

MINUTES OF A REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, HELD IN THE ST. LUCIE COUNTY COMMISSION CHAMBERS, 2300 VIRGINIA AVENUE, FORT PIERCE, FLORIDA, AT 7:00 P.M. ON MONDAY, JULY 3, 2006.

Mayor Benton called the meeting to order.

Commissioner Nelson gave the invocation.

The Pledge of Allegiance was recited.

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

The next item on the Agenda was Approve Minutes of the Regular Meeting on June 19, 2006.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, and unanimously carried, to approve the Minutes of the Regular Meeting on June 19, 2006.

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

Letter from FLW Outdoors thanking Kia Powers, Deputy City Clerk, for her assistance, above and beyond.

Letter from Marty Sanders, The School Board of St. Lucie County, commending Peter Buchwald, Zoning Administrator, for his assistance.

The next item on the Agenda was Public Hearing on Application for **Conditional Use** submitted by **TruckMax, Inc.** for sales, service, and leasing of light and medium-duty vehicles in an existing building at 1850 South U.S. #1; said property zoned C-3, General Commercial Zone.

Mr. Peter Buchwald, Zoning Administrator, said the applicant is requesting Conditional Use permit to allow the sales, service, and leasing of light and medium duty vehicles at 1850 South U.S. #1 because this property is located in the C-3 zoning district which does not allow the service of vehicles which exceed one ton in capacity without a Conditional Use permit. The Future Land Use of the site is CG, Commercial General, and the proposed Conditional Use is in conformance with the Comprehensive Plan. The 1.77 acre property contains a vacated automobile dealership building of approximately 14,000 square feet in size. The vehicles sold by TruckMax, Inc. typically are ordered for the customer on an individual basis and will not include semi-trucks or other heavy-duty type trucks. TruckMax, Inc. will provide additional customization for the vehicle depending on its use such as a stake bed or tool boxes. The operation will employ from 10 to 25 individuals. The proposed Conditional Use is surrounded by commercial uses except for the adjoining property located to the east which contains the Indian Hills Golf Course. During the January meeting, the Planning Board voted unanimously to recommend approval of the Conditional Use with the conditions that no trucks exceeding 33,000 pounds be permitted, that

display vehicles be parked in either the side or rear yards, that customer parking be provided, and that live oaks be planted every 30 feet along U.S. #1. The applicant has agreed to the conditions with the exception of the display of vehicles. After working with staff, compromises were reached where the applicant agreed to limit the display of vehicles along U.S. #1 to no more than four vehicles and to display those vehicles in an innovative and attractive manner with additional landscaping between the vehicles, as indicated on the landscape plan. Other exterior improvements include a masonry and wrought-iron fence to obscure the view of the inventory and service area from U.S. #1. A total of 32 notifications of the proposed conditional use were mailed to the surrounding property owners. As of today, four responses have been received, all of which approved the conditional use. As the proposed Conditional Use is consistent with the Comprehensive Plan and the City Code, as it replaces a currently vacated business and will increase the support of the adjacent businesses, and as the proposed landscaping and other improvements will beautify the property, staff recommends approval of the Conditional Use.

Commissioner Nelson asked does Mr. Buchwald know whether or not the petitioner in this case knew of the closing of the Freightliner truck facility out on U.S. #1 and Avenue O?

Mr. Buchwald said he does not know of when they would have known of that. The applicant can provide that in terms of when, if when, and when did they know of the closing of that business. This has been in application since January, so they have been working with them to come up with this compromise along U.S. #1 what he thinks is truly unique. They don't see display of vehicles in this manner along U.S. #1, certainly not in Port St. Lucie.

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

Mr. Robert James Gorman, 1209 Delaware Avenue, said he is an attorney representing TruckMax. He wants to thank Staff for the time they have spent in meetings with himself and representatives of TruckMax who are present this evening in creating this. A display is something that is always important for any business engaged in selling items. And in talking to the City, they understood the concerns of having vehicles up on display racks and things of this nature and yet the need to have something that was visible. These are small light-weight trucks. So what was done in meetings with staff was to add additional landscaping in the center area of the property along U.S. #1 and four spaces to display the vehicles under oak trees and with additional landscape. He thinks it is going to be quite attractive. They presented the plan. It should all be in their packet. As far as Commissioner Nelson's question, his client was just advising him tonight that they just learned of that very recently. He is not sure when that event occurred, but apparently Freightliner did just shut that down very recently. Of course, that was the large big trucks. These are all much smaller. They don't need a Class A license for these trucks, which are under 33,000 gross vehicle weight. The clients agreed not to sell anything that large. That is not their market.

Commissioner Nelson said his concern was sort of a universal equitable development of that U.S. #1 corridor, as well as looking at the possibility of the growth of that business. Every business, in his opinion, goes in business to not go in as a small mom and pop type operation, but eventually to expand. And if that was available, whether or not they would opt to consider it.

Mr. Gorman said he does not believe they are into the large truck market. But if they need a larger facility in the future... Of course, they are quite pleased with the size of this facility and have been working on this for quite some time with the owner. They have been able, with the cooperation of the seller, to get extensions while they have worked out these issues with the City. Because initially the question was, what does even fit within C-3 because it wasn't specifically defined. But again, staff has been most cooperative with them.

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

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve the Conditional Use for TruckMax, Inc. for sales, service, and leasing of light and medium-duty vehicles at 1850 South U.S. #1, subject to conditions by the Planning Board.

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

The next item on the Agenda was Public Hearing on Application for **Conceptual Development Plan** submitted by America's Capital Partners for **StorSafe Darter Court**, a three-story fully enclosed self-storage facility at 6401 Darter Court; said property zoned C-3, General Commercial Zone.

Mr. Peter Buchwald, Zoning Administrator, said the applicant is proposing the concept of a three-story fully-enclosed self-storage facility on a two acre parcel within a proposed commercial subdivision generally located southwest of Okeechobee Road and Interstate 95. The property is zoned C-3, General Commercial; and the Comp Plan identifies the Future Land Use to be CG, Commercial General. The concept would require a Conditional Use permit in the C-3 zoning district. This facility would contain 707 rental units ranging in size from 25 to 300 square feet for a total of 102,393 square feet of floor space. The exterior of the facility would be enhanced architecturally. This climate-controlled facility is considered to be the next generation of self-storage facilities. However it is currently not feasible to construct a self-storage facility of this type in the City due to the parking requirements specified by the City code. The most similar classification in the City code for this type of use specifies one parking space for each 600 square feet of gross floor area. The concept would require at least 171 parking spaces according to their current City code. A total of 20 parking spaces are

proposed by the applicant. Other municipalities have amended their code to include a separate self-storage classification which has a significantly less stringent parking requirement than Fort Pierce has. The lack of a separate self-storage classification however in the Fort Pierce code with a less stringent parking requirement may have discouraged and limited the development of self-storage facilities in the past. This may have benefitted the City in the past as self-storage facilities consume commercial and industrial land, and provide limited tax revenue and jobs. It may be appropriate for the limited commercial and industrial land that is available in the City to be developed in such a manner that provides greater benefits to the City, such as job sources and employment engines. It may benefit the City to have land available and not occupied by self-storage facilities when companies decide to locate within the City. Therefore, an amendment to the City code to create a separate classification for self-storage facilities has not been initiated by staff. However, staff suggested to the applicant that they present their concept to the Planning Board and to the City Commission to receive their feedback; and if approved of the concept and were in favor of this type of development, then staff would take the steps to enable its construction. So the applicants are here before the Commission now. During the May meeting of the Planning Board, the Planning Board voted 4 to 2 in favor of the concept. However, this vote resulted in no recommendation being forwarded to the Commission, because a majority of the full membership of the Board was not achieved. Staff recommends discussion by the Commission on this concept and approval only if it merits an amendment in the City code to facilitate its construction. He may remind the Commission that this plan is only conceptual at this time. Regardless of the outcome tonight, it would still require Site Plan and Conditional Use review and approval for this property. The applicant is prepared to provide an additional presentation.

