some journal entries and those were incorrect. Those all involved the income statement. There were no problems with presenting the assets on the balance sheet. But they had some difficulty in reconciling it and had to get involved with Staff to get it reconciled. They brought it to Mr. Bergalis and Ms. Johnson's attention. The point was from their side, as is always with the Pension Funds, their number one concern is the assets are all there and they review the monthly statements. This was merely in the General Ledger between just the way things were classed between revenues and expenses. If it was anything serious, it would have been placed in their letters on internal control. But it certainly was isolated and the changes were made.

Commissioner Becht asked it was in the pension plan?

Mr. Bergalis said in April of last year when the assets were transferred from the General Retirement System to the Fire District, the accountant in the Finance Department he thinks made a mis-classification of the transfers. It wasn't that anything was done wrong or anything was missing, it was a mis-classification of the entries during that transfer.

Commissioner Becht said he is okay with Mr. Barnes' explanation. He was more concerned that it had something to do with the interchange between the FPRA and the City, and that is what he wanted to find out.

Mr. Barnes said no.

Commissioner Becht said he will meet with Mr. Barnes in the next couple of weeks to go over this. He has probably two pages of questions that are pretty pedantic. But he needs to get some answers to what may be typographical errors or it may be something he doesn't understand. The auditor has every year up until now gone around and met with them individually and he welcomes that opportunity. But when they do meet, he would like to have Mr. Barnes feedback on how the information is laid out - and he doesn't see a CPA up here - for the Commissioners to digest. They are talking about \$10 million or \$11 million that go in and out of the FPRA, they are talking about \$41 million going through an operating budget for the City, plus the capital improvement projects for the City, and everything else. He has been pushing for a little over a year now to try to get something that is digestible to a lay person. He needs Mr. Barnes help in order to come up with a format that he or anybody else up here can look at and with a snapshot view know they are okay. Maybe more importantly know if they are not okay. Mr. Barnes does the audit for a couple of other cities that he is aware of; and if they have a format that is a snapshot format, that is what he is looking for.

Mr. Barnes said sure. He thinks they are going to be at the FPRA meeting this month to discuss some of that.

Mayor Benton asked does the Commission want him to finish this presentation or hear this presentation next month?

City Manager Beach asked there is no action required of the Commission is there in this regard? They are simply receiving this report?

Mr. Bergalis said in the past they have accepted the report.

City Manager Beach asked but they don't act on it, approving it or anything of that nature?

Mr. Bergalis said no.

City Manager Beach said it is simply a report and they can deal with it however they wish. They can listen to this this evening, they can reschedule it, but he doesn't think they are going to ask them to do anything other than this is the information and take whatever time they need to adjust to it.

Mayor Benton said he would like to hear the presentation continue tonight, they are a quarter of the way through it anyway. Any questions they have, when they sit down one on one with them... He thinks the statement is in there that if they were having any problems the auditor would bring it to their attention, that is what this is all about.

Mr. Barnes said absolutely. If there are significant questions, he doesn't have a problem with coming back next month. Go to Pages 4 through 8 of the handout, where they did a snapshot of the Enterprise Funds. There is more detail in the large document. On Page 4, the Solid Waste Fund, the net income was \$1.2 million. That gave them the ability to make that \$500,000 transfer to the General Fund. That hadn't been done for a few years. The next page is the Stormwater Utility Fund, which had a net income of \$2.2 million. The Operating Income was \$809,000. The Non-operating Revenues, they received some State dollars for some of the projects along A1A for stormwater work and that is what the non-operating revenues of \$1.3 million are. The next page is the Golf Course, at a \$98,000 loss. The main increase, employee costs went up by \$120,000. They had a loss, but the Golf Course had about \$500,000 of depreciation, so it did have a positive cash flow. That is a positive note.

Commissioner Becht asked that -\$98,000 figure, that is after depreciation?

Mr. Barnes said absolutely.

Commissioner Becht asked is the debt service per year also in there?

Mr. Barnes said not the principal, only the interest. The debt service on the Golf Course, he thinks is about \$200,000.

Mr. Bergalis said it is less than that.

Commissioner Becht asked the debt service interest is in that figure, but the principal is not in that figure?

Mr. Barnes said correct.

Commissioner Becht said the principal is actually an asset to the City. One way of looking at it is the principal reduces the liability.

Mr. Barnes said when they pay it, yes. On the next page is the Marina Fund. They can see the Net Income for 2007 is a \$1.2 million profit. They were still receiving FEMA reimbursements and insurance money in that fund. Their Operating Income was \$454,000. If they add back the depreciation, it was right around \$500,000. He is looking at Operating Income in the 2007 column. They had basically an operating loss of \$454,000.

Commissioner Becht asked does that include depreciation?

Mr. Barnes said it does. The depreciation is \$500,000. The debt service on the Marina is about \$175,000, so they did have negative cash flows from operations in the Marina for

2007. On the next page is the Sunrise Theatre. The bottom line on that is a \$646,000 loss. He did not note the depreciation, but it is significant. There was about \$1.5 million transferred in during the year to the Sunrise Theatre. The depreciation is \$550,000. So if they add back the depreciation with the transfers, they are almost at a break even with the Sunrise Theatre. The next part, Pages 9 through 15, Comparative Financial Analysis, he can discuss this when he meets with them. They just picked some cities of similar population, did some revenue and expenditure comparisons for them to review. They basically do it on a per resident calculation so they can see their revenues per resident compared to some other cities of similar size. They do that for Tax Revenues, Intergovernmental Revenues, etc. On Page 13 they will see the General Long-Term Debt. They are a good bit higher than many of the other cities they compared to and that is mainly because of the FPRA and all the recent development and the recent projects.

Commissioner Becht asked if they take out the \$32 million Sunshine Fund, roughly can he give him an idea how dramatically that drops? If they are basing this on \$100 million worth of bonded debt and they take \$30,000 out, is it a safe assumption then to say that \$1,924 figure is going to drop by one third?

Mr. Barnes said last year they were at \$1,370. So yes, absolutely much closer. Page 14 is an Enterprise Fund Equity. They all win on that one and that has a lot to do with the U.A. They do have a number of Enterprise Funds, so their enterprise equity per resident is over \$4,000, it is pretty substantial. Page 15 is the taxable assessed value. They can see where Fort Pierce is in the group, kind of in the middle. Does anyone have any questions for him?

Mayor Benton said it doesn't look like it. He thinks they are waiting to sit down one on one with Mr. Barnes.

Mr. Barnes said he will contact everyone this week and set up appointments. He will try to get that done before the FPRA meeting later this month.

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

Mr. Jack Andrews, City Engineer, said Mr. Donahue is not able to be with them tonight, although they do have his report along with the City Engineer's Construction Update Report in their package. The biggest thing to report, they have made progress on the Harbour Isle Roundabout. He was in contact with FDOT again today. It appears that all the agreements for the easements are satisfied. FDOT indicated to him they are probably within two weeks of issuing a permit. He has heard that before, but he feels they are getting closer now.

Commissioner Alexander said that is good news. But in Mr. Andrews memo, he is speaking of milling. He thought milling wasn't allowed in Fort Pierce any more.

Mr. Andrews said what that is referring to is, in the section from Coconut Drive down to Blue Heron Boulevard, which is the section that goes past the Ocean Village project, instead of the whole road base being reconstructed down to the base, the asphalt was milled off. It was taken off and removed from the project and new asphalt put down. That is not the same as what they sometimes refer to as using millings for different parking lots and things. This is just a procedure.

Commissioner Alexander said he just saw the wording and he just wanted clarity on that.

Commissioner Becht said this memo is from Mr. Andrews, but the sidewalk is not done. They can't get on it. There is a sign that says sidewalk closed there at the north end of Coconut Drive. Then at the entrance to Ocean Village there is another blockage, they can't get across there. And going south of there, they do so at their own risk. They don't have to get out of the car in order to know these things, they can just see them. He observed

these over the weekend. So if they have made payment, they shouldn't have because it is not done, it is still blocked. The major things he talked to Mr. Andrews about a couple of months ago where they said it was done and it still wasn't done, those things appear to be fixed. But right there at Coconut Drive, it is blocked. And right there on the north side of the Ocean Village entrance is blocked. It is just silly. These are easy things to have fixed.

Mr. Andrews said those are items where they have certain sections of sidewalks that have been replaced or removed at different times and they just have a few small sections they have to repair. A lot has been torn up for irrigation that was put in and different underground electric that was put in. Those things will be addressed and fixed. They keep on top of what has been installed and what hasn't.

Commissioner Becht said it is a big project, he recognizes that. It is just that when Mr. Andrews says it is complete, that means to him that he is ready to pay somebody. And it is not complete. He doesn't know if they have a retainage or not, but they need to have that, because these are little things that won't get done if they don't.

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Mayor Benton said he has something he would like to bring up for this Commission and the public to digest. Visiting several areas of the State, seeing how much room is allocated on bridges for pedestrians and bike riders, and looking at the new Jensen Beach bridge where it is basically two lanes and plenty of room for bike riders and joggers and walkers. Going across **South Bridge**, as Commissioner Becht knows from running and Mr. Beach and himself and everyone else... First of all they had concerns about four lanes coming into two lanes with a roundabout. But if they eliminated the four lanes on the bridge, they would take away the right acceleration lane, as he will call it, where people pull in the right lane to pass. Over the past several weeks he has looked real close at how fast people do drive on that bridge, especially in that right-hand lane. He thinks 60 miles an hour is an accurate speed for most of those people. He would just like for them to consider... He knows it was talked about several years ago when there was a charrette about the bike path that was going to go from Downtown Stuart through Martin County, St. Lucie County, and into Downtown Fort Pierce. But he doesn't know how they are going to get somebody safely across that bridge on a bicycle without doing something there. He was going to put something formally on the Agenda in the very near future, but he would like everyone to consider that. Everyone he has talked to seems pretty agreeable to it, that it would slow traffic down before they get to the roundabout. Think about it for when they have that item up for discussion. He has talked to the engineers about it and he didn't get a nod the wrong way.

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The next item on the Agenda was Mr. Ryan Thomas, Bohler Engineering, request 6-month extension to Site Plan for **Coral Square Shoppes** to be located at **3006 South U.S. #1**.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve a 6-month extension to the Site Plan for Coral Square Shoppes to be located at 3006 South U.S. #1.

Commissioner Sessions asked with regards to the modifications (in the letter from Ryan Thomas, Bohler Engineering, dated June 4, 2008), it says subsequent to the granting of this extension and it talks about the underground utilities and pavement surfaces. Was that a prerequisite before? Or why is that now offered as being a modification? Is that something that was requested before and they failed to do so? What actually took place?

Mr. David Carlin, Development Review Planner, said the applicant is asking for an extension to the Site Plan, but not because permitting activity has not been pursued, as the applicant has submitted for Building Permits. And most Departments have approved or signed off on this building permit for the Coral Square Shoppes, which was approved almost a year ago. The reason why they are requesting a Site Plan extension is because, if the City Commission recalls, there was an amendment to the City Code (Ordinance No. L-02) regarding parking standards for large retail shopping plazas. The City Commission

implemented new parking standards for large retail shopping centers where the code was changed from one space per 200 square feet to one space per 250 square feet. So what happened here with this particular development, because the City Code changed, it actually reduced the required number of parking spaces for this actual development. When the applicants heard about the City Code change, they wanted to revise the approved Site Plan and also include a new building to be constructed on the property which would allow more development. So there may be some changes with regards to utilities that would have to be accomplished in order to move the project forward.

Commissioner Alexander said concerning the utilities, he thought they had an ordinance that all new structures have underground utilities.

Mr. Carlin said that is his understanding.

Commissioner Sessions said that underground utilities stood out in his mind. He thought that was something that was already in place.

Commissioner Becht said they don't have the Site Plan in front of them tonight. What concessions they may have asked of them in terms of road right-of-way or contributions to a park fund or anything like that? Did they do any of that with this Site Plan?

Mr. Carlin said this Site Plan came under the new Concurrency Management & Proportionate Fair Share (Ordinance No. K-465) at the very beginning. At that particular time there were no particular off-site improvements that were associated with Coral Square Shoppes, with the exception of making some modifications to the actual signal at Emil Avenue which was required because of the railroad crossing at Edwards Road, there is a timing configuration issue. So those are the only improvements he is aware of that were associated with the original Coral Square approval about a year ago.

Commissioner Becht asked have those improvements been done to the intersection?

Mr. Jack Andrews, City Engineer, said no, they have not, they are planned. They have been in contact with FDOT and it is part of the plan. They have it approved by FDOT, so it is forthcoming.

Commissioner Becht said the reason he is asking is, he is not sure this thing is ever going to come out of the ground. They know they have a Level of Service F on U.S. #1 south of Virginia Avenue. So if they could tie this Site Plan extension to that improvement being done, not after they pull a construction permit but now, that would benefit the City, that would benefit the City residents now, and they get their Site Plan extension. So is it realistic for the City to put a time limit on them at least starting or finishing the intersection improvements there, short of six months? He would like to get it done in two weeks.

Mr. Andrews said as far as their improvements, it is not going to help the flow of traffic on U.S. #1. The improvements are for the turn lanes coming out of their development. As far as improving the Level of Service F, the only way they are going to accomplish anything is through the proportionate fair share they have towards the road.