Commissioner Nelson said it is noted that they want to deny this request and the fact that Mr. Buchwald points out that the code does not specifically include the use of a self-storage facility within the corporate City limits. They have not done anything to initiate a code that will address it. Mr. Buchwald points out that his philosophy and his opinion as to whether or not it should or should not be allowed because they haven't got anything like that in the City. The facility down on Farmers Market Road, Arnoff Storage Facility, is that not two-story in some aspects of that? The second question would be, if the code does not prohibit it, then does the Commission really have the right to deny it?

Mr. Buchwald said he is not aware if that is a two-story facility. What does set this apart from any of those facilities is that it is fully enclosed. They do not enter any of the lockers or any of the storage areas from the outside. They enter through a major loading area, take an elevator up to the upper floors. So it is fully enclosed, it is fully air conditioned. Where this concept is different from the others, it has a much greater amount of floor area space. So the City's current code, how it is based on the floor area, would require

much more parking on the outside of the facility; and so this facility cannot be constructed as the current code is made. Now other municipalities have changed their code to accommodate this type of construction. It is Staff's assumption this has discouraged this type of construction in the past based on the calls they have received and inquiries in terms of, what is the parking requirement for a self-storage facility and is there any attempt to change that? There hasn't been any in the past. But if the Commission believes this is the type of construction development they want to see, then Staff will then initiate a change to accommodate this type of construction.

Commissioner Nelson said okay. He wants to refer now to the City Attorney relative to the exclusion or inclusion if it is not so cited in the code.

City Attorney Schwerer said he thinks the difficulty here is with trying to pigeon-hole what the requirements would be for the parking on this facility. His understanding of the code is that it would allow this type of facility. But in identifying what type of parking requirements, they would have to treat it as a wholesale trade or warehouse and distribution establishment as opposed to a hybrid self-storage facility. Therefore the code would require a far greater number of parking places than is provided by the applicant. His understanding is that there are 170 required by the code if they pigeon-hole it into that category of warehousing versus the 20 spaces that the applicant is providing. So he thinks that is the difficulty. What Staff is asking the Commission to do, since this is a conceptual approval, is to discuss whether the Commission feels these facilities are innovative enough to warrant perhaps a separate classification of the zoning code and to try to develop some different type of parking standards and different type of use standards for this very specific type of facility if this is the wave of the future.

Commissioner Becht said he looked at the plans and he thinks it is a pretty neat structure. Based on what he has seen in the community, there is a demand for self-storage. He has a question for staff. He doesn't know if it is Mr. Buchwald or Mr. Recor or Mr. Margotta, if he is here tonight - welcome, by the way. Where does staff see self-storage being located? He doesn't know if they are going to talk about urbanism or the euclidean stuff. Where does staff see self-storage going? There is a demand for it. There is a need for it. Where are they going to locate it?

City Manager Beach asked where is it currently permitted as far as storage, is it a commercial zone or industrial?

Commissioner Becht said he doesn't think it is clearly permitted anywhere, is it?

Mr. Buchwald said it is currently classified as a warehouse distribution facility. It is permitted in a I-1, Light Industrial zone, or as a Conditional Use in the C-3, General Commercial zoning district. Obviously in this area it is a relatively high exposure because it is at Okeechobee Road and I-

95.

City Manager Beach said which is a commercial zoning classification.

Commissioner Becht said that really was not his question. His question is, where do they want it to be, not where is it currently permitted.

City Manager Beach said his suspicion is that the way it is worked up to date is, the Comp Plan anticipated it being either in a C-3 as a conditional use, or light industrial. Because this is a new concept, this is a new approach to self-storage, he doesn't know that has been thought through to any degree.

Commissioner Becht said then that would answer his question. Do they not have an answer to his question?

City Manager Beach said the recommendation in front of them this evening is that they deny this request and that they not pursue changing the parking requirements so that this type of development can take place. The reason being, is keeping the commercial classification and the light industrial classification open for developments that create more of an economic impact on the City. That is what he understood the recommendation to be.

Commissioner Becht said he is not making himself clear then. The question he is asking is, regardless of where it may or may not be permitted today, he is going to ask them to revisit the Land Development Regulations; and he is asking, if not here, where?

City Manager Beach said let him try this again because he may need some more clarification himself. Right now as things exist today, these are permitted in certain commercial zones by conditional use and they are permitted in light industrial. That is where, if they had to answer his question, they see them going in the future.

Commissioner Becht asked is Mr. Recor in agreement with that?

Mr. David Recor, Deputy City Manager, said he absolutely concurs.

Mr. Buchwald said the request to build these types of development is from the developer. The developers are asking for this. He is not aware of any public clamoring for the need for self-storage facilities. The developer at this point has been coming to the City and asking for this type of change, so that is what prompts staff to bring this before the Commission now.

Commissioner Nelson said he can't help but focus on the mini-storage facilities that are immediately in their midst or adjacent to their corporate boundaries. He cites particularly the one up on north U.S. #1. There is the Arnoff storage down on South U.S. #1. And there is a mini-storage that has come in there in the City limits there on Okeechobee Road. So to answer

Commissioner Becht's question, it appears that they are allowing these to be constructed in any commercial or light industrial areas. As a matter of fact, he was thinking about putting one up himself.

Mr. Buchwald said that is true, they do have self-storage facilities in the City. What this developer wants to do is build more of a self-storage facility, a bigger self-storage facility on this particular piece of property, than the code currently permits.

Commissioner Nelson said but based on what he is seeing here, this is far superior to any of those that have currently been built and would be a plus and set the bar; and of course, entice the City to do what is necessary to effect the necessary ordinance or code changes to enhance this type of thing in the future.

Mr. Buchwald said they will see more of this type of development, if they have Staff initiate a change in the ordinance to allow this. They have requests all the time for this. The developers want to build these types of self-storage facilities because it is more economical and they make more money on building these, because they can put more units on the property. So if the Commission wants to see more of this type of development, then approve the concept and they will do what it takes to enable its construction.

Mr. Recor said however, Staff is not recommending that they change the code to allow this kind of development in their commercial areas.

Commissioner Coke said it is her understanding that Staff is opposed to this on several areas. Number one, the project itself - let's use the word density for all intents and purposes - is going to be too dense with storage facilities to accommodate the parking requirements that are required by code. It is not that the City would not allow this development to take place; however, they would require more parking by many times than what the applicant is looking to provide. Is she correct in that assumption?

Mr. Buchwald said that is correct.

Commissioner Coke said the second part of this, she does commend staff for having the foresight to recognize that part of what they need in this City and in this County and their sister city to the south, is jobs. A facility such as this can be built, it can be beautiful, it may or may not be rented. But one thing they all know it will not bring is jobs and economic development for the people who live and work here. So she commends staff on that and she would agree with them personally that this is way too big a project and taking up too much commercial space where something should be going to put in jobs.

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

Mr. Larry Jordan, Development Manager for Mike Carter Construction, Inc., said his company is the designer/builder for the proposed project. They have been in business for about 30 years. They specialize in the design and the construction of self-storage facilities. To that end, they have constructed facilities from Nantucket to Honolulu and from Chicago to Miami. The project that is before them this evening is the current generation of self-storage. He mentioned the areas they have constructed in and most areas in between those as well. He has a slide presentation that he would be glad to present, but he would like to take issue with staff on a couple of things. Firstly, they do not see self-storage as being mutually exclusive to industry and/or other commercial activity. They believe it is supportive. There are many economic indicators that they can address and look at when they are analyzing self-storage versus the impact of other industries in their community. Self-storage is a large square footage operation, no doubt about it. It has to be because people want to store the stuff that they can't store in their houses - no attic space, no basement space, they want to get their garage empty so they can park a car in there. Whether they understand that or not, is really not the point. There is a demand for storage in Florida. Self-storage doesn't consume anything from the community. It has two restrooms in a 100,000 square foot facility. It generates little or no crime whatsoever, statistics have borne out throughout the State. It doesn't consume any classroom space. It doesn't consume any parks or recreation. It does generate tax revenue. This facility they are talking about is about a \$6 million project and would go on the County rolls in that amount. It does generate sales tax to the tune of about \$100,000 a year from the sales tax of the leasing of these lockers. He thinks when they weigh what the self-storage provides and what it consumes, there is a net gain. One thing they have not addressed here is the demand from the community. Is there a demand in their community? Can the staff speak to that? It has been his experience that citizens, members of the community, don't go to the planning staff and say they would like to see x, y, and z in the community. That function is fulfilled by the development community. They analyze the needs and assess the requirements and make the proposals. The point he would like to leave them with is, he believes the staff has set it up to say this is mutually exclusive, that this is a large square footage consumer and it is consuming square footage at the expense of other commercial and light industrial. He takes issue with that. They don't believe that it is exclusive. They believe it is supporting the community, a demand that the community has, and it is not excluding those other activities. He would be glad to answer any questions they have.

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

Commissioner Becht asked the footprint that they are seeing for this facility, is that all the property that his client owns; or do they own the two acres to the south?

Mr. Jordan said this is the lot they are proposing to construct the facility on. It is approximately two acres. If they take

the extension of the road between the two existing hotels out there and go due east, it would run right into the proposed project. So it fronts onto the on-ramp to the Interstate.

Commissioner Becht said he is having a hard time tonight, nobody seems to be understanding him. What he asked is, how much property does his client own at the end of the street?

Mr. Jordan said 2.2 acres.

Commissioner Becht asked they do not own the 2.4 acres that is shown to the south?

Mr. Jordan said no.

Commissioner Becht said his concern was that they were coming in for this as a phase and this first building would be Phase I; and when the demand demonstrated itself, they would be building on adjoining property that his client owned.

Mr. Jordan said no, not at all.

Commissioner Becht asked the standards they have given for parking, have they gotten any feedback from Staff on whether they agree or disagree with them on whether those standards are reasonable or unreasonable?

Mr. Jordan said they have not.

Commissioner Becht asked if Staff comes back and tells them that they need, in their opinion, more than 20 spaces for 100,000 square feet of storage, are they going to be able to accommodate an additional five spaces or something like that?

Mr. Jordan said they could. They could build 200 spaces out there, but it doesn't make sense - it is going to increase the impervious area, it is going to increase the surface stormwater management requirements.

Commissioner Becht said but it would be tied to something that they can point to that is an industry standard. He appreciates that Mr. Jordan provided some industry standards that may or may not be tilted his way, meaning less spaces. But he thinks he has answered the question, that they could build more spaces. Did he say the investment would be approximately \$6 million?

Mr. Jordan said for the project, yes.

Mr. Recor said he thinks it is important to note that, as the applicant has indicated, what this project does consume is two acres of C-3 zoned property that could otherwise be used for hotel development, retail development, or office development. And there is some logic in the structure of their zoning ordinance, in their land development regulations, for these kinds of developments. Although their current development regulations do not recognize the new generation, these are permitted by right in the industrial areas and by conditional use in the C-3. The very nature of a conditional use is that

there are certain conditions about the use that warrant additional review. So there is no question that this is a nice project, a beautiful building. But logically - and he is going to respond to Commissioner Becht's question very directly - it belongs in an industrial area, certainly not in two acres of C-3 property at the intersection of Okeechobee Road and I-95.

Commissioner Coke said she too thinks it is a lovely looking project, it is a good project and it is something the City needs. Her largest concern is, the City of Fort Pierce grows in 70-foot by 120-foot lots, rather than by 20 square miles at leaps and bounds as some other areas around them expand their boundaries. And they have such limited space inside the City and such limited space within their C-3 area that could be developed into jobs and hotels that she would be concerned to commit 2.2 acres of it to a storage facility. And therefore, she will not be supporting this project on this property.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to deny the Application for Conceptual Development Plan submitted by America's Capital Partners for StoreSafe Darter Court at 6401 Darter Court.

Commissioner Becht said he would like for staff to revisit this issue in terms of the LDR's (Land Development Regulations) and what kind of parking they are going to want with this new Generation. But since he got an answer to his question about where staff thinks it belongs, he concurs. They do have some industrial land where this project could be built. He thinks the C-3 zoning, as a Conditional Use, he thinks they can deny it on Conditional Use grounds.

Mayor Benton said he will support the motion because he feels, like staff, that this isn't the best place for a warehouse facility. They have had several in front of the Commission, one on U.S. #1 and one there on North Beach Causeway behind the Hess Station that they have approved, and thank God they didn't build them and he sees the property has changed hands. So to him, this should be in an industrial park. They have an industrial park very close to this area. But this is some of the best commercial property in Fort Pierce and on the Treasure Coast.

Mr. Recor said to that end, if they have not already demonstrated to the applicant, they will certainly examine and entertain the parking requirements that they have provided them from other communities in the IL district, not in the C-3. And that was the basis by which it was presented to the Commission tonight, that this use could be permitted in the C-3. So he thinks they should recognize the new generation of storage facilities, but they should direct them to the light industrial district.