Commissioner Becht asked do they have that agreement with the City?

Mr. Carlin said the Planning Staff is currently working with the applicant to finalize a fair share contribution for the approval of the minor amendment. They will be appearing before the Commission hopefully within the next 30 days to recommend approval of the minor amendment contingent upon the fair share contribution being worked out. So they are in the process of doing that right now with the applicant.

Commissioner Becht said that is interesting, they are in the process. They are a year into this Site Plan. It is dying next month. Mr. Carlin is back on board, so maybe... Don't get him wrong here, but this fair share contribution agreement is not done today? Before the

modifications were done, they didn't have a fair share agreement, is that what he is telling him tonight?

Mr. Carlin said that is correct, there was no fair share contribution as part of the original Site Plan approval for this project.

Commissioner Becht asked so it is only the additional 15,000 square feet that triggers the fair share agreement?

Mr. Carlin said that is one way of looking at it. But yes, Planning Staff is currently working with the applicant to resolve the final issues. They are also working with the City Engineering Department to review the revised traffic analysis that has been provided to them so they can determine what that fair share contribution should be.

Commissioner Becht said he would be excited to see new retail constructed in Fort Pierce on U.S. #1, so he doesn't want to come across too heavy-handed here. But he is just looking at what can they get now in case this doesn't come out of the ground. It doesn't look like they can get anything.

Mr. Carlin said the proportionate fair share calculation will be finalized when they make a recommendation for approval of the minor amendment. At that time, if the Commission determines that the proportionate fair share calculation that is provided is sufficient, that is something this Commission will have to evaluate.

Commissioner Becht asked at that time they could say it needs to be paid within 30 days?

Mr. Carlin said the proportionate fair share contributions are supposed to be paid prior to the final development order issuance by the Commission, so theoretically they are supposed to provide them with that fair share calculation at the time the final development order is issued. So for example, had the original Site Plan that was approved by this Commission required a fair share contribution at that time, that is what the ordinance states, that the applicant must provide the fair share contribution.

Commissioner Becht said his saying that has reminded him that the fair share contribution is not due on the old that they are replacing, it is only due on the new that they are expanding it by.

Mr. Carlin said that is correct.

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

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The next item on the Agenda was Resolution No. 08-25 designating the Enterprise Zone as a Brownfield Area.

City Clerk Steele said she believes the City Attorney has provided the Commission with a memorandum concerning this issue.

City Attorney Schwerer said there is his report of June 11th accompanying this Resolution. It indicates that they have a working draft of the Resolution with a number of language modifications to comply with the Statute. And they also were notified there is pending legislation that was passed by the Legislature, but was still on Governor Crist's desk to be signed. He believes the Governor has signed it and they have a copy of that. They are most of the way through it. They don't really see any changes. DEP had acknowledged that they should look at it as it affected the brownfield area designation. Those drafting issues should be cleared up shortly. But there is also an unanswered question here that they are still working with Staff on before this resolution will be ready; and that is, which agency - whether the City or the FPRA - is going to assume the responsibility for the

various functions of the brownfield area and will be the agency responsible for designating that. That is a requirement of the Statute. They expect Staff to make some recommendation to them concerning that, they will add it to the resolution, and it should be back on the Agenda on their first meeting in July.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to postpone Resolution No. 08-25 to the July 7, 2008 City Commission meeting.

Commissioner Becht asked has this Resolution been passed out to the Treasure Coast Builders Association and the Chamber of Commerce and some other folks?

Ms. Christa Razem, Grants Administrator, said they have been speaking with realtors and with property appraisers. They haven't approached the large agency as a whole.

Commissioner Becht asked why doesn't she between now and then, if she doesn't mind...? He thought they were sending all resolutions that might impact the building industry to at least the Treasure Coast Builders Association. This could impact them. Actually he thought they talked about it at the last meeting because they wanted them to be aware of the opportunities that might be here. They also asked for an analysis of... Like the King Power Plant, he thought they were asking her for a summary of what it would mean to somebody based on them building at the King Power Plant, what were the benefits and how much money was involved.

Ms. Razem said she would be happy to provide that to them by the July 7th meeting.

Commissioner Becht said he thought they already asked for that. Does anybody else remember that?

Commissioner Coke said she remembers they talked about it. She knows she told them she had spoken with the gentleman who wanted to develop there and he was already very aware of it.

Commissioner Becht said then he would ask that they give clear direction to Ms. Razem that three of them can remember on something. For instance, this is a wonderful idea in concept; but if they don't get the information out to the people who could benefit from it, they are going to have this fertile legislation that doesn't do them any good because people don't know about it. He would leave Ms. Razem with the discretion of what she wanted to work up. But they have abandoned gas stations, he thinks there were seven on this block alone as well as a dry cleaner. What he is looking for is the information they could give to the Realtors Association and the Treasure Coast Builders Association. Take this hypothetical corner that is an abandoned gas station with two tanks in the ground and they are going to put in 3,000 square foot of retail, this is how much money they can get through these various programs.

City Manager Beach said they have that information and will be happy to provide that information. They will also get this information out to the Treasure Coast Builders Association for their review also.

Mayor Benton asked didn't Ms. Razem meet with everyone and they all had that information? She had given them some information when she met with them prior to this that showed the benefits for businesses and with employees.

Ms. Razem said she does have a list of the benefits and she has reviewed that with most of them. She wasn't able to get with Commissioner Alexander in the time before the last meeting. What she believes Commissioner Becht is asking for is a sample of a site specific, where a particular site could incur this much cost and could give this many benefits, so that someone who is looking at a potential site in the City could understand what that means to a particular site.

Commissioner Becht said that is exactly right. What they got was general abstract information. He is trying to get it a little bit closer to a builder or property owner understanding this is what it really means to them. There is money laying over there on the ground and them not knowing how to go get it. Here, if they build a 3,500 square foot retail establishment, they get this money for this, this money for the employees, this much money for low interest loans. All of that information she has gathered for them, they are going to get it out in digestible format so somebody will know what they are trying to do for them.

Mayor Benton said they can use an example like tonight where they approved a Site Plan for a Brownfield Site (Coral Square) that is going to expand their business here in Fort Pierce. He is sure they can use that as a classic example - White's Tackle Shop where a gas station used to be.

Commissioner Becht asked White's Tackle Shop is a Brownfield Site?

Ms. Razem said she hasn't seen the exact plat. It could be the parcel right next to the Brownfield Site or it could be the Brownfield Site itself. But it is right there. It is owned by those same people.

Commissioner Becht said yes, that would be great. That has practical and immediate application.

Ms. Razem said she had tried to give them examples. But she can certainly look at a specific site and list all the benefits on any specific site.

Commissioner Becht said he likes the Mayor's idea, White's Tackle Shop. She can show them the direct and immediate benefits that somebody else might not know about.

Commissioner Sessions said he would also be concerned about remaining allocation. This was some legislation that came down from the Federal government January 11th, \$250 million. However, when they divide that amongst the 50 states that these funds could actually go to, certainly \$250 million wouldn't last long. He is curious to know what remaining allocation is up to this point and aren't they actually viable, and if there is any money actually left, and if this is a line item that is going to be revolving on a yearly basis? More importantly, where do they stand with regards to the \$250 million, individuals who have come before them, and what the remaining allocation is at this date and time?

Ms. Razem asked is he referring to the EPA (Environmental Protection Agency), the Federal funding for the Brownfield Site?

Commissioner Sessions said yes.

Ms. Razem said that funding is available in \$200,000 increments to an agency such as the City of Fort Pierce. What she was hoping to do by going through an areawide designation was to take a \$200,000 allocation and be able to piecemeal it among these small areas, the small sites where they are not really going to be competitive on a regional or state basis. By bringing in a large amount, being able to piece it out among the Enterprise Zone, they can be competitive and get this funding. A Phase I Environmental Assessment is not a lot of money, it just can be a lot to someone who is trying to start out, who doesn't know what they are getting into. They are looking at maybe \$2,000 for a regular one-acre site. A Phase II Environmental Assessment gets a little more expensive. But \$200,000 can go a long way when they are looking at a small site in a neighborhood on a site by site basis.

Commissioner Sessions asked does she know what is remaining with the annual \$250 million assessment, what funding is actually left?

Ms. Razem said she doesn't. They would be going in for next year's assessment. They wouldn't be trying to compete for what is out there this year. It is an annual competition. So she doesn't know what they have spent or haven't spent this year, because she is looking for putting in for the next year's cycle.

Commissioner Sessions asked is that going to be an amount each year of \$250 million?

Ms. Razem said it is a fairly stable allocation every year.

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

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The next item on the Agenda was City Commission discussion on proposed Ordinance amending Chapter 9 regarding **Vendors, Solicitors, and Peddlers**.

Ms. Peggy Arraiz, Code Compliance Manager, said in their packet they received a summary of the changes recommended for Chapter 9. She can review them point by point or simply answer questions.

Commissioner Coke said she had some concern with Section 9-24(h) where it says nothing in this chapter is intended to stop charitable, religious, fraternal, youth, civic, or other organizations, etc. from selling pumpkins, flowers, Christmas trees, and seasonal materials, held on their own property. So they are saying they are not going to have Girl Scout cookies for sale in front of the grocery store?

Ms. Arraiz said no, that is not what it was intended for.  
Commissioner Coke said okay, that is where she wanted clarification.

Ms. Arraiz said what they wanted to clarify is the difference between that and the seasonal vendors category that is later in the chapter.

Commissioner Coke said okay. She wanted to know also for clarification, her big concern is a lot of times, let's take the flower business. It is Mother's Day or it is Easter and they have a dozen local florists who are selling roses for \$30 a dozen.

Mayor Benton said \$100 a dozen.

Commissioner Coke said so here they are with these people who are paying business license tax, rent, and insurance. This is their big weekend of opportunity to maybe be able to make their rent. And the local gas station rents out the corner of the gas station to this guy for \$100 and he comes in and sells roses for \$6.00 a dozen. It hurts every one of their local businesses. Have they found a way to include in here that either that is not allowed or... On her business license it says what she does. So that businesses can conduct their business or a like business, but not bring in a totally unrelated business and sublease part of their parking lot.

Ms. Arraiz said in Section 9-82 they did restrict the seasonal sales to Christmas trees and pumpkins located in the C-3 zoning districts or within the Farmer's Markets or Green Markets, but they did remove the flowers. She did get a chance to speak with each of them individually and there was a majority opinion on that, where the florists do suffer when the illegal flower vendors come forward. So they did remove the flower sales from Section 9-82 and left it with just Christmas trees and pumpkins.

Commissioner Coke said it is not just flowers, although she is glad it is in there and it is restrictive. Because sometimes on Saturday they can buy a whole living room set at a gas station parking lot, not only flowers but teddy bears, furniture, a wardrobe. They can buy everything right down on U.S. #1 without ever going into an air conditioned store that pays taxes.

Ms. Arraiz said that is also why they put Paragraph (h) in Section 9-24. She knows when she comes out of church on Mother's Day, she tends to buy a flower, that is a fundraiser for the church. That is why they specifically put that in there, so churches could do that; but then restrict it from the vending side.

Commissioner Alexander said they know he is an advocate in this day and age with the economy. He is in business and he knows business people. He just wants to know why do they have to be the only City that punishes people selling a watermelon? Are they telling him a Christmas tree and a pumpkin is okay, but not a watermelon?

Ms. Arraiz said they do allow the sale of fruits and vegetables in this Code. It is Section 9-111.

Commissioner Alexander asked what is a pumpkin?

Ms. Arraiz said a pumpkin is a fruit also. But what they are specifically referring to is the seasonal sales that usually only happen around Halloween or around Christmas. Those holidays have their own section.

Commissioner Alexander asked when does she think watermelon are sold? Seasonal, right? He is not going to be argumentative, he is just not going to be for this being the only city. He goes through cities all over this country on his own, it is not that he is on city business all the time. He sees exactly the same thing every where he goes, it is identical, there is nothing different, no reinventing the wheel or anything, people are selling. And she is telling him now that it is going to be okay for the churches to sell meats and so forth on their property? And also on First Fridays or whatever, they are going to be allowed to sell whatever they want to sell, but not the person that...? He is just not going to go any further with this. He is just letting them know, if there are this many changes needed, in one hour they are going to make this many changes that over the last 50 years...

Mayor Benton said no, they have to advertise this. This is a discussion to take it to the next level.

Commissioner Alexander said they are not even showing it to the public what they are talking about.

Mayor Benton said this would have to be changed by ordinance and there would have to be public hearings on this. This is just to see if there is enough interest from three Commissioners.

Commissioner Alexander said tonight is for amending Chapter 9 regarding vendors.

Mayor Benton said it is for discussion only.

Commissioner Alexander asked they all know what his answer is going to be today, tomorrow, and next year, right?

Mayor Benton said there was a lot of discussion about watermelons and other fruits when it comes to the Lincoln Main Street, because there are a couple of Farmers Markets and they have a Farmers Market south of town. The discussion there was they needed to find a new place so people can back their trucks up and it is something that can be done every day of the week. They talked about possibly 10th Street Park as being that place. There is the ability to do it every day, but they are putting people in places where they can control it.