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

The next item on the Agenda was Public Hearing on Application for Subdivision Review - Final Plat for River Oaks Subdivision -

to be located at the intersection of South 25th Street and Ten Mile Creek.

Mr. Peter Buchwald, Zoning Administrator, said the project, located on approximately 42 acres on the west side of 25th Street just south of the Ten Mile Creek Bridge, is under construction and consists of 84 two-story three-bedroom townhome units, a recreational facility with a swimming pool and cabana, and a pedestrian walkway which winds throughout the project. The project also includes a wetland preserve area, a gopher tortoise preserve area, and a 50-foot wide recreational trail easement located along Ten Mile Creek that was dedicated to the County. The project was approved by the County in February 2004 and was annexed in the City in December 2004. The applicant is before the Commission requesting approval of the final plat. The new Fort Pierce Central High School will be located adjoining to the south of the project. Vacant agricultural land with light-industrial zoning is located adjoining to the west. Single-family dwellings with residential zoning are located on the north side of Ten Mile Creek. And unincorporated properties with single-family dwellings are located on the east side of 25th Street. As prior approvals for the project were accepted as part of the annexation, Staff recommends approval of the Final Plat with the condition as requested by the City Attorney that an agreement acceptable to the City be executed for the completion of the subdivision improvements, infrastructure, and amenities. He understands from the City Attorney that this condition has been discussed with the applicant's attorney.

Commissioner Becht said he called Mr. Buchwald today and asked him for his thoughts on the 50-foot recreational trail easement that apparently has already been dedicated to the County. Obviously this is now within the City. He doesn't know to the extent that the City can piggyback on the County, or ask this applicant to grant the City co-existent rights with the County to maintain or utilize the recreational trail easement that is on this property. It would be his hope that as future developments occur within the City, that they tie these 50-foot recreational trail easements together to create a linear park. And he would feel handicapped if the City cannot go on the easement and either maintain it or improve it.

City Attorney Schwerer said let's ask the applicant how those matters are addressed on the dedication language, because he believes that should be dedicated to the rights of the public as opposed to the County; and therefore, once that is dedicated to the public, it will become a public access.

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

Mr. Robert J. Gorman, 1209 Delaware Avenue, said he is presenting for the applicant, River Oaks at Ten Mile Creek, LLC, and on behalf of Mr. Stephen Naveretta, who was unable to make it this evening. As far as the dedication, someone was just showing him the plat to address that issue. Actually it is dedicated to St. Lucie County for use as a recreational trail. He would think an inter-governmental agreement would take care

of that; or perhaps the County, if the City wants to assume it, may dedicate it back over to the City. But it is for purposes of the public by dedication to the County to be used for the public.

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

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve Final Plat for River Oaks Subdivision located at the intersection of South 25th Street and Ten Mile Creek, conditioned upon agreement acceptable to the City be executed for the completion of the subdivision improvements, infrastructure, and amenities.

Mayor Benton said he feels very good supporting this project because it is less than three units per acre, not like so many that have come in front of the Commission with 12 units an acre. It is proposed to be built on a road that has had improvements and continues to have improvements adjacent to a school. So for once, they have his blessing on this one.

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

The next item on the Agenda was Public Hearing on 2006-07 Community Development Block Grant (CDBG) Annual Action Plan.

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

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

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 06-39

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, AUTHORIZING THE CITY'S **2006-2007 COMMUNITY DEVELOPMENT BLOCK GRANT ENTITLEMENT PROGRAM**; AUTHORIZING THE MAYOR TO EXECUTE SAID GRANT, ANY AND ALL APPLICATIONS AND OTHER DOCUMENTS INCIDENT TO OBTAINING SAID GRANT ON BEHALF OF THE CITY."

Motion was made by Commissioner Becht, seconded by Commissioner Alexander, that Resolution No. 06-39 be adopted.

Mayor Benton asked will Mr. Burdge thank the Communitywide Council for their efforts in the last year putting this plan together? He can remember years ago, after a year of putting this together, they would fill the room up and the Commission would change the Communitywide Council's actions. So he is glad they are supporting them tonight.

Mr. Bob Burdge said he would convey that to the Council and the Chairman.

Those voting in favor of the adoption of Resolution No. 06-39 were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-427 entitled, "AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA, AMENDING SECTION 2-253; PROVIDING A DEFINITION OF **SPECIAL MAGISTRATE** AND SPECIAL MAGISTRATE'S JURISDICTION AND AUTHORITY; AMENDING SECTION 2-253.5; PROVIDING FOR PROCEEDINGS BEFORE SPECIAL MAGISTRATE; AMENDING SECTION 7-33; PROVIDING FOR ENFORCEMENT OF CHAPTER 7, ARTICLE III BEFORE SPECIAL MAGISTRATE; REPEALING ORDINANCES OR PARTS THEREOF IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE." was placed on second and final reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-427 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. K-427 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-427 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-428 entitled, "AN ORDINANCE OF THE CITY OF FORT PIERCE, FLORIDA, AMENDING SECTION 13-37(b) BY CHANGING THE DUTY DISABILITY BENEFITS FOR **FIREFIIGHTERS** FROM SIXTY-TWO AND ONE-HALF (62.5) PERCENT OF FINAL AVERAGE SALARY TO SEVENTY-FIVE (75) PERCENT OF FINAL AVERAGE SALARY; AMENDING SECTION 13-39(d) BY CHANGING THE LIMIT ON THE EMPLOYER CONTRIBUTION RATE FROM TWENTY (20) PERCENT TO TWENTY-FIVE (25) PERCENT OF COMPENSATION; AMENDING SECTION 13-41(d) BY CHANGING THE LIMIT ON THE EMPLOYER CONTRIBUTION RATE FROM TWENTY (20) PERCENT TO TWENTY-FIVE (25) PERCENT OF COMPENSATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE." was placed on second and final reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-428 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 Nelson, seconded by Commissioner Becht, that Ordinance No. K-428 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-428 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed:

Ordinance No. K-429 entitled, "AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING SECTION 13-39(c) OF THE CITY RETIREMENT SYSTEM BY CHANGING THE NORMAL **RETIREMENT ANNUITY** FOR THE GENERAL EMPLOYEES WHO ARE SUBJECT TO COLLECTIVE BARGAINING FROM TWO AND ONE-HALF (2.5) PERCENT TO THREE (3) PERCENT OF FINAL AVERAGE SALARY TIMES CREDITED SERVICE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE." was placed on second and final reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-429 in session and asked if anyone in the audience wished to be heard.

Mr. Rick Reed, 716 South 2nd Street, asked how does this affect the retired employees that haven't received a COLA or cost of living increase since 1999?

Mayor Benton said he doesn't believe it affects them, but he is going to have to ask staff.

City Manager Beach said it does not affect them.