Ms. Arraiz said they did allow for the selling of fruits and vegetables. If they look at Section 9-111, Itinerant Produce Merchants, it does allow for the sale of fruits and vegetables in their natural whole state in the Farmers Markets or Green Markets or any commercial

zoned off-street location, lot, or premises with written permission from the property owner and upon obtaining a business license tax receipt.

Commissioner Alexander said that is what he is in favor of.

Ms. Arraiz said it does allow that.

Commissioner Alexander said if they are going to tax a person and make them buy a license to do these things, sure. He is in support of that. But when they are talking about going to the Farmers Market, those Farmers Markets are not going to be there seven days a week, they are only going to be there for a Saturday or a Sunday. Again, they are setting themselves up to punish a community at this day and age. There is no money, they haven't brought not one job in this community for anyone noticeable. And then they are going to take away the essentials of life?

Ms. Arraiz said in this Code they are encouraging the use of the Farmers Market or the Green Market for sale of fruits and vegetables.

Commissioner Alexander asked seven days a week?

Ms. Arraiz said they are encouraging the use of the Farmers Markets and the Green Markets, but it is allowed in the commercial zoned areas. They just have to go through the proper steps and receive written permission from the property owner and obtain their business tax receipt, the same as any other business for those two items, and they are permissible. What they have in part of this code is eliminate vending on any public property. They defined public property to include streets, sidewalks, rights-of-way, and any public property, so it includes parks. So they did restrict any type of vending on public property. They have also restricted the sale of the other merchandise such as living room furniture, mattresses, shirts, and meat products. The reason for the meat products is because there are so many restrictions on this. If they notice at the end of the summary she provided, she has already been contacted by the DBPR's Division of Hotels and Restaurants who has said they are interested in coming through. They enforce all cooked foods. What has happened since she issued the summary, she has also been contacted by the Florida Department of Agriculture, which they regulate all packaged foods. So if they are selling their fruits and vegetables, but they also have a jar of honey, they are regulated by the Department of Agriculture. They have already contacted her as well and wish to come into the City of Fort Pierce to enforce these things on Saturdays and weekends when there are problems. That is why they have put the restrictions on the items like the meat or cooked foods, because there are so many regulations that have to be required, it is almost impossible to meet as a street-side vendor.

Commissioner Alexander asked when they start talking about eliminating use of sidewalks, are they going to bring that downtown where the use of sidewalks for cafes and restaurants?

City Clerk Steele said that is a separate ordinance, the sidewalk cafes.

Commissioner Alexander said but they begin one thing and it is going to snowball. And surely if people can't utilize sidewalks in the public, then they are going to come and point fingers. Just like the signage. They can use signage downtown and the City Hall in Fort Pierce, but no one else can use that same signage. It is troubling to him because it is just punishing people.

Commissioner Becht said there is a lady who is making the rounds, he can't remember her name, but she is into kayak rental and perhaps bicycles. She currently has licenses or permits from the County - or she told him she did - to rent her kayaks in County parks. What Ms. Arraiz just said, if he understood it correctly, she would not be permitted to rent kayaks in Jaycee Park.

Ms. Arraiz said that is correct, as far as doing business in the parks. However, she is permitted to meet her clients in the parks and leave from that area. But actually as far as setting up a stand to rent in the park, she would not be able to do it. She could make the arrangements prior to and meet her clients there and take them out, but actually doing business there in the park would not be permitted. In fact, she does that now - she will meet her clients there and then go out.

Commissioner Becht said she is a mobile vendor and he told her she was going to have to chart a pretty narrow path in order to do what she wanted. And for them to still have a semblance of controlling the vendors...

City Clerk Steele said that is an entirely different section of the Code. It has nothing to do with this. It is under the Parks section of the code.

Commissioner Becht said it is a mobile vendor in a park is why he thought it had application here.

City Clerk Steele said the restrictions about vending in the park is in a different section of Code.

Commissioner Becht said that is just one thing he wanted to bring up. It seems to him there ought to be a way where they could make that happen.

Mayor Benton said he knows she had discussion with all of them about that kayak business. He believes she is being allowed or going to be allowed to do business in the various parks.

City Manager Beach said that is a subject that will probably come before this Commission for some formal action within the next month. Whether they all approve it or not, it will be a decision of the Commission.

Commissioner Sessions said Section 9-80, Street & Sidewalk Vendors. The language in the red that was marked out, that was what was previously allowed?

Ms. Arraiz said that is correct.

Commissioner Sessions asked so an individual could be a vendor if he paid permit fees and the business tax?

Ms. Arraiz said this is part of the problem with the Code and part of the reason they are looking to amend the Code. In Chapter 9 it said they could have a street permit for vending. However, to go through the process, it had to be approved by the Planning Department as to zoning, and this type of business is not permitted in any zoning district. So someone could apply for the permit, but it would always be rejected by the Planning Department, because it is not permitted in any zoning district. So it is a conflict of codes. That is part of what initiated this amendment process. Because one side said they could do it, but as soon as it went through the paperwork process, it was automatically denied. That is why it has basically been eliminated at this point, because there is no permitted use of these in any zoning district in the City of Fort Pierce.

Commissioner Sessions said he can attest to what Commissioner Alexander was saying with regards to individuals that are out trying to make a living, especially in these economic times. There are a lot of people he knows in his District that have to do this in order to live and survive and eat themselves and pay their light bills and their mortgages. They have to be out in the streets as they call them street vendors. In the absence of doing so, they won't be able to take care of themselves. So this appears to him to be something that is a 360 degree change overnight. It is going to have a great impact on a lot of individuals who

can't help themselves in light of these changes. While he sympathizes with the owners who have legitimate businesses, he has heard their cries too as well. He would think they could put something in place whereas these vendors would be prohibited from being within so many feet of these legitimate businesses and therefore they would not impact the businesses themselves. He can assure them that if the City moves forward with a lot of these restrictions, that they are going to impact a lot of people. And economically, as Commissioner Alexander said earlier, it is going to be very detrimental. He thinks that the impact would be greater on those people than the actual legitimate businesses are concerned.

Commissioner Coke said her concern with that suggestion would be that legitimate businesses can't move to U.S. #1 where there is greater visibility, they can't always afford space on U.S. #1. And although she certainly sympathizes with what Commissioner Sessions is saying, there has to be some kind of middle meeting ground. And she thinks by allowing use of commercial lots with the owner's written permission and getting a license, she thinks that kind of resolves the issue. They are not asking a lot of people, other than to comply. Her big concern is not necessarily - and she doesn't know how they regulate that - the people who are here on a day to day basis working hard to try to support their families, it is the people who on Saturday mornings buy a truckload of flowers or teddy bears or couches or rugs and drive up U.S. #1 and find a nice vacant lot and stop. They don't live here, they are not spending their money here, they are not feeding children here, or supporting the education system. They are just coming here and taking their money and going somewhere else.

Mayor Benton said over on Okeechobee Road it seems like each weekend there is a certain lot that it seems like a different neighborhood brings all their clothes for one big garage sale. There was one the other day he noticed unloading a trailer over here on U.S. #1 that looks like a car dealership with an overhang, but all of a sudden they are selling furniture all day long. That is very unsightly. They want to work with the honest vendors. Have they spoken to the Lincoln Park Main Street and the other Main Street and also with the Farmers Market, just to make sure this isn't going to affect them in any way?

Ms. Razem said she has only spoken to the Lincoln Park Main Street. Because this is for discussion only they have put this together. She was looking to the Commission for instructions and advice prior to going to any outside entity.

Mayor Benton said they need to speak with these organizations. He knows Lincoln Park Main Street has been looking for something like this. They have been crying to him that they are trying to do something, but they are not getting any help from the City. They would like to have an organized Farmer's Market, but they just need to find that new location. They would like to do it more than one or two days a week. They talked about maybe every afternoon, about a place where people can back their trucks up where it is convenient, because that is what has been done for years. It is just organizing it and they haven't been able to do that yet.

Commissioner Sessions said when they invite people to come to these particular sites such as the one the Mayor is speaking of, they need to make sure they are in safe environments. They don't want to have a Fort Pierce Main Street where they have vendors out in the Farmers Market right next to a drug dealer on the street somewhere. If they are going to in fact do this and expect the public to participate in this, they need to make sure they have these places where they are safe and hazard free from any type of illegal activity. Right now presently that is not the case in a lot of situations when they talk about that particular site they are speaking of.

Mayor Benton said he knows they talked about 10th Street with Moore's Creek and what the City's efforts are over there. Lincoln Park Main Street, when he talked to Elise Rollins, thought it would be a good idea. Because as the City progresses over there with what they are trying to do, the public can see progress. If they have people over there and vendors

over there all the time, they are going to eliminate drug dealers. The drug dealers don't want to be doing business next to a lot of people, they like to try to keep a low profile. So hopefully this would chase them out. To him it is a good way to market what the City is trying to do and change an area that has had some tough times. Is there a majority who would like to see this moved forward?

Commissioner Becht said he is listening to his fellow Commissioners. They are charged with trying to balance the existing economy that is apparently based in large part on driving in with motor vehicles, what he calls a mobile economy. If they are ever to transition out of that mobile economy to a building-based economy, there is going to be a lot of pain while they do that. Commissioner Sessions mentioned they need to try to figure out a way to not make it as hard on the existing economy while they transition to what he will call the new building-based economy. He doesn't know how to do that. They are going to have to figure it out, they are going to have to try, they are going to make some mistakes as they do it, and they are all going to hear some screaming. But his concern is if they don't do something, then they are doomed to repeat and have the same economy they have and never transition to a building-based economy. The building-based economy is what is going to help run the drug traffic out, help run out some of the other old trades of prostitution and whatnot and get it out of there. Because that shopkeeper is going to go out on the sidewalk and run that undesirable element out of there, while the street vendor is just going to go home whether it is somewhere else or Stuart or wherever. So they have to figure out how to transition the building-based economy and they haven't figured that out yet. They thought the private sector would do it after they put \$10 million in streetscape improvements over there, but that hasn't done it. He thinks this is important toward that transition. It is going to hurt, it is going to pinch. They need to figure out how to do it so it doesn't pinch quite as much. He is in favor of moving forward.

Commissioner Coke said yes.

Mayor Benton said okay, let's move it forward. If they can try to educate organizations, Lincoln Park Main Street specifically. Because this request came to him to help get something done over there. Hopefully they will see this as a move in the right direction.

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The next item on the Agenda was City Commission discussion on proposed Ordinance amending Section 22-60(f) regarding **Parking of Commercial Vehicles in Residential Neighborhoods**.

Ms. Peggy Arraiz, Code Compliance Manager, said this being brought before the Commission for discussion. It is really a clarification of what the Code currently says regarding commercial vehicles, which includes any vehicle in connection with any commercial enterprise, including transportation for employment and business related activities. As that reads, that means any vehicle including their self-employed plumbers truck or any type of personal vehicle used for business activities, as the code is written, is illegal in residential areas. They have run into problems with that in the enforcement area. So she has recommended some changes to clarify what a commercial vehicle would be. This does have to go through the Planning Department because it is a Chapter 22 amendment. But they brought it before the Commission for some discussion prior to going through that process.

Commissioner Alexander asked in her hindsight, what is a commercial vehicle - any and all?

Ms. Arraiz said no. She is trying to change the Code to clearly identify what a commercial vehicle is, but still make allowances for their self-employed persons so that they could have their pickup truck in their driveway. Item 1 through 6 under Definitions in the amendment are pretty standard. Everybody would pretty much agree that these identify a commercial vehicle. Item 7 is one that would be more for discussion. What it reads is: Any truck, van, or trailer openly or outwardly storing equipment, materials or supplies UNLESS - and this is

the area that allows their personal vehicles - such material is covered by use of a commercial manufactured camper-type topper, shell topper, canvass or tarpaulin cover that is securely fastened to the vehicle. Open storage of ladders on racks designed and installed for that purpose will be acceptable, provided the ladders do not extend beyond the ends of the vehicle. That is a safety issue, so the ladder doesn't go beyond. It does allow for more of their self-employed persons to keep their vehicles while still prohibiting commercial vehicles. It stops the open storage.

Commissioner Alexander said just to clarify what his train of thought is. They have a lot of lawn service individuals. How do they label them?

Ms. Arraiz said the equipment would have to be covered in some way, whether it is by a tarp or a camper cover or enclosed in a type of full trailer. As long as it doesn't provide the open storage.

Commissioner Alexander asked so there is no exception to the rule? If they don't have it covered, then they are going to fined?

Ms. Arraiz said if it is not covered with a tarp or any other cover then yes, it will be considered a commercial vehicle.

Commissioner Alexander said he is glad they have a whole lot of City employees that have a job security that don't have to go out there in that hot sun and the public to work. He is so glad that their employees appreciate their jobs that they have. They need to be watchful.

Commissioner Sessions said with regards to the classification of vehicles, it says step vans. Would that include vans that a lot of the fruit contractors use in this area?

Ms. Arraiz said a step van would be a UPS type van or a Doritos delivery type of a van. Those are step vans.

Commissioner Sessions asked passenger vans wouldn't be eliminated?

Ms. Arraiz said passenger vans to carry 10 people or more would be prohibited.

City Manager Beach said those are currently prohibited.