Mr. Reed asked what can they do to help those employees that have served the City faithfully and haven't had a raise since 1999? He is not opposed to this at all; but the City employees at present have received an 11%, the union employees have received 7%, and they have employees who served the City for years, dedicated their life, and they haven't had a cost of living increase since 1999. They also haven't resolved the issue of the four widows with regards to their insurance.

Mayor Benton said they are in the process of looking for an option there, they just haven't resolved that as of yet, but they are looking into it. As far as this item, he believes there has been discussion at the Retirement Board level and he thinks that is where this should come from. If there is any presentation Mr. Reed would like to make to the Retirement Board, he thinks that would be the route to go. They have two Commissioners on that Board. Hasn't there been discussion about that possibility?

Commissioner Nelson said the Mayor is correct. They have discussed it in great length. Their present structure is that they look at the CPI with a cap on the amount of percentage one can receive for COLA. They are currently reviewing that. And it would be appropriate if Mr. Reed has a group or if he wants to come and have the Retirement Board review that subject, certainly they would be amenable to entertaining it.

Mr. Reed said it just stands to reason that if they are giving raises to City employees because they realize that they need a cost of living, then those employees that have served the City faithfully and are retired after long service, they are leaving them out there since 1999 without a cost of living. And they all know that the price of everything is going up left and right and they need to take care of them. Their City is what it is today because they dedicated their lives for the City.

Commissioner Nelson said he is absolutely right. But this forum is not the one who is going to make that happen. The Retirement Board, this Board of Trustees who are charged with the responsibility of managing that fund, will have to address that and make a recommendation before this Commission can act on it.

Mayor Benton said he does know there is a group of retired City employees looking into this. He has met with them and he has sent them in the direction of the Retirement Board, because normally that is where these things start, then end up here. So hopefully they are looking into it.

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

Motion was made by Commissioner Coke, seconded by Commissioner Nelson, that Ordinance No. K-429 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-429 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-430 entitled, "AN ORDINANCE OF THE CITY OF FORT PIERCE, FLORIDA, AMENDING ORDINANCE NO. K-385, CORRECTING SCRIVENERS ERROR IN DESCRIPTION OF PROPERTY ANNEXED BY SAID ORDINANCE SO AS TO PROPERLY DELINEATE THE PROPERTY TO WHICH SAID ORDINANCE APPLIES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES THEREOF IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE." was placed on first reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-430 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 Nelson, that Ordinance No. K-430 be passed on first reading.

Commissioner Becht said in the packet that he has, Exhibit B is not attached. If they may remember, this annexation of Bent Creek started with their request that it be phased in. The City stopped the phasing in of the annexation because of various concerns. He has a concern now that he doesn't know what was included that should not have been included, and maybe Ms. Angelos can help him with that. But his concern is that they are not getting all the property owned by Bent Creek Subdivision. There is a reference that property belonging to others was erroneously included. But if she can simply tell him that all the property that is owned by Bent Creek is now included and none is excluded, then he will be in favor of the

amendment.

Ms. Cynthia Angelos said this has been checked and rechecked. All of the property that comprises Bent Creek is included. It has been checked and rechecked by an Engineer and a Surveyor at her request. It has caused a great deal of difficulty because the adjoining property owner, which is a commercial parcel on Orange Avenue which was incorrectly annexed, had some dealings with the City who thought they did not have a permit correctly issued when they did from the County. So she has been involved in this now for months and she apologizes for this.

Commissioner Becht said simply put, the entire property owned by her client is now covered by this ordinance.

Ms. Angelos said yes.

Commissioner Nelson said he needs some clarification. What does this scrivener's error mean? Please explain that to him in layman's terms.

City Attorney Schwerer said what it means is simply that it was an error created by the author of the document and it was an unintended language error. In this case, what happened was the developer supplied legal descriptions of a very technical nature to the City for the annexation ordinance. Somewhere between that transmittal and the adoption of the ordinance, they discovered there was an error in the way they had formulated their legal description to include a property that was owned by a different entity and should not have been included. So what it means is that the author of the document, in this case the legal description, made an error by including something he should not have included. There is a map that should have accompanied this package, he doesn't know why it didn't. But it is a map prepared by Hector Arias and his Department tracing out the legal description so they can see exactly what Exhibit A entails by a sketch as opposed to this long running legal description. That should be before them on second reading. He is making a note to make sure that is in their package for second reading.

Commissioner Nelson asked so they ought to make a motion to that effect, subject to the inclusion of that data for the second reading?

Commissioner Becht said the property owner's attorney has represented that all property owned by that property owner is included in the ordinance, so he is comfortable with where they are. And as Mr. Schwerer said, they will get a map at the second reading. He is very comfortable. They should call the question and proceed as far as he is concerned.

Those voting in favor of the passage of Ordinance No. K-430 on first reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

The next item on the Agenda was Commissioner Coke request consideration of Resolution No. 06-38.

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 06-38

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, CONTINUING TO SUPPORT A **RESEARCH AND EDUCATION AUTHORITY REFERENDUM** TO PROMOTE AND STIMULATE ECONOMIC DEVELOPMENT AND EMPLOYMENT OPPORTUNITIES WITHIN ST. LUCIE COUNTY AND THROUGHOUT THE TREASURE COAST."

Commissioner Coke said she was recently invited to participate in a group with the County, Port St. Lucie, members of the School Board, and some other members of the community. They have all worked diligently on bringing forth this Research and Development Park. Senator Pruitt was successful in having legislation pass through the State this year, which gave them the exact verbiage of a referendum to be put to the St. Lucie County voters on November 7th. There is a Task Force working on how exactly they will be presenting this. The first thing that this group felt they should be doing is have the County, the City of Port St. Lucie, the City of Fort Pierce, and the School Board pass a resolution in support of this. And along those lines, she is bringing them a copy of the resolution that has been passed by the County and asking the Commissioners to consider passing one also.

Mayor Benton said he would agree. They have been talking about this. He knows last year it wasn't a good year, so they decided to move forward with it this year. He thinks it is great.

Commissioner Alexander said in reading this resolution, he is in support of it. But on the bottom of this where they see attachments, he is looking at City Resolution No. 05-20? What are they referring to.

City Clerk Steele said that was the original City resolution that was passed in April 2005.

Mayor Benton said that is when they supported creating the Authority, right?

City Clerk Steele said yes. It is just there for their reference.

Commissioner Alexander asked they are speaking of supporting it?

Mayor Benton said financially.

Commissioner Coke said there will be referendum put to the voters on November 7th to create a special taxing district to support this Research and Education Park. And what this resolution she is proposing will do is show that this Commission is supporting that referendum and asking the voters to please vote for it.

Commissioner Nelson asked to what extent are they going to tell the public the impact from a tax standpoint that it is going to

have on the citizens?

Commissioner Coke said first of all, the State of Florida has written the exact verbiage of the referendum, so they don't have the opportunity within the referendum itself to educate the public. However, there is a group working together now with the School Board and the County and Port St. Lucie to put together an educational campaign which will let people know exactly what the benefits to this are and what the impact of it will be, both taxwise and in bringing the new jobs to the area that they are hoping to create.