Commissioner Alexander said they live in an agricultural city. This is labor. He doesn't understand what they are asking of them as Commissioners. They do what they please. They are a labor community, people work with their hands. He just doesn't see how... They are becoming Germany or Gestapo or something. They have to dictate every little small details just to satisfy them.

Ms. Arraiz said those are already prohibited. In fact, all of those types of vans used for transportation are prohibited. They are actually clarifying it to allow the 8-passenger van in the residential area. It is only restricted in residential zones. So if it is for 10 passengers or more, it is prohibited from being parked in a residential zone.

Mayor Benton said what they are trying to do here is, if they work for an exterminating company or if they work for a plumber or an air-conditioning business and they have a van, most everything is inside and maybe a ladder on top. Right now it is illegal to drive that car home and park it in their driveway. They are trying to make it legal. They have sort of looked the other way, because so many people work out of their homes. It is really nice to be able to drive the employee vehicle home. They are just making it legal.

Commissioner Alexander asked how can they make it legal and they are saying it is going to be...?

Mayor Benton said it is illegal now. That lawnmower Commissioner Alexander is talking about, it is illegal now. What they are trying to do is make certain...

Commissioner Alexander said so if they back up to the Chief of Police and they are in the police cars, that is a commercial vehicle, isn't it?

Mayor Benton said technically for a Police Car to be parked in somebody's driveway, it would be deemed illegal.

Ms. Arraiz said no, that is exempted by State Statute. Emergency vehicles are exempt by State Statute. But they are trying to loosen the Code to allow certain things. Mayor Benton is correct, right now commercial vehicles are illegal. On that list, the only one that would still be illegal would probably be the Terminix trucks because of the chemicals. It prohibits the chemicals in a residential area. Most of the Terminix trucks have the big tanks on the back that have the chemicals. But all the other ones would be permitted now where they were not permitted.

Mayor Benton said technically in the lawn business right now they are required to not have a sign on their vehicle and they are supposed to park their equipment in a garage or in a trailer where it can't be seen. It is not good for equipment to leave it out in the rain anyway. It is just good to put it away and it looks better.

Commissioner Becht asked has she been able to get this draft to the Treasure Coast Builders Association and the Chamber of Commerce?

Ms. Arraiz said no. This is being brought to the Commission first for discussion and to find out if they should continue with it and move forward. This one has to go through the Planning Board and all of those steps. So this one particularly has many more steps to follow. They came to the Commission first just to get a group opinion and consensus before they went any further.

Commissioner Becht said he is interested in moving forward on it, but he is also interested in hearing back from the Chamber of Commerce, the Treasure Coast Builders Association, and the Association of Realtors. He thinks they have a couple of Homeowner Associations in Fort Pierce too, that actually some of them have abused the ordinances trying to get rid of vans that ought to be allowed in a residential neighborhood. They are using the City Codes as a weapon. So they do need to do something so their Codes can't be abused for the wrong purpose.

Mayor Benton said see that they get this information out to them. As far as the Homeowner Associations, he meets with the County once a month with several of the registered ones. So they can get this information to them through that and the Chamber of Commerce.

Commissioner Sessions said they used the term loosen the ordinances and allow certain things to happen. Is she saying right now they will allow, at least by the loosening of the ordinance they are proposing, eight passenger vans?

Ms. Arraiz said that is correct. The way the Code is currently written, it says any bus, van, or truck with a gross vehicle weight in excess of 10,000 pounds or which is designed, used, or maintained primarily for the transportation of unrelated persons for hire. So any truck, bus, or van right now is restricted. They are changing it to say that if it has a capacity to transport more than ten passengers. So the way it is proposed, ten passenger vans and less would be permitted in residential districts.

Commissioner Sessions said he was concerned more about ten passengers or more. Let him tell them why. What put Fort Pierce on the map is the fruit industry, crops of grapefruits and oranges. To eliminate fruit harvesting businesses, individuals that have these vans that come in and out of their residential area, is not conducive to what the

industry is in St. Lucie County, oranges and grapefruits. And by eliminating these individuals from bringing these vans in is going to have, he can't stress enough, an impact on people who have to rely on this as their livelihood. There is no industry booming in St. Lucie County. As a result of NAFTA (North American Free Trade Agreement), the fruit industry is going down, but yet they still have it to hang on to. To not be somewhat user-friendly to the industry that is here and allow these individuals to continue to use their vans to transport people back and forth in residential areas, commercial areas, or whatever it may be, he believes is a mistake on their part.

Ms. Arraiz said she is confused with the comment, because she wants to be able to consider it if they have to make any changes. The vans are prohibited now for any size. And it is only the parking of the vehicle. They can come in and pick people up. It is simply the parking of the vehicle. Now they are allowing it up to ten people. A ten-person van can be parked in a residential zone.

Commissioner Sessions said they are revisiting the ordinance so it can be made more restrictive or less restrictive. Is he correct?

Ms. Arraiz said less restrictive. So that up to ten-passenger vans can be parked in residential districts as it is rewritten. Right now those are prohibited completely. They are going to allow it up to ten passengers.

Commissioner Becht said if there is a consensus, it could go to 15 passengers.

Commissioner Sessions said right, that is what he is getting at, to be allowed more.

Mayor Benton said it depends on how many seatbelts are in these vans. That is the problem, is they are being abused. That is why they have some problems with them. He doesn't know specifically how many people are allowed in some of these vans. He hasn't seen many they can put more than 10 in, 12 maybe, but 15 might be pushing it.

Commissioner Becht said with feedback from the community, he would entertain a higher number. Ms. Arraiz is trying to get something out of the chute and she started at ten. If the industry standard is 15, let's get the feedback and amend it as they move forward.

Commissioner Sessions said as they move forward and advertise this, he is certainly going to contact the fruit contractors that he knows to come in and share...

City Manager Beach said he would encourage the Commission to study the history of this issue and where the idea came from to restrict the parking of these vehicles in residential neighborhoods. It does have a history. Mr. Schwerer may be familiar with it, he has been here for a long time. But it was something that apparently was of tremendous consequence at the time. Whether or not conditions have changed in the last 20 years that might make it appropriate for that use, he doesn't know the answer to that. He is just saying that clearly there was a problem with this industry with those vans at the time whatever Commission created the laws that prohibited them from being parked in residential zoned areas.

City Attorney Schwerer said he wanted to correct something on the record. The current ordinance as it is does have a history as the City Manager explained, but it does prohibit what they typically call commercial vehicles for hire. In other words, the vans that transport the workers or taxis or limousines or things of that nature from being parked in residential areas, because those have been traditionally commercial vehicles. When they were parking in residential areas, what they experienced at the time when this ordinance was drafted was that the vans that were transporting primarily the agricultural workers were being parked in residential districts and were cranking up at 4:00 o'clock in the morning, and folks from a four or five block radius were coming to the property and gathering and staying for a while and then causing a disturbance before 6:00 a.m. for instance. The

Commission at the time that was seated here heard a lot of complaints from the residents. And at the time their ordinance did not prohibit those types of vans that they typically see or the trucks from operating because it had to be a 10,000 gross vehicle weight. So what they did was design an ordinance that said if a resident of a house in a residential district has a van which is being used for commercial enterprise, transporting people in connection with employment, they had to store it elsewhere, just like they ask the taxi drivers to do so and those airport shuttle vans, they have to be parked elsewhere, they can't be kept in a residential district for home occupation. So there is a history. He would encourage them to look at the comments that came from the public, particularly the residential areas that were being presumably impacted by that. This ordinance has basically stood for all these years being enforced. He is not aware of any enforcement cases rarely that have happened in the last five to eight years that specifically involve what they typically call migrant labor vans or agricultural vans, those are the ones with the racks in the back and the coolers. He is not aware of anybody who has been violating the ordinance to such an extent that it even required it to be enforced. It was typically understood that those type of vehicles were not allowed in residential districts. They can be parked in commercial areas and other areas for sure, but not in residential. He would encourage them to look at that. But currently, it doesn't matter whether it is an eight or nine or ten or twelve or now fifteen passenger he is hearing, it is what the use of the vehicle is, not necessarily the type of vehicle, that was being regulated. He was looking at this proposed ordinance when it came to the office and the staff member who has been assigned to this is recommending that they keep the same language in here that they have. The other types of trucks - the dump trucks and the tow trucks and the flatbeds and the chemical tank trucks - those can all be defined. But they are still recommending they keep the vehicles that are designed, used, and maintained primarily for the transportation of unrelated persons for hire or in connection with a commercial enterprise out of the residential districts, because that is what preserves the residential character of a neighborhood.

Mayor Benton asked do they have a consensus to move this forward to the next step and get it out to the public and advertised and have it brought back? He sees at least three people indicating yes, so let's move this one forward.

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The next item on the Agenda was City Commission discussion on proposed ordinance creating Section 4-45.1 regarding **Dog Friendly Restaurants**.

Ms. Peggy Arraiz, Code Compliance Manager, said as requested they researched the State Statute regarding the Doggie Dining Ordinance and they put together a draft of what they would like to recommend. Staff made some recommended additions to the State Statute to make it more unique to the City of Fort Pierce and the needs they see here. This is all covered in their summary. It is for discussion only before moving forward. She kept this kind of low-keyed. Some of the changes recommended - and some of this is in reference to advice given to Staff by the City Attorney - is to only allow this within the owner's property boundaries. If they are going to use the City rights-of-way through the sidewalk cafe ordinance, they would not be permitted to also use the Doggie Dining ordinance, they would use one or the other. They made some additional restrictions as far as the placement of hand washing facilities. Something that the State Statute didn't require was the business tax receipt. Before applying for the permit, they would have to have a valid business tax receipt. They have included the St. Lucie County Health Department as one of their reporting entities and they have reviewed the ordinance already and given some of their recommendations. They were a little stricter on the waste receptacles. The Health Department chimed in on that one also with some good recommendations on making sure the waste receptacles are separated from any other parts of the restaurant. They have required some additional signing to be placed above and beyond what the State Statute requires. And they have allowed for an appeal. If a permit was to be revoked for whatever reason, non-compliance or failure to adhere to the Code, an appeal process is in place.

Commissioner Coke said she wanted to move forward with this. She thought it relatively simple, take the State Statute and move forward. Somebody decided to make it way more

complicated and restrict the restaurants here in Fort Pierce. She just doesn't understand why they would do that. Here they are requiring more hand washing things, they are requiring more waste receptacles, they are requiring more signs, they are requiring more and more. If Staff just didn't want to pass this, they should have just said no they can't do it, and then listen to the Commissioners argue with them. But to make it so very difficult... The State Statute is already restrictive enough. Why would they make it more complicated?

Ms. Arraiz said this was an effort to try to make everyone happy. It was a little difficult to reach that balance of making everyone happy. But she still feels what they are presenting is workable, it is adjustable, they can make changes to it.

Commissioner Coke said she knows these further restrictions are not making the restaurant people happy. She knows these are not making her happy. Can her fellow Commissioners tell her which one of them wanted to add all of these further restrictions to the State Statute? Ms. Arraiz said she was trying to make them happy. She figured one of the other Commissioners wanted it, so she thought she would ask which one so maybe they could discuss it.

Commissioner Becht said he thought it was Commissioner Coke.

Commissioner Sessions said he is trying to make them all happy. He doesn't dine with his dogs, he feeds them at home.

Commissioner Coke asked could they go back to the State Statute?

Mayor Benton said there are some additions here, like keeping the dog under reasonable control...

Commissioner Alexander said that is obvious.

Mayor Benton said there are some issues there. He has been in restaurants where he would question whether it was reasonable control or not.

Commissioner Becht said that was children, it wasn't dogs.

Mayor Benton said when they have one dog, they are fine. When they have several dogs, they can run into a problem. But he is all for it. He is sure they can bring this forward and talk to some of the restaurant owners. He hasn't heard from them himself. Putting an additional dispenser there, he couldn't see why that would be a lot more trouble or what it would cost. But if it is more convenient, if one is empty the other one might be full. But he would like to hear from the restaurants, because there are not that many restaurants that are going to have doggie dining, he doesn't think.

Commissioner Sessions said the whole purpose of this was to ascertain making their business better and enhance their business. They certainly don't want to put restrictions on them. Could she point out the actual differences from what the State requires?

Ms. Arraiz said if they start at the beginning, as she mentioned earlier, it does not allow them to use the doggie dining ordinance if they are using the sidewalk cafe ordinance which allows them to have tables on City sidewalks.

Commissioner Coke asked the State Statute does not prohibit that though?

Ms. Arraiz said no.

Commissioner Coke asked which one of them decided they wanted to change that?

City Clerk Steele said that was a consensus of the Commissioners that were concerned about dogs biting on public property.

City Attorney Schwerer said there is a liability issue.

City Clerk Steele said it wasn't something they came up with. They were trying to get it from the consensus, there were at least three Commissioners...

Commissioner Becht said they are not allowing it on public property.

City Attorney Schwerer said that is right, the public right-of-way.

City Clerk Steele said they can take that out.

Commissioner Coke asked so what they are telling her now is they are going to forbid dogs from going to the Farmers Market? She sees more dogs every weekend at the Farmers Market than she sees children.

City Clerk Steele said this is not the Farmers Market, this is restaurants.

Commissioner Coke said but that is public property.

City Attorney Schwerer said no, this isn't regulating public property. This is for restaurant facilities only.