Mayor Benton said jobs and education for their children and grandchildren. Something this community has been in dire straits for, for a long time.

Commissioner Coke said absolutely.

Motion was made by Commissioner Becht, seconded by Commissioner Nelson, that Resolution No. 06-38 be adopted.

Those voting in favor of the adoption of Resolution No. 06-38 were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

The next item on the Agenda was Discussion of proposed ordinance authorizing the City Manager to approve and execute written contracts and agreements relating to the Sunrise Theatre.

City Manager Beach said as they recall several of them, three Commissioners and several staff members visited Sarasota in an attempt to understand how they were dealing with certain aspects of the operation of a performing arts facility. In part of that review, they determined that there were going to have to be some changes made in their purchasing procedures and purchasing requirements as it related to the actual operation of the theater. The ordinance in front of them is not here for action this evening, it is here for the Commission's review and input. If they have some suggestions or if there is something they would like to include in this or have evaluated by staff, they would need that information between now and July 17th which is their next Commission meeting. He believes they will be able to get this ordinance or a variation of this ordinance in front of them for passage at that time. But it is here this evening for their review, input, and/or discussion.

Commissioner Coke said she appreciates this and she would hope that this will be also brought forth to the Sunrise Theatre Board meeting on July 5th to give those members an opportunity to peruse this. The one suggestion or concern she has upon reading it, it says authorizing the City Manager; and she believes they should perhaps have some leeway there, the Acting City Manager in the absence of the City Manager, or have the City Manager or his appointee. Because she knows quite often from serving on that Board that time of the essence is very important when signing those contracts and getting artists to commit. She would hate to have a situation arise where Mr. Beach was away on a convention or a business trip and the

Sunrise Theatre was unable to operate because of that.

City Manager Beach said the language as it is indicated, and it may not be as clear as it should be, but it says the administrative procedures adopted by the City Manager may specifically delegate the authority to review, approve, and execute certain contractual matters, or enter such agreements as are incident thereto, as set forth in the above, to a designated department head serving under the City Manager. At a minimum, the administrative procedures shall require the City Manager or designated department head to be responsible for following through with this. It is implied that the person acting in the capacity of City Manager in his absence has that authority. However, what he anticipates eventually is this authority being granted to the Director of the Theater itself, once they work out the details of how that would happen.

Commissioner Alexander said he was one of the Commissioners who traveled to Sarasota. Out of the whole conversation that they had with the department heads over there, he truly took a great input from the Finance Director. He thinks that is something too, along with the City Manager, that they make sure that their Finance Director is on board with everything in having all the say and powers that need be. Because he truly remembers that Finance Director there had a handle or control on what was going on through that city.

City Manager Beach said this ordinance has been reviewed by both the Finance Director and the Purchasing Director; and they have indicated that it will accomplish what they are attempting to accomplish with this.

Commissioner Becht said when it is brought back, he would like to see a copy - actually earlier, if possible - of the Sarasota ordinance; or if they have a written policy, he would like to see how they are handling it, because they have a lot more experience than Fort Pierce does.

Commissioner Nelson said he echos Commissioner Becht's desire to see the Sarasota documents as well. Is it envisioned that this Sunrise Theatre is going to be an enterprise fund sort of like their Marina or Golf Course and other enterprise entities?

City Manager Beach said it will be similar to the Golf Course and the Marina in terms of how it is accounted for.

Commissioner Alexander said Section 3 speaks of any section, sentence, clause or part or provision (be declared invalid or unenforceable by a court), can Mr. Schwerer elaborate on why would this be placed in here?

City Attorney Schwerer said this is boilerplate legal language they use in every ordinance that... It is part of the form they use for this because of some legal technicalities.

Commissioner Alexander said that is the legal mumbo jumbo again, so he is fine with it.

Mayor Benton asked they hope to have this back at the next meeting?

City Manager Beach asked can they meet the advertising requirements and have this back at the next meeting?

City Clerk Steele said she can.

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

City Clerk Steele said the Commissioners have applications for their review and there will be a blank resolution on the next Agenda for their action.

The next item on the Agenda was Mayor Benton to discuss the Innovations in **American Government Awards**.

Mayor Benton said when he received this in the mail, he thought after their great award last year of being the best and most excellent City in the State of Florida, he felt why not go for the whole Country. This specifically talks about certain projects as Innovations of American Government Award. It is a partnership with Harvard University. But when he looked at Moore's Creek he remembered, before some of them sat on this Commission, he was embarrassed one day when he first took office and met with South Florida Water Management District officials down in Stuart and they were showing all these wonderful things they were doing in the four County area, and they said there is somebody here from Fort Pierce, but Fort Pierce has done nothing. So they talked about Moore's Creek. When he came back to City Hall, he sat down with Hector Arias, and that is where they started cleaning up Moore's Creek with the Linear Park. Now it has blossomed into urban redevelopment. They are looking at workforce housing there. He thinks they have come a long way and this project has really taken off in many directions. So he thinks they should use Moore's Creek as an item and maybe they can apply for this and see where it goes. There is a \$100,000 grant with it. He is just very proud of where they have come with this over the years. He is just looking for the support of the Commission.

Commissioner Coke said yes.

Commissioner Becht said it is a good idea.

Commissioner Alexander said okay.

Mayor Benton said Anne Satterlee has done such a good job. He knows she is on vacation, but when she gets back, they have a job for her.

The next item on the Agenda was Commissioner Coke discussion on changing ordinance to allow **retention areas** to front roadways if maintained as a water feature of the development.

Commissioner Coke said she thought she would bring this up for a brief discussion only because it seems to her more and more

often these days they have people coming in to develop both communities and business districts where they are putting in retention ponds. And the development itself is going to be under a condo restriction, so there would be a Board available to monitor utilizing this as a water feature. And many of these people have suggested that. She knows it is not within the scope of the City's ordinances now. But she didn't know if it were a situation where it was a condo and there was somebody on hand to monitor it, if they didn't want to consider doing it. She doesn't know that she would personally feel one way or the other. She just knows that she has had so many questions about it, that she thought they ought to at least revisit it.

Commissioner Becht said he had an opportunity to speak with Mr. Buchwald regarding this issue this morning again. One of the issues he brought to his attention is that if they are going to allow water features in contravention of their existing ordinance, they need to provide for a constant perpetual supply of water. They cannot let the developer state that it will be filled with runoff. It needs to be either spring fed or well fed. But he would be in favor of having some modification to their ordinance to allow water features on the front. He thinks it enables the developers to have more flexibility as long as they can put the controls in where it remains a water feature and not a dry lake. He thinks that was staff's concern. If they can stipulate that there has got to be a perpetual water supply, then they might be able to achieve that. He doesn't know what other concern staff had regarding the water features in front though.

Commissioner Alexander said he is in agreement with supporting this, but he just has a concern that he has in the past. When they spoke about these things, Mr. Arias had something to say about it; and he just wants to know if Mr. Arias still has a concern about those water parks or waterways being in front of a building?