City Clerk Steele said that is why that is in there. If three of them want it out, they will take it out.

Commissioner Alexander said he thinks it is confusing if they say no dogs on City property and City right-of-way, it is just like no vendors on no City right-of-way. What about no do they not understand? That is why he gets into it. They are talking about a dog now. He is fine with it. He has dogs at home, but his dogs stay at home. Again, they are talking about no dogs on City right-of-ways, no vendors on City right-of-ways. Now they want to make an exception for everything?

City Clerk Steele asked do they want them at sidewalk cafes?

Commissioner Alexander said he doesn't care.

Commissioner Becht said the problem he has is, he went down and saw a college roommate down in South Beach, Miami, for lunch. There are dogs all over the place and vendors and a whole lot of other things too. They have the big awnings out there on the street. He can barely walk down the sidewalk because they have tables on both sides. The maitre d' is saying they are going to have this, they are going to have that. It was interfering with his passage on the sidewalk. So they figured out how to do it down there with people on the sidewalks, with the awnings on the sidewalks, with tables on the sidewalks, with dogs on the sidewalks. Are they turning a blind eye or do they have an ordinance that allows this? Maybe they are turning a blind eye to it. He appreciates what Staff has done here, but it seems like they are making it really complicated. He would like to just fall back to the basic requirements of the State and go forward. He doesn't know they need the rest of it.

Commissioner Coke said that would be her inclination.

Mayor Benton said it appears they have a consensus, so let's take it back to the State guidelines and go from there.

Ms. Arraiz said she knows they want to go with the State guidelines. But things that do not impact necessarily the business owners, but paperwork procedures as far as appeal processes, permit fees, can they still include those types of procedural issues?

City Manager Beach said let's just stick with the State Statute so they can get through this.

City Attorney Schwerer said so there is no confusion, those things need to be in the ordinance. What they recommended was take a look at Tampa, take a look at Kissimmee, borrow from those and go from there. They have to have an application process. The State Statute implies they have one and it tells them what to do, so those things have to stay in. Those extra regulations that Staff had put in is what they are talking about? But the State Statute says they have to have a permit issued and then they have to have inspections and whatever else.

Commissioner Alexander asked they have to have an inspection to have a doggie restaurant? People will inspect it. If someone goes in there, they will hear it from the public. They are telling him now they have to have an inspection? They already have an inspection for a restaurant.

City Attorney Schwerer said yes, the State Statute does require it.

Commissioner Alexander said that is all they are asking, whatever the State requires. Commissioner Sessions said he thanks Ms. Arraiz and Ms. Steele for their hard work. He knows they are on the hot seat.

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The next item on the Agenda was Mayor Benton discussion regarding petition to rename Pioneer Park located on North 29th Street and Avenue M after Rufus Alexander Jr.

Mayor Benton said this petition was brought to his office back on May 14th and his job is to bring it to this Commission. There is a petition with quite a few names that Ms. Lewis brought. Today he also received information that Mr. Fenn was talking about earlier (under Comments from the Public). He has one copy of this (memorandum dated November 9, 2007) with several names that they felt should be added to the park, whether it be on a bench or on a plaque as they go into the park, maybe a sign. He is just bringing this to the Commission for discussion.

Commissioner Coke asked didn't they just recently have Staff outline a procedure for naming places and buildings, where each of them would designate a name and form a committee? Maybe they take the petition and the request from Coach Fenn and they could establish that committee the same as they did for the other building.

City Clerk Steele said it was the Fort Pierce Redevelopment Agency.

Commissioner Coke said let her suggest that the City Commission follow those smart people over at the Fort Pierce Redevelopment Agency and adopt the same policy.

Mayor Benton said he would agree. He didn't want them to make a decision tonight. But he felt if they should have a plaque with names on it, they needed a group from the community to put that list of people together. He doesn't want to offend anybody by missing someone. There are 30 people here on this list and he knows several of those folks.

Commissioner Alexander said he just wants to emphasize one thing. Rufus J. Alexander, Jr. is his father. He has no dog in this fight because he was told to shut up and sit back. But what offended him was the fact that they set the Mayor up to fail. Because not only these people on this list signed the list, it was well known throughout the community that they were doing this. If there was any objection to it, it should have been brought to his attention before tonight. That is what offends him, that they brought it tonight. Other than

that... If people want to say this community is divided, he doesn't think a thing like this would divide this community, they are stronger and better than that. But when they have individuals who constantly want to divide a community, they are going to always be divided. That is his personal opinion. And anyone who wants to respond to that, they may.

Mayor Benton said that is why he was looking to the Commission for discussion. He doesn't know a lot of the founders of this community, so he looks for guidance from the more intelligent than himself and the historic folks in this community who know a lot more than he does.

Commissioner Sessions said he doesn't think naming a park after anybody is going to divide a community, not his community anyway. The community he loves and knows has a whole lot of continuity and love amongst the fellow citizens themselves, one to the other. He doesn't think making a decision one way or the other to name a park after somebody is going to start an uproar in the community. He personally doesn't have a problem with it one way or the other. He was going to defer it to Commissioner Alexander, hoping he would take a stance one way or the other. From what Commissioner Alexander is saying, he is somewhat neutral. So he takes a neutral position too, he doesn't have a problem with it one way or the other. But if Commissioner Alexander is in support of it, he would support naming it after his father. But if he is going to take the Mayor's suggestion and bring it before a committee, he will defer and will go along with him one way or the other. While they are talking about Pioneer Park, he will say in the dilapidated state it is in right now and the deplorable condition it is in right now, it would be a disgrace to name it after anybody. The park is in a terrible predicament that individuals are complaining to him on a regular basis about that park - the facilities are not useable, the grass is very high on a regular basis.

Mayor Benton said he will bring Mr. Hood up to address that. Because in his discussion with Mr. Hood today, he explained to him some of the changes they are going to see at that Park. Maybe Mr. Hood wants to go over those changes so the public will feel more comfortable.

Mr. Bob Hood, Director of Public Works, said they will see on the Consent Agenda tonight (Item 26e), they are requesting the expenditure of about \$27,000 for the design phase for improvements at that park. That park is getting ready to grow up real quick. New residential units are being built to the north - Madison Cay Apartments and the Pioneer Park Subdivision. It is no longer going to be a drug hangout. It is going to have many amenities. Some of the concerns Commissioner Sessions has are going to be answered.

Commissioner Sessions said maybe the method to the Mayor's madness is to name it after somebody and then they can get it improved. He knows Commissioner Alexander may start cutting the grass and keeping it cut if it is named after his father.

Commissioner Alexander said he has the capability.

Mayor Benton asked would Ms. Lewis come up? She brought this petition to his office.

**Ms. Alice Lewis** said it has been years they have been wanting to name the park after Mr. Alexander, because in 1979 and 1980 it was him who got all the kids in that community to clean it up so it could be made a park. They were out there every weekend picking up cans, glass, and everything, and the community would donate stuff so the kids could eat in the afternoon. That was Mr. Rufus Alexander. Mr. Fenn might have had a committee and there might have been more, but Mr. Alexander is who stood up before the community and the kids. So that is why she always asked year after year after he died, why can't they name the park after him? Because he was the one who was out there picking up the trash. She doesn't have anything against Mr. Fenn and she doesn't have anything against Mr. Monroe. But when they were out there picking up trash, bottles, glass, and dirt, they weren't out there. That is why she always said from the time he had passed away, could

they name that park? Even when the park was built, he was out there calling the police to get the drug addicts out of there. He was out there calling the police when the guns went off. Keeping people out of there, while other people were sitting in their home resting, Mr. Alexander was out there taking care of the park and the kids in that area.

Mayor Benton said he thinks it is up to this Commission to maybe form a group like they did for the HDRC gymnasium and get the information from the public and see how they would like to go. He doesn't know all the history. He has heard Commissioner Alexander's father was a reputable person who was very active in the community and did a lot for this community, as his son.

Commissioner Alexander said he stands on his shoulders. That is why he just won't allow anyone to scrutinize Alexander. They come a long way in this community. That was a neighborhood initiative, that people that come to him constant. He said not him, he won't implement it, they have to do it. When they did that, Mayor Benton had ample time for anybody who wanted to rebuttal that, they could have.

Mayor Benton said he firmly believes if they put a name on a park, first of all people will ask who is that person, and they will learn more about the local history; but he thinks it puts a little more pride in how that park is going to be maintained and just the appearance. He is brought this to the Commission's attention and he is looking for some direction.

Commissioner Sessions asked can they at least add Mr. Alexander's name to the list, even if they don't decide to name it after him?

Mayor Benton said yes. His suggestion, like they did with the last group, if they are going to put together five people to sit down, 30 names are a lot of people. He would think they would want to cut that down to less. He doesn't know whether this was the same list that Mr. Fenn was talking about. He thinks Staff might have had something to do with this. Mr. Hood just gave him this list tonight. But if that is appropriate for them to do, like they did as FPRA members, to appoint five people to make that recommendation to the Commission. But Mr. Alexander should be added to the top of that list.

Commissioner Coke said she is good either way.

Mayor Benton said either way. Where do they want this to go from here?

Commissioner Sessions said Commissioner Becht is kind of quiet over there.

Commissioner Becht said he was just trying to make sure they figured out where they want to go. He likes the format of having the committee appointed as they did with the FPRA. They don't reinvent the wheel if they do it that way. He thinks that way would work out okay.

Commissioner Alexander said he has no problem with it.

Commissioner Becht said that was kind of what he was waiting for.

Commissioner Coke said as long as Commissioner Alexander doesn't have a problem with it. She thinks it is a good precedent to start because they will have other things coming up in the future. They need to insure that they have established a fair way that people are going to be responsive to the community on how to do that.

Commissioner Alexander said that is what he told the community when it came to him, he doesn't have a problem with it. He knows what his father was and doesn't have to be told about his father. But the community has their own sentiments about things and they should be rightfully heard without being criticized or scrutinized. He won't stand for that, not only for his name's sake, but for any one of them.

Mayor Benton said Mr. Alexander should be on the top of this list or whatever list, because he is sure there will be several names. Ms. Lewis will be his appointee to this committee. That is the consensus, they are going to put five people on a committee. Each Commissioner is going to give a name to the City Clerk.

Commissioner Coke said she is sure Mr. Beach is going to take care of making sure they have those five appointees from each Commissioner.

City Manager Beach said absolutely.

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The next item on the Agenda was Commissioner Becht discussion on LaQuinta Hotel at the northwest corner of Crossroads Parkway and Wheeler Terrace.

Commissioner Becht said he was hoping they would have the Site Plan to look at. He sent an email to Mr. Recor, who is not here today.

City Manager Beach said they do not have the Site Plan.

Commissioner Becht asked does Mr. Matthes have it?

**Mr. Stefan Matthes**, Culpepper & Terpening, Inc., said he a copy, yes.

Commissioner Becht said he asked that this be on tonight's agenda. What they have is a hotel that is ready to open, but Mr. Joseph either has not or cannot get some of the off-site improvements done, which he would like to get done or at least have a contribution for. Mr. Matthes had suggested a fair share contribution agreement. He doesn't know if he had a chance to get that over to City Staff or not. They have the explanation in the email from Mr. Matthes (sent June 10, 2008) that was included with the agenda item. He wanted to bring it to the Commission's attention and see if they wanted to back off to a fair share agreement, or if they want to hold his feet to the fire and make him follow through and pave the road and do whatever else he is supposed to do.

Commissioner Alexander said he would be one of the Commissioners who would be in agreement with the fair share, because they share that with all the developers who have come before them now. Why punish one individual? He has been harping on this matter here for quite a few weeks now. He guesses Commissioner Becht was able to get something done and he appreciates that. But what he doesn't appreciate is not being responded to about this issue. This gentleman should not be... When he asked what is the definition of a road... He asked Mr. Andrews for a reason today about their milling because there is a portion of that road milling now and they would have to take up all the milling to create a road, sidewalk, drainage, and whatever it takes to do a road. He doesn't think that is fair for this gentleman waiting to open his doors. Even though they said it was on the site plan, he doesn't see where it is showing on the site plan. He read the communications. Even when it came before the Commission for approval, there was a lot of inconsistency in it and there was a lot of questions about them doing that road. There was lot of discussion about this. He doesn't have it before him tonight, but the last say on it was that they were not going to hold his feet to that entire road.

Commissioner Coke said she is reading the Minutes of August 7, 2006, where Commissioner Alexander made the motion to approve the Site Plan and she seconded it. Commissioner Nelson talked about all different kinds of requirements to add on it. She didn't want to argue with him, which she knows was very unusual for her, but she said that it appeared to her that the applicant was going to do the sidewalk and everything, and she had asked is that not his fair share? And the Mayor brought up that all they can do is ask the gentleman to pay a fair share. Now she is not sure where the confusion is, because she is reading the Minutes of what they passed and they talked about fair share contribution then.

Commissioner Alexander said there was some letter issued that stated they would do the road. It wasn't in their presence at that moment. After he read the Minutes, he surely recalls there being a lot of discussion about that.

City Attorney Schwerer said they have some legal issues involved here. Staff presented this to his office today for a review. Based on the records they saw, it appeared there was a condition of approval to at least construct a road. Whether or not that was specifically in the motion or not, there is considerable discussion in the record. That really isn't the issue.