Mr. Hector Arias, City Engineer, said he thinks that if they have enough restrictions and enough regulations to make sure there is a continuous feeding of water, he has no problem with that. His concern has always been that those dry retention areas, the water table is very low and it dries out, then they have the cattails and it just looks ugly. And to see one of them, just go on Okeechobee Road over there by the old Wal-Mart. But if they get a continuous feeding of water, that could be a beautiful thing. Now he doesn't know how hard it is going to be for them to get a water permit, but that is their problem.

Commissioner Becht said that is not the City's problem.

Mr. Arias said okay. But as long as there is water always, he doesn't have a problem with that.

Commissioner Becht said he doesn't see SFWMD issuing too many use permits for little lakes out in front of condo developments. But if they could get it or if they have it naturally, then they have a lake in front of a development. It is more flexibility. That is all he is looking for is flexibility.

Commissioner Coke said she thought if staff could write up the requirements and restrictions, then at least when developers come it is not a matter that they are just saying no and closing the door in their face. They say yes, but they need to meet the requirements.

Mr. Arias said that is the way the ordinance is. Either they do it or they don't. So he thinks that is a good point.

Mayor Benton said they have talked about this retention area out on Okeechobee Road for some time. Do they have any mechanism to make them clean that mess up, the pepper trees?

Mr. Arias said yes, they have done it before. The mechanism they have is very simple. The project, the area, the owner is paying and they will give them some credits on the stormwater utility; and then the way they enforce it is, if they don't have it for the purpose intended, they are going to take off all those credits.

Mayor Benton said he thinks they need to threaten them because it is sure a mess. It is full of pepper trees.

Mr. Arias said they did that before and they did it. Now it is again. It is a hassle.

Mayor Benton said let's call them and threaten them again.

Commissioner Becht said at the time staff comes back with language on this issue, they have had attorneys and developers dispute the way they calculate what is or is not retention and for density purposes. If they have the ability to tighten that down at the same time so there is no dispute, there is no argument with developers, he would like to do that. He is going to go one step further and piggyback Commissioner Coke's opening the door here. He had a conversation with Mr. Alcorn concerning impervious area for single-family homes. If they could address that, they might be able to address a whole host of issues if they could bring that in as well.

Mr. David Recor, Deputy City Manager, said he is going to politely suggest that they wait and address specifically the redefining of aquatic areas as part of the land development regulation rewrite. Mr. Buchwald initiated an amendment to the land development regulations to address the definition of aquatic area that quickly mushroomed into an issue that got the development community's attention. It would have required significant time and resources for staff to address. They may have seen that discussion in the Minutes of the Planning Board meeting from a month or so ago, which they quickly backed away from because they do not have the time and resources today to devote to that effort alone. So what he would like to suggest is that they do that as part of the comprehensive rewrite to the LDR's as opposed to a stand alone amendment.

Commissioner Becht said he is suggesting now that Matt Margotta is here, he can dump this on him.

Mr. Recor said you bet.

Commissioner Becht asked what about the impervious area, is he going to comment on that?

Mr. Recor said they did bring forward an impervious surface requirement as part of the South Beach Overlay District, and they are planning to initiate the same thing as part of the LDR rewrite citywide.

Commissioner Nelson said he is inclined to not favorably consider this request because of the safety factor. They have the possibility of someone drowning in there, and the possibility of animals like alligators getting in these things, and they have the possibility of ownership flipping the properties and they don't pay attention to it like they said they were going to do initially. And he would think that it simply does not represent, generally speaking, the real maximum fully utilized potential of the property itself when they do it through water as opposed to landscaping of this nature. He thinks the course they have taken over the years has served them well. The examples they have on Virginia Avenue and out on Okeechobee Road certainly do not represent good water areas in front of their properties.

Mayor Benton said he thinks there are certain projects that, if they had a fountain out front with a retention area, it would look nice. It depends on the development or the project they are doing.

Commissioner Nelson said until it is flipped.

Mayor Benton said he doesn't think they are going to build the retention area and then flip it. He thinks it is going to be developed and then sold. There are some very nice developments he has seen in Florida with a fountain and water out front, as long as it is maintained.

Commissioner Coke said it could be a good opportunity.

Mr. Arias said he is glad this is being requested because they are having problems with some parcels that are facing two roads, sometimes three roads. They just don't know where to put it. This is going to help a great deal. He heard Commissioner Becht say that they may bring this back to the Commission showing something to modify the calculation for the retention areas. He is afraid they can't do that because this is a Water Management District requirement that they have.

Commissioner Becht said let Mr. Recor address that concern. It was in the calculation of what is or is not an aquatic area. Mr. Recor had said they didn't want to deal with that right now and he intimated he was going to leave it to someone else to handle.

Mayor Benton said they will see what staff comes back with.

The next item on the Agenda was Commissioner Coke request letter be sent to **Public Safety Coordinating Council** requesting that the City of Fort Pierce have voting representation.

Commissioner Coke said for those of them who have attended these Public Safety Coordinating Council meetings, she knows sometimes it gets very frustrating, because not only do they not have a vote on this, but quite often they don't even have a voice. So she was very pleased when she was reading the Minutes from the last PSCC meeting (May 25, 2006) to see that there was some discussion and that the Public Safety Coordinating Council is created by Florida Statute, not St. Lucie County ordinance. However, it does not say that other people cannot be added to that Board. Along those lines, the City of Port St. Lucie has brought a letter to the County asking that they be given a voting membership on that Council. She thinks it is important as this is an instrumental part of their community deciding on what happens with the jails and public safety features and she thinks it is important that Fort Pierce has a voice. If the County is considering giving Port St. Lucie a voice, she thinks they need to consider giving Fort Pierce a voice. So she would respectfully request that the City send a letter to them and request a voting seat on this Council.

Commissioner Nelson said he would agree to that. He thinks they ought to make a move that Commissioner Coke be the representative voting member.

Motion was made by Commissioner Nelson, seconded by Commissioner Alexander, that Commissioner Coke be the representative voting member on the Public Safety Coordinating Council.

Commissioner Coke said wait and see if they give it to them first.

Mayor Benton said just so they all know, he believes that is one of those Boards that they elected him to sit on, but they don't have a vote. He goes to the meeting and it is frustrating. He does listen, but when it comes to a vote - and specifically when they are dealing with the future of the court system in Fort Pierce - he wants to stand up and scream. So it would be nice to have a vote.

Commissioner Becht said a word that Commissioner Nelson keeps trying to teach him the meaning of, protocol. Is there a protocol for who from this Commission goes out to the Public Safety Council?

Commissioner Coke said she goes occasionally.

Commissioner Nelson said he has been over there too.

Mayor Benton said he knows they all get the Minutes.

Commissioner Becht said his point is, the motion actually was to have Commissioner Coke go, which he would read that motion that they don't want the Mayor to go. So he needs him to clarify what the motion is.

Commissioner Coke said her request was just that they send them a letter.

Commissioner Coke said she thinks Commissioner Nelson's intent was to volunteer her.