The issue is, if there is a proposed modification or a revision to a site plan, they have to look to the Code. The Code says any change or modification in an approved site plan which is not exempt from the requirements of this section shall require approval of City Commission and shall follow the same procedure required for original approval. So technically, if the applicant is asking to be excused from a condition of his Site Plan, he must go back through the process - make the application, go to the Planning Board, get their comments, get comments from Staff, and then the City Commission can have a hearing on it - and at that time they certainly can do what is in their discretion, either relieve the applicant of that condition, or modify or change the Site Plan. But that is the process it has to follow. The applicant simply can't come to the Commission and ask for the removal of that. They have several of those cases pending where applicants are asking for relief from a condition that the Commission imposed; and they are being told they have to follow that same process as well.

Commissioner Alexander asked what kind of time period are they talking about?

City Attorney Schwerer said he doesn't know what the time frame is on that.

Commissioner Coke said these are the Minutes that Commissioner Becht provided with his agenda item this evening. She is all for agreeing if somebody said they were going to do something and agree to it. But she doesn't see where Commissioner Alexander included it in his motion. She doesn't see where there was a condition of the approval. The only thing she sees being talked about in the August 7, 2006 Minutes was that fair share.

City Attorney Schwerer said Staff presented a letter from their file that came from the applicant's engineering firm (Culpepper & Terpening, Inc. dated May 1, 2006). It is addressed to the Deputy Director of Public Works. It says: "In accordance with the comments of the City of Fort Pierce Site Plan Review Committee, please allow this letter to serve as our agreement to the condition that the applicant remove the millings from the roadway in Crossroads Parkway where it intersects with Kings Highway back to the south and replace with a typical pavement section stabilized subgrade, coquina base material and asphalt wearing coarse. We will work with your office during the design and permitting process to finalize the section." So apparently this was what Staff was basing its recommendation on to build the road, because the applicant had agreed to it as a condition of the Site Plan Review. Again, it is a simple matter of sending it back through the process.

If the applicant wishes to change the condition, submit the materials and it could go through; but they need the comments from the Planning Board and it has to follow that process in accordance with Section 22-58(i) of the Code.

Mayor Benton said so in other words, it was on the site plan and the applicant agreed to...

City Attorney Schwerer said he thinks what happened was, when the Site Plan Review Committee met with the applicant and went through the site plan, they suggested the road be built and the applicant agreed to build some kind of a road. That was a condition of the approval.

Mayor Benton said that was what staff brought in front of them.

City Attorney Schwerer said correct. Again, if it goes back through the process, they are able to modify the Site Plan conditions. This Commission can do that, but it has to go back through the process for comment and review by Staff.

Mayor Benton asked is there any way he could get a C.O. and then go through that process? They have a finished product or close to finished; and to have to wait, it could be a six-month process.

City Attorney Schwerer said Mr. Meyers can speak to this because he is the expert on the Building Code. But typically they cannot give C.O.'s until all of the conditions of the Site Plan and all the construction has been made, unless there is some bonding, and he doesn't know if that is even available.

Commissioner Becht said Mr. Schwerer neglected one other option, which appears to be an administrative minor change to the Site Plan depending on what the outcome is, what the request from...

City Attorney Schwerer said but this wouldn't be minor. Construction of a road as a condition is certainly not minor under the Code. He is not arguing with him, but if the Commission directed an applicant to pave a road as a conditional of approval and Staff said that is minor, he would have a hard time with that.

Commissioner Becht said his problem is that unfortunately he sent an email to Mr. Recor this morning and asked him to bring the Site Plan here so he could see what was on the actual Site Plan. Mr. Matthes has brought what he has here. But he can't see how far they are talking about from this road up to Kings Highway.

City Manager Beach said he can verify that this road was not on their Site Plan.

Commissioner Becht said that is not his point. He has an email from Mr. Matthes that confirms that the agreement was part of the deal, that they would pave it. The request is that they would rather enter into a fair share contribution agreement and not pave it. So he is converting actually doing the road to setting up a monetary obligation to pay for doing the road. He is not saying that is minor. But somebody else might say if they have the money, they got the road, or whatever. He would like to see the hotel open. But they did make a commitment to build the road and now they are changing their mind because they don't want to build the road. For whatever reason, they don't want to build the road. As he is looking at things as confirmed by the email and the communications, it was the Commission's expectation that the road would be built. So he doesn't know that they are going to get a consensus tonight to change it; and if they don't get the consensus tonight, they would spend a lot of money going through all the rigamarole for what Mr. Schwerer is indicating is a formal amendment to the Site Plan as opposed to an administrative amendment to the Site Plan.

**Mr. Jommy Joseph**, 3224 South U.S. Highway #1, said this site is actually not yet complete - the hotel is ready to open, the restaurant is in the process. They just received word that he can pick up his permit to build the restaurant. But he wants to open up the hotel because the hotel is done. This road was never brought to his attention. It was not on the approved Site Plan. Of course there was a letter that stated from his engineering firm that he has to put in this road. It never came to his attention until he met with Peter Buchwald, because he was going by the approved Site Plan. Everybody keeps saying it is on the Site Plan. It is not on the Site Plan. This road is 1,000 feet away from his property. There are 18 lots in this whole subdivision.

Commissioner Becht said he wants to slow him down a second. In the Minutes (dated August 7, 2006) - and he is hoping Mr. Joseph was at the meeting - Mr. Buchwald said they have committed to improving that road up to City standards.

Mr. Joseph said he has no idea about that. But he was at the meeting. He is just hearing what was going on. He was concerned more about getting his plans approved and getting it permitted. Right now when he comes to find out that this is a road he has to re-pave, which he shares no access to nor any responsibility to... Okay, if it is his fair share, he doesn't mind committing to a fair share agreement with all other parties in the subdivision to do something.

Commissioner Becht said then he is mistaken, he agendaed this because he thought Mr. Joseph just wanted to convert paving it to putting the money up to pave it. And now it sounds like Mr. Joseph wants to renegotiate and doesn't want to pay for all of it, he just wants to pay a small part of it.

Mr. Joseph said he is concerned more about giving his fair share.

Commissioner Becht said that is a major adjustment, because Mr. Joseph is talking about renegotiating what happened. Whether he understood it or did not understand it, he is talking about renegotiating the whole deal.

Commissioner Alexander said that was one of his questions in the meeting. It shows here that maybe he was misunderstood, he was the motion maker, that they expected this developer to extend it all the way to Kings Highway, and Mr. Buchwald said no. He can understand it, but if there is a bunch of confusion, then tell him how old is that R.V. park? It is older than a few years, is that right? So why was Staff not insisting that the R.V. park... They are the ones with these big vehicles coming in and out. Why didn't they insist that they do their fair share of paving on that road? He has asked that question a hundred times and he hasn't got an answer yet.

City Manager Beach said he doesn't think there is an answer to that. It simply didn't happen.

Commissioner Alexander asked was it an oversight of staff?

City Manager Beach said he doesn't know that it was an oversight. It is something that was just not dealt with at that time. That may even be the reason they made the recommendations that they made on this project.

Commissioner Alexander said he remembers Mr. Nelson asking of a hotel behind Red Lobster to pave the road all the way to the Turnpike. And they thought that was obnoxious. He is thinking tonight they are telling him they let an R.V. park go in there with big heavy equipment to tear up the road and they have no concern about the roads?

Commissioner Coke said she was a little more sympathetic earlier on in the evening. But now that she is looking at the copy of this letter that was sent from Culpepper & Terpening Consulting Engineers to Mr. Nick Mimms, and it was copied to Deva Matha Properties, Peter Buchwald, and Lucido & Associates, and it clearly states that he would be willing to pave this road. Originally she thought if Mr. Joseph didn't know that everybody was obligating him, it would be one thing. However, this letter was written and signed May 1, 2006, and he did not appear in front of this Commission until August 7, 2006, so he had the entire month of May, June, July, and the first week in August to read this letter and object to it prior to coming to this Commission. So it is not a matter that he did not know that someone who was working for him obligated him to do this. Because if he didn't communicate properly with the people he hired... She wants to see his hotel open, she wants to see his restaurant open. But for him to stand here now and say he didn't know about it when they approved it, she is here to tell him that is not the case. He may have forgotten about it, but he was informed of it by his engineering firm three and a half months prior to showing up here.

Commissioner Alexander said he is not in defense of the gentleman, but it has taken almost... Mr. Beach can attest to this. He has discussed this matter for the last two or three months, has he not?

City Manager Beach said he does recall discussing this with him more than once.

Commissioner Alexander said so it is not that he just came up on the 12:00 o'clock hour.

Commissioner Coke said no, Mr. Joseph is saying that when they passed it originally, he didn't realize they had obligated him to do that.

Mr. Joseph said when he received his permit set of plans. He doesn't know how building is done. He is just going by what is approved by the Commission. He received a letter from Cassandra Steele. He brought all the paperwork and received his Site Plan. He never saw that letter from Culpepper & Terpening about this road. It was never brought to his attention until a month back when they were getting ready to tie down to get their C.O. That is what he is trying to say. Now that he is seeing that letter, he has the dispute about him bearing the burden on the road. They have two lots next to him that approved a new truck lube stop. They don't have any sidewalks, no irrigation, no landscaping. That is a new building just built two months ago. They are obligating him to put sidewalks, landscaping, irrigation, pave a road 1,000 feet away from him 600 feet long.

Commissioner Coke said but she is not obligating him to do anything. He obligated himself to do it.

Mr. Joseph asked how did he do that?

Commissioner Coke said by sending a letter to Mr. Nicholas Mimms, Deputy Director of Public Works.

Commissioner Becht said if he understood Mr. Joseph correctly - they haven't talked, but he talked to Mr. Matthes - he is ready to pull a C.O. and open hotel rooms. Is that correct?

Mr. Joseph said yes, he is.

Commissioner Becht said then let's get real here. Because his options according to Mr. Schwerer are... Mr. Joseph said he doesn't know, but whichever he wants to go, he wants to renegotiate. If he wants to renegotiate, the process is going to be that he has to go back to the DRC meetings, then the Planning Board, and then the Commission, so he is 45 to 60 days out before he gets to come back to them and renegotiate. That is what it sounds like tonight. So he has a 60 day wait if that is what he wants. Mr. Joseph may want to look at this differently. Nothing is going to happen tonight that is going to give him that relief because apparently there is nothing they can do tonight without him going back through the process. But he may want to think about it. That is 60 days. Let's say he can't get three of the Commissioners to re-negotiate, then he starts construction of the road. He doesn't know how many months it is going to take to construct the road, but he could be six months away from getting his C.O. He may want to start thinking about... They didn't create this problem, no matter what Mr. Joseph thinks, he doesn't think the City created it. It is pretty clear based on this letter that there was a clear representation that Mr. Joseph would pave the road. So he doesn't think they have a confusion based on that letter, not on this side of the dias. So he may want to start thinking, he has a problem, how does he solve it? And they may be able to solve it with... He doesn't really want to call it a fair share contribution agreement, but he might want to call it a developer agreement, where he can bond or put money up so he can open before the road is finished. Because without that, he could be six months away from opening. And that is not something he wants to do to him.

Mr. Joseph said he hasn't finished the site. He is trying to build the restaurant, but he wants to open the hotel. Why can't he, when he finishes the restaurant, how come he can't

get a temporary C.O. for his hotel or even a C.O. for the hotel? His restaurant is there, he already has a foundation permit.

Commissioner Becht said Mr. Joseph may have to talk to Mr. Matthes, because he is not hearing any one of the five Commissioners. Mr. Joseph has got to build the road per this letter to Mr. Mimms.

Commissioner Coke asked was Mr. Joseph here when they approved this on August 7th?

Mr. Joseph said yes.

Commissioner Coke said she is going to read to him from the Minutes. They were talking about construction of sidewalks. Commissioner Alexander wanted to know why he wasn't doing sidewalks and asked had he agreed to do them? And Mr. Buchwald said no, at this point the applicant hasn't proposed to do sidewalks and is not offering to do that. All he is offering to do is improve the road, Crossroads Parkway itself, because it is a substandard road. He will improve it to Kings Highway. He has not proposed to provide sidewalks along that portion. And then they went on from there. So Mr. Buchwald sat right there and clearly stated that Mr. Joseph had proposed to do that road.

Mr. Joseph asked why did they make him put in sidewalks?

Commissioner Coke said all right, she is not going to agree to change this tonight.

Mayor Benton said this won't be resolved tonight. He thinks this issue Mr. Joseph is going to have to sit down with his consultants. He has a route he can go. He can appeal this to the Planning Board and back to the Commission, maybe for his fair share. It is going to be timely no matter what he does.

Mr. Joseph asked when he says fair share, what does that actually mean?

Mayor Benton said he thinks they would have to evaluate the cost of his fair share of the road and putting that up in a bond.

Mr. Joseph said or paving the road as a temporary means just like this letter says.

Mayor Benton said right.

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The next item on the Agenda was Status Report by City Attorney on proposed agreement or lease with the **A.E. Backus Museum & Gallery**.

City Attorney Schwerer said his report indicates that while it was being written, they had not received any draft agreement, but just at the end of the Thursday business day they did. It is a 20 plus page document. They are in the process of reviewing it and providing comments and will be sending that back to Mr. Fee with their comments and opening it up for discussion with him. It is still a working draft. It is not anywhere near ready to come to this Commission.

Mayor Benton asked about how long do they think before Mr. Fee can expect to see that?

City Attorney Schwerer said they are going through it. It normally takes about 45 or 60 days to get a project through with comment. Mr. Fee was out of the State, but he will be back...

Mayor Benton asked does that have to be brought in front of the Commission before it goes to Mr. Fee?

City Attorney Schwerer said no. They are going to work with Mr. Fee to get it in proper legal form. Once they get it in proper legal form, it will be coming back to the Commission.

In the meantime, he is going to be writing another memo concerning that Charter issue that is mentioned in the memo here. He has discussed it with Mr. Fee and they have to perhaps address that.

Mayor Benton asked that might be something they can take care of before that 60 days is up or during that 60 days?

City Attorney Schwerer said no, he doesn't think so. They are reviewing the current agreement for form and correctness, and also making comments about some of their suggested changes. This was the first draft by Mr. Fee. That process is involving a review of the agreement for lease. That will be ongoing and they expect that to be about 45 days before they can get their final comments to Mr. Fee and then work with him on the agreed upon changes like lawyers do, they have to do that. What he is also suggesting is that they have this Charter Section 13 issue that needs to also be addressed. They are going to have to address that with Staff and then bring it before the Commission for some discussion about how they want to do it - if they want to do it similar like they did the Marina Square project and go out for some type of RFP on it. But again, they will be discussing that with the Commission as this matter progresses.

Commissioner Alexander said first thing is to make sure they don't do anything like the Marina Square. Secondly, is this the piece of property they had the dispute on ownership?

City Attorney Schwerer said no. The City owns the entire Indian River Veteran's Memorial Park by deed and they lease portions of it to the County. The Backus Museum currently has a small lease. The City Clerk pulled the lease and he looked at it. It has a 1,500 square foot building on it that they currently lease. And the Yacht Club leases in it. So the City owns it. He doesn't think there is a dispute.

**Ms. Kathleen Fredrick**, Executive Director of A.E. Backus Gallery & Museum, said she would like to clarify that it is a four and one-third page document with three attached sheets which are mostly site plans. She implores the Commission to review a short document like that in less than 60 days.

Commissioner Coke said she is going to interrupt there only because she brought this up at the last meeting to check on the progress. Because when Ms. Fredrick stood here 60 days ago - and she appreciates her being here again and sitting through this for what is supposed to be a Staff report - but when they were here 60 days ago, her attorney was supposed to get something to the City Attorney immediately, and it was June 4th before he received it. So she thinks it is kind of... And she doesn't want to argue with her because she wants this project to go forward. But she doesn't understand why Ms. Fredrick thinks it is okay for her attorney to take 60 days, but the City Attorney shouldn't have the same amount of time to respond.

Ms. Fredrick said she doesn't want to argue with Commissioner Coke either, no good will come of that. She does believe, and Mr. Schwerer can certainly correct her, that Mr. Fee spoke with Mr. Schwerer. After a given time Mr. Schwerer sent him kind of a template on requirements the City would like to have.

City Attorney Schwerer said no.

Mayor Benton said let's clear this up.

City Attorney Schwerer said they absolutely did not do that. There has been some, not misrepresentations, but there has been some misinformation. He originally spoke with Mr. Fee who picked this project up from Mr. Brennan who was the former City Attorney. The project has changed substantially from when it was first presented to them back when Mr.

Brennan had it, when it was simply a minor expansion of a lease, the building was not going to be expanded by very much. That project apparently has been dropped now and it now involves a 2.8 acre parcel. If their office suggested a template, it was a template for a lease modification that was just going to be a minor addition onto the building. He didn't provide Mr. Fee with anything. He did speak with Mr. Fee and reminded him of the requirements of the Charter. They talked, there is no question about that. The document he just received came in on June 11th. They are still looking at it and they intend to look at it and give it their 100% attention and get it to the Commission at the proper time. But they still have to address this Charter Section 13 issue. They simply can't anoint one group or one person to develop 2.8 acres of waterfront property for the City without some process they follow. This Commission would like to control what is developed there and how it is done and what they would like to see, and maybe this group is the group to do this project. But they still have to follow this provision.

Ms. Fredrick asked since Mr. Fee is on a cruise to Alaska, where she wishes she was right now, what is Charter 13? Because Mr. Fee is not here to educate.

City Attorney Schwerer said Charter Section 13 says: "The City Commissioners of the City are hereby expressly authorized to lease or sell and convey any property, real or personal, belonging to the City and not required for public purposes, provided, however..." Because if it is leased to a private non-profit like the Backus, it wouldn't be for public purposes. "...provided, however, that no lease beyond a term of one year or sale of any real property shall be made unless notice thereof shall be published once a week for two consecutive weeks in some newspaper of general circulation published in the said City, calling for bids for the lease or purchase of the real estate so advertised to be leased or sold, and in each case the bid of the highest bidder complying with the terms and conditions set forth in such notice shall be accepted..." On its face what this means is, before the City can unappropriate public property and convert it to private use by either a non-profit or a private company for profit, it has to go out for bids. That has been interpreted to also allow the City to go out for requests for proposals or a request for qualifications from some entity, be it profit or non-profit, to develop a piece of public property with a project that the City itself would like to see done, like the Marina Square project where they said they wanted something built on the 1.8 acres of City property at the Marina, and that needs to go out. But they have to decide how they are going to handle that process before they can lease it to anybody.

Mayor Benton said the reason this has come up now is, in the past it appeared there was a smaller expansion, but now they are looking at such a huge expansion that...

City Attorney Schwerer said right. The lease that was originally proposed back - he doesn't know how long ago, it has been awhile - by Mr. Brennan was merely an expansion of the existing building. It was 1,500 square feet? He doesn't know.

Ms. Fredrick said they currently have 5,000 square feet.

Mayor Benton said but it wasn't out the 2.8 acres.

City Attorney Schwerer said no, it wasn't. The current proposal is the 2.8 acres, which is not quite half of the park, but certainly it goes right up to the border line of the Community Center where the shuffleboard courts are, so it takes up that whole waterfront area. That is expanded beyond a mere addition of the building. That is what is triggering this Charter provision.

Commissioner Becht asked they currently have a lease for the footprint they are occupying, correct?

City Attorney Schwerer said right.

Commissioner Becht asked so when they apparently go out to bid or do the RFP, that can be defined to just be the expansion project?

City Attorney Schwerer said that is one of the questions they are looking at right now to determine. They are not sure whether it is just the gallery they are building.

Commissioner Becht said he cannot answer his question.

City Attorney Schwerer said he cannot answer it.

Commissioner Becht said he doesn't know who he has discussed what with, so he is going to try to make sure the two of them are at least on the same page with what he had envisioned here, which is not what will happen unless everybody sees it this way. But the property north of the building as eventually constructed does not have to be exclusively within the possession or domain of the Gallery. He doesn't know if that changes the Section 13 issues. There are a variety of other ways he thinks where they can do this with the Gallery where they have a maintenance obligation to mow it or whatever. There are other ways to skin this cat. In his conversation with Ms. Fredrick, it is not like they are going to build a wall around this acreage, they just need it landscaped so it looks like it is part of their gallery and museum that will be open to the public.

Ms. Fredrick said exactly, as they have been open to the public for 48 years. They do consider themselves a public facility and a public asset. The original lease on the building that goes back to 1960, the City has insured, now the County, that property as their own. Because technically they don't own a building that sits on City land. She doesn't know what happens with Marina Square that is a for-profit industry.

Commissioner Becht asked when does Speedy Fee get back?

Ms. Fredrick said in a couple of weeks, not soon enough for her.

Commissioner Becht said he thinks they need to try to get Mr. Fee and Mr. Schwerer in the same room at the same time and put seat belts on them and make sure they hammer through some of these issues. He thinks that is the only way they are going to punch through them.

Ms. Fredrick said let her clarify something. From what Mr. Schwerer has said this evening, in order to comply with Section 13, the City will send out for public bid to all takers for somebody else to come and do any project? To build a museum?

Commissioner Coke said she thinks what Mr. Schwerer is saying is he is trying to get with Mr. Fee and they are trying to work out how they can...

Mayor Benton said how they can avoid that.

Commissioner Becht said what Mr. Schwerer as said is, he cannot answer the question tonight.

Mayor Benton said he thinks the situation is, somehow they have to re-define the 2.8 acres. He thinks that is where the situation comes into play. If they don't need all the land or somehow they have to come up with how they can grow without having to go through that process.

Ms. Fredrick said that would be great. Let her clarify that they currently sit on a large portion of that 2.5 acres, it is already occupied by their existing building. So it isn't that they are asking for 2.5 more acres of that park.

Mayor Benton said he thinks it is just going to be where they are going to deal with the property where the building is and maybe the direct area around it. They will get through this, but it is going to take the attorneys. When Mr. Fee gets back, give him a call. They will do their best to get their attorneys to the table and work this out. It can be done. He hasn't seen the survey.

Commissioner Alexander said he heard Ms. Fredrick say they sit now on most of the 2.5 acres. They are speaking of the northernmost portion of the rest of that property? Are they taking out the Amphitheater in this?

Ms. Fredrick said as they discussed previously, in order to impact the park the least amount, and based upon the somewhat unknown direction the center of the park is going with a significant Veteran's Memorial in the middle, they would like to expand basically due east toward the water from where they currently sit. And that is where the grossly underused Amphitheater sits today.

Commissioner Alexander asked so they are going to take out the Amphitheater?

Ms. Fredrick said that is her hope.

Mayor Benton said they can start when the attorney gets back.

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The next item on the Agenda is Status Report by City Attorney on submittal of 5-foot easements on north and west side of **Island Village** property as a condition of Site Plan extension.

City Attorney Schwerer said this is going to get a little more complicated only because he reported to them as of last week on Friday they had not received anything. At 11:29 p.m. on Sunday night on June 15, 2008, he was faxed some documents directly by Mr. Bernstein, last night. He was made aware of these this morning. He did take some time to study and review them. He never got anything from an attorney, no discussion about what the documents should contain. Mr. Bernstein did send him a cover letter. Yes, he signed it. But there are some problems with the wording and some other issues that need to be corrected and there are some conditions of the easements that they probably couldn't agree to. But he did send Mr. Bernstein a letter on May 28. He thinks he sent the Commissioners a memo concerning that. Did they all get that memo with the letter that he sent to Mr. Bernstein? That letter was apparently sent back after it was opened. He set forth that he needed a title search and other things. So technically, he has documents that have been signed, but they are not ready to go to recording by any means. There are changes that need to be made. For instance, he is reading the document and it says: "It is contemplated that the City of Fort Pierce, Florida, shall be able to secure a lease from the Army Corps of Engineers regarding the geographical area adjacent to the legal description of this easement. If and when the grantee secures the lease from the Army Corps of Engineers, all right, title, and interest the grantee received for this easement thereof described is automatically terminated. All such easement rights and rights-of-way authority granted and secured in this agreement shall be declared null and void and of no more legal force and effect." So what Mr. Bernstein is saying is, once the City leases the property from the Army Corps, this easement terminates. His recollection was that what they all said is they want this easement with the Corps lease that they are going to get for the Linear Park. There is a strip bordering the inlet, it varies, of about 20 to 25 feet. So that condition is not acceptable.

Mayor Benton asked what is Mr. Schwerer's recommendation?

City Attorney Schwerer said they have options. If they believe they can continue to work with Mr. Bernstein on this to get something acceptable to the City, it is going to take some time. He hasn't dealt with Mr. Bernstein's attorney and this document doesn't look like it was prepared by an attorney.

Mayor Benton asked in Mr. Schwerer's professional recommendation, is Mr. Bernstein buying time here?

City Attorney Schwerer said he can only speculate. He doesn't know what Mr. Bernstein is doing. One would think that when he stood before the Commission that night... He reiterated to Mr. Bernstein when the Commission made the conditional approval that he is going to need a title search so he can verify who legally owns the property. He gave Mr. Bernstein a list. And they haven't gotten that.

Mayor Benton said but Mr. Bernstein can go out to the site and destroy whatever piece of that historical building that was there and just leave it in a pile and do nothing else. That is the only thing he has done in two years, in his opinion, in a timely fashion.

City Attorney Schwerer said the Mayor asked for his recommendation. He believes, and the Minutes will have to be checked on this, when they granted this extension, they said it was conditioned on him giving these easements and those would be in proper form. It was implied that those would be ready for recording on today's date. He thinks the Commission also reserved the right to revisit this issue of the extension if that didn't happen. So he thinks what they should do, and his recommendation would be, that since Mr. Bernstein has attempted to comply - although it doesn't appear to be a sufficient compliance - they might wish to notice Mr. Bernstein to appear before the Commission at their next meeting and explain why he hasn't complied and get some stipulations and some agreements from him, or they can at that time make a motion to cancel their previous granted extension because it was conditioned upon him properly deeding these easements to the City.

Mayor Benton said normally in the past Mr. Bernstein has always had very highly qualified attorneys with him who could have taken care of this in a timely fashion. They have seen them here at these meetings.

Commissioner Coke said she thinks they need to follow the City Attorney's advice here. Because all other things put aside, they have invested taxpayers time, effort, and money in developing the plan for that Linear Park. Unless three Commissioners are willing to say eminent domain for the property that they need to complete that Linear Park that they have already designed, then she thinks they need to at least give Mr. Bernstein until the July 7th meeting to come and present himself to the Commission and possibly fix what he has sent Mr. Schwerer.

Commissioner Becht said at the risk of getting a series of emails from Cassandra - also known as Marcia Baker - tomorrow... And he always thought it was the scorpion and the frog, he hadn't heard it was the scorpion and the turtle. He pondered why would somebody risk losing a Site Plan and do it in this fashion? They are all aware of the foreclosures that are pending. He is going to put this on the record, although Mr. Schwerer might not like it, but his concern is that Mr. Bernstein is trying to set the City up.

City Attorney Schwerer said he agrees.

Commissioner Becht said that they have deprived him of a valuable Site Plan by not... And he endeavored to send this in at 11:59. The record is not clear that it was supposed to be in recordable form. Blah, blah, blah. So rather than give him the opportunity to sue the City for that silly reason - and in his opinion it would be a silly reason - but he is not going to give him the silly reason. He would like to yet again go across the pond with the scorpion on this back, so to speak. But there are other issues that Mr. Schwerer has pointed out to him in terms of legal descriptions, improvements that may or may not be authorized on the property. He thinks if they go out two weeks and send a message to Mr. Bernstein that there are things that need to be addressed; and if not addressed, it will clearly terminate at the July meeting. He doesn't know how Mr. Bernstein will pull another rabbit out of the hat, but he thinks that would be the most prudent thing to do. He is very appreciative of

Commissioner Coke's comments about the Jetty Linear Park, but the Jetty Linear Park will work even if it a cul-de-sac at the end of it. They will just go down, there will be a little cul-de-sac, they will turn around and come back. He does believe a lot of people will use it, even if that is it. There is also a Corps of Engineer's easement that runs north and south across what he will call the Mangrove Matties parcel that may also provide... He says may, because he does not know if it will or it won't. The five feet on the western edge of Mangrove Matties appears to his eyeball to be encumbered by - and he doesn't know why he didn't pick this up before, but nobody else did either - some form of above ground either BellSouth telephone system or a FPUA transformer station. He is not sure which it is, but he might find out Wednesday of this week. So it would be his preference that they assign Mr. Schwerer the task of trying to hammer out the easements and/or anything else that needs to be hammered out before July 7th, failing which it will clearly terminate. And they have given Mr. Bernstein another opportunity to clear it up. He cannot understand for the life of him why Mr. Bernstein would risk losing his Site Plan under the circumstances, but for the one simple explanation he has given, that Mr. Bernstein is trying to set the City up.

Commissioner Coke said absolutely. It appears that Mr. Schwerer sent some mail to Mr. Bernstein that was refused and returned. She is wondering if their purpose here is to ensure that they are not being set up for a lawsuit. If they need to send it via courier? Because if they just mail it and Mr. Bernstein refuses it and sends it back, they will hear the same thing again. Whereas if someone stands there and knocks on the door...

Commissioner Becht said certified mail to the address on the tax bill is good. Mr. Bernstein has lawyers, there is probably an attorney of record in the foreclosure actions, and they can send it to that attorney too. Like he said, there are several ways to skin this cat.

City Attorney Schwerer said he would propose they just authorize him to send a letter to Mr. Bernstein to show cause at the July 7th meeting why his Site Plan should not be revoked for failing the conditions, unless between now and then he can report to them that they have a complete set of documents and everything they need to record that. Or do they still want to have that conversation with him?

Commissioner Becht said that is his motion.

Motion was made by Commissioner Becht, seconded by Commissioner Coke, to authorize the City Attorney to send a letter to Mr. Bernstein to show cause at the July 7th meeting why his Site Plan should not be revoked for failing to meet the conditions, unless between now and then he can report to them that they have a complete set of documents and everything they need to record.

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

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

Commissioner Coke said she would like Consent Agenda Items 26g and 26h (Code Enforcement Board Liens against 1120 Rosedale Avenue) removed for discussion. Commissioner Alexander said he would like Item 26e (Design Improvements to Pioneer Park) removed for discussion.

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

a. Approve Application for **Alcohol Beverage Permit** submitted by Pam Gillette, **Main Street Fort Pierce, Inc.** for Friday Fest at Marina Square, July 2008 through June 2009.

b. Approve proposal by Precision Contracting Services, Inc. for the installation of **Traffic Monitoring System** and **Fiber Optic Connection** to Closed Loop Traffic System (video system at intersection of U.S. #1 and Orange Avenue) in the amount of \$22,575.00.

c. Approve purchase of one **Traffic Signal Controller Cabinet** for closed Loop Traffic Control System from Econolite Control Products, Inc. in the amount of \$14,442.00. (Sole Source - Funds reimbursed by FDOT through JPA)

d. Approve purchase of **Pipeline Inspection System** from Cues, Inc. in the amount of \$57,950.00. (Piggyback Gwinnett County, Georgia Purchase Agreement - Funds from SMU Capital Account)

f. Authorize application by Police Department for U.S. Department of Justice 2008 Office of Community Oriented Policing Services (**COPS**) **Universal Hiring Program Grant (UMP)** in the amount of \$225,000.

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The next item considered was Item 26e, which had previously been removed from the Consent Agenda: Approve selection of Miller Legg for Conceptual Design of improvements to **Pioneer Park** (located at North 29th Street and Avenue M) in an amount not to exceed \$27,800.00. RFQ #5586

Commissioner Alexander asked where is that \$27,800 coming from?

Mr. Bob Hood, Director of Public Works, said that is coming from the \$250,000 donation by Madison Cay for park improvements.

Commissioner Alexander asked why is it the City don't think an effort is needed to have a design on that park already? It is going to need more than the \$250,000. So why are they skimping on the tail end of it?

Mr. Hood said he agrees with Commissioner Alexander, he does believe it is going to cost more than that. They are talking about a major redesign of that entire park to better serve residents in that area.

Commissioner Alexander said he does have concerns that if they start chipping off at that \$250,000, they will end up with doing just whatever is necessary. He thinks it is more that needs to be done at that park. They are coming in with a lot of housing now in that area. That is a City-owned park. It has been neglected for as long as he can remember.

Mr. Hood said he couldn't agree with him more. He thinks it is high time this park get the improvements that are needed now.

Commissioner Alexander said he is going to agree with the approval of this as long as they leave it open for the City to cover whatever needs to be done in that area. That is a Fort Pierce Redevelopment Agency project, isn't it?

Mr. Hood said in closing, he will say they will get to see his smiley face again, because he will be asking for some more money when the plans come back.

Motion was made by Commissioner Alexander, seconded by Commissioner Becht, to approve selection of Miller Legg for Conceptual Design of improvements to Pioneer Park (Northwest Pioneers Park located at North 29th Street and Avenue M) in an amount not to exceed \$27,800.00.

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

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The next item considered was Item 26g and 26h, which had previously been removed from the Consent Agenda: Rescind Code Enforcement Board lien of \$8,800 against 1120 Rosedale Avenue, owned by Rodolfo Lopez, and reduce administrative costs of \$921.69 to \$200.00 contingent upon payment within six (6) months; and Rescind Code Enforcement Board lien of \$17,800 against 1120 Rosedale Avenue, owned by Rodolfo Lopez, and reduce administrative costs of \$978.12 to \$800.00 contingent upon payment within six (6) months.

Commissioner Coke said she understands their purpose is not to punish, but to bring about compliance. But she also believes it is very important that one person's misstep does not cost the taxpayers money. Staff originally went to the Code Enforcement Board with a recommendation for the two liens of \$4,559. After reading the Minutes, she sees the gentleman agreed to pay \$1,900. And somehow they went from \$1,900, which is the total of the administrative fees for the two, down to \$1,000 total, which leaves the taxpayers bearing the burden of the cost. She would be very willing to accept the \$921.69 and the \$978.12, which is administration fees, and wipe out the liens completely. She doesn't think somebody's misdoings should cost the taxpayers.

Commissioner Alexander asked when reading that this is at one address, but two fines. Why is that two separate administration charges if they are going to the same address? Staff didn't have to go out to a different address. He just wants to know why are they running concurrently like this?

Commissioner Coke said these were separate things. One was September 2007 and the other was May 2007. She thinks the one fine started. And then the next one, he did something else wrong.

Commissioner Alexander said something should have crossed in the middle. He agrees that they should get that administration cost.

Commissioner Coke said the way she read it is, the administrative cost was... There was a problem, they went out, they visited, they did the code thing, and the fine started. Then they stopped going out for that particular thing because it hadn't been resolved. And then there was another problem.

Ms. Peggy Arraiz, Code Compliance Manager, said what Commissioner Coke was saying is correct. There was code enforcement action being done because work had been done without a permit. During one of the inspections they found out they did more work without a permit, they put a fence up. So there are two separate cases that were running. Some administration costs are distinctly different, such as the photographs and the mailings. Because mailings have to go out for each one, they had to send mailings out for this case and they had to send mailings out for the other case. So there are administration costs that are distinct and separate.

Commissioner Coke asked the gentleman did agree during the Code Enforcement Board hearing, did he not, to pay the \$1,900?

Ms. Arraiz said yes, but he wanted to do it in payments. That is what all the discussion was about.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to waive the two liens against 1120 Rosedale Avenue, owned by Rodolfo Lopez, contingent upon \$1,900.00 for administrative fees being paid within six months.

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

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Commissioner Alexander said he has one concern. He was personally involved with this soldier who was killed in Afghanistan (Pfc. Andre D. McNair, Jr.). They had an official order from the Governor to fly flags at half mast. The City of Fort Pierce didn't choose to do that and he wants to know why.

Commissioner Coke said she saw the flags at half mast.

Mayor Benton said he knows it was, with the exception of today maybe. How many days was that?

Commissioner Alexander said the Executive Order was for Monday.

Commissioner Coke said she saw it Friday and Saturday.

Commissioner Alexander said they defied the Governor who issued an official order on this. He guesses they weren't aware of this.

City Manager Beach said they did see the order. They saw the proclamation and they also sent that to all of the appropriate places, wherever they fly flags. They should have been at half mast. He was not here this weekend. He would have to rely on someone else to tell him whether that...

Commissioner Alexander said he just saw it when he came in this afternoon, it was not at half mast. It struck him. If it was done Friday and Saturday, he guesses the family would be very privileged. But when they have an Executive Order... What do they call it in the military, insubordination? He sent an Executive Order down. It was very profound.

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Commissioner Sessions said he would be remiss if he didn't say anything. And **George Bergalis** is probably going to be upset about it because he said he wants to walk out of here quietly. But at any rate, it is his understanding that this is his last meeting. He wanted to express to Mr. Bergalis his gratitude and appreciation for his 30 years of service he has rendered to the City. He will certainly be missed. Mr. Bergalis leaves behind a true legend that he doesn't think can be duplicated, but he is leaving them in good hands with Ms. Johnson. He benefitted from Mr. Bergalis the first time he was in office as well as this time. He has been very helpful to him. He just wanted to express his appreciation and gratitude to him.

Commissioner Alexander said so does he. He has to come back for some recognition, right?

Mr. George Bergalis, Director of Finance, said he intends for his departure to be as discreet as his arrival was. He would appreciate their understanding.

Commissioner Coke said she is going to thank Mr. Bergalis. But he is not going anywhere until after Thursday's Retirement Board meeting, is he?

Mayor Benton said it has been a pleasure in the 13 years he has been here working with Mr. Bergalis. He was lead to believe when he started with the City that the finances were in good hands from the past people who were running the City. They were right. They have been very lucky. He has been very lucky to have Mr. Bergalis in charge of the finances and always felt very comfortable. And he hopes that is going to be the case in the future, because he knows Ms. Johnson has been working with him for that same 30 years, he believes. So hopefully things will continue the way they have. He doesn't know how many awards Mr. Bergalis has been given. It seems like every year he has gotten an award for outstanding service and his outstanding work with the City. So he thanks him very much for all that time.

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Mayor Benton said he was in Sarasota last week and they had a trolley, it looked just the one Fort Pierce has, parked - For Rent. A bigger city than this has had a problem with their trolley he can see. It is parked in front of the Ritz Carlton looking for someone to rent it.

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There will be a Joint Budget Workshop between the City and the Fort Pierce Utilities Authority on Thursday, June 19, 2008, beginning at 9:00 a.m. in the City Hall, City Commission Chambers, 100 North U.S. #1, Fort Pierce, Florida.

There will be a City Commission Budget Workshop on Thursday, June 26, 2008, beginning at 9:00 a.m. in the Historic City Hall, 2nd Floor, 100 Avenue A, Fort Pierce, Florida.

Friday, July 4, 2008 is Independence Day Holiday in the City of Fort Pierce. All City administrative offices - with the exception of the Police Department, Public Safety Services, the City Marina, and the Indian Hills Golf Course - will be closed. There will be no garbage and/or trash collection on that day.

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There being no further business, Mayor Benton declared the meeting adjourned at 10:45 p.m.

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Adjournment.

ATTEST:

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CITY CLERK

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MAYOR COMMISSIONER