COMMISSIONER ALEXANDER RESCINDED HIS SECOND TO THE MOTION. MOTION DIED FOR LACK OF A SECOND.

Commissioner Becht said he doesn't know what the motion was for, so if it was to replace the Mayor with Commissioner Coke, then he doesn't think they need that.

Mayor Benton said as far as the Boards they sit on, that was one this Commission put him on, he guesses.

Commissioner Coke asked could they have a motion to send the Public Safety Coordinating Council a letter requesting that the City have a voting member on there?

Motion was made by Commissioner Becht, seconded by Commissioner Alexander, to send a letter to the Public Safety Coordinating Council requesting that the City of Fort Pierce have a voting member on that Council.

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

Motion was made by Commissioner Nelson, seconded by Commissioner Coke, that in the event the Public Safety Coordinating Council is amenable to allowing Fort Pierce to have a voting member on their Council, that the Mayor be the designee and Commissioner Coke as an alternate.

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

The next item on the Agenda was Commissioner Coke to discuss motion given for **extensions** be to a date certain to coincide with meeting date.

Commissioner Coke said this is another issue that she gets all kinds of phone calls on. She thinks it is a simple housekeeping thing. When people come and ask for a six month extension of a site plan, rather than saying six months, she would request that, this is July so they are going to extend it to the first meeting in January, whatever the six months is. So in essence it would give it a date certain.

Mayor Benton said a specific meeting date.

Commissioner Coke said yes.

Mayor Benton said he would agree. Then they should make sure that all these aren't postponed like they were a couple of meetings back where they had to meet two days in a row. Keep

these agendas under control.

Commissioner Nelson said he doesn't have a problem with that.

Commissioner Becht said it is a good idea.

Commissioner Alexander said he agrees.

The next item on the Agenda was Chief of Police to give Financial Report on the \$5,000 in funds authorized for **Granny's Gang** to Save Generations (through the Police Athletic League) to attend the 21st National Conference on Crime Prevention in the Black Community on May 31 - June 2, 2006.

Assistant Chief Sean Baldwin, Fort Pierce Police Department, said Chief Savage submitted a report that includes Ms. Green's itemized expenditure report totaling \$5,194 for hotel, registration, transportation, and food associated with this travel. If they have specific questions about the particular expenditures, he will be happy to try to answer them. But he also wants to point out that in the Agenda package, Chief Savage has made two recommendations. One is with respect to requiring advanced notice for these types of requests; and secondly, try to put some procedure in place that they require that the requesting entity is a 501(c)(3), rather than trying to pass these funds through some other mechanism, which is especially difficult when they have very short notice.

Mayor Benton said he knows there were some problems this time. He hopes next year that they can get involved in this and organize it a little bit better. His understanding is that some of these kids didn't get the attention they deserved. Some of the volunteers showed up and he guesses it was just all dumped on them. He hopes they can organize this a little bit better next year.

Commissioner Alexander said he is going to suggest that will be one of his wish lists for the budget for this year coming up, so they can have ample time to get something in place. He thinks that was a 12:00 o'clock decision they made and it was all with the concerns of the children.

Commissioner Becht asked did he read the packet correctly that they were able to get 20 children down to this program?

Assistant Chief Baldwin said it looks like there was a total of 26 people, 20 of those were children. He noticed in the registration that it looked like the City of Fort Pierce paid registration for 13 teens and 2 adults. He believes there may have been some additional funding that was passed through Weed & Seed.

Commissioner Becht said if any of them are sending children to summer camp, it equates for \$5,000 to like \$250 per child, which is nothing. He would concur with Commissioner Alexander, if they could figure out a way to get it in the budget and have the correct 501(c)(3) in place before the midnight hour, this looks like a worthwhile program.

Mayor Benton said he thinks the problem was, if they get involved early enough where they can make the plans that these kids can stay at the hotel where the conference is. In this case they stayed several miles away and it ran into lots of problems. So for supervision and for the adults who are there, he thinks they can get started earlier, once they budget it.

Commissioner Alexander said that was the only problem he saw is because of the fact that in any conference, if they wait until the last minute, they always have alternate hotels and it may not be across the street. He saw that when it happened. It should not have happened. But it was only because, not making excuses for the 12:00 o'clock hour, because they had the transportation there available.

Commissioner Nelson said he thinks it is a worthwhile program. He likes the report. He finds something missing in the report in terms of the benefits that the kids derived from this program. What are they really trying to achieve, and whether or not they should in fact continue this type of program year in and year out? It has been his experience that when they are rearing children, they try to get them some diversification in their activities; and doing the same thing over and over again might not be the best thing for the development of their children. He had the privilege of attending one of these conferences and find them quite beneficial in Orlando with some of their kids and there they did all right. But he doesn't see exactly what is being accomplished and what benefits are being derived and they are not telling him that. Sure they weren't in the hotel, sure they had a little problem here and there. But what are they trying to accomplish in these type of programs?

Assistant Chief Baldwin said he wants to remind Commissioner Nelson this was not the Police Department's program. They simply provided the funding. But he does want to point out that in Maxine Green's request for this funding, she suggested that as an evaluation component that she hold a youth workshop that would invite other children from the community to attend and discuss what the kids learned at the conference, what they might be able to do in the community as a result of the conference, and actually add some value to the attendance. He would suggest they hold her responsible for doing that as one mechanism of making sure they are getting something out of the investment.

Commissioner Nelson asked his suggestion is that they do what?

Assistant Chief Baldwin said his suggestion is that they hold Ms. Green accountable for that recommendation and have her hold this workshop with the kids who attended and other kids from the community.

Commissioner Nelson asked is he talking about himself or the Commission?

Assistant Chief Baldwin said it was a funding that the Commission authorized. He would be happy to do that on their behalf.

Mayor Benton said for the record, in the past Granny's Gang has put on a presentation. He has been there when these kids have come back. He thinks it was at C. A. Moore where they have gotten up in front of local residents and other students and explained what they learned and how they benefitted from being there. That is one reason why he was sold on this is, because he has seen what these kids have gotten from going.

Commissioner Nelson said he has seen them physically in action in Orlando and it was a real dynamic thing there. But to have the public be fully aware of what is going on and have empirical data or information to base their opinion on is something which he is trying to get them to focus on.

Commissioner Alexander said just to get on the same page, PAL (Police Athletic League) went down, they took kids themselves. He is just asking him arbitrarily what he is expecting from a group of kids? Maybe they have the kids write a letter confirming what they accomplished down there. Did PAL bring back a written program or report to bring forward? Because it is all within the same scope.

Assistant Chief Baldwin said no, he doesn't think they have required anything specific out of PAL. Although please understand that PAL is expending their own funds on their attendance of the conference. Either way, he agrees with the notion that they need to find some way to articulate to the community; and more importantly, to have these kids follow up and produce some positive results out of their attendance. He thinks they can do that.

Commissioner Alexander said he is in agreement with that. But he just thought maybe if there are some out there now particularly that they want to have brought back to the Commission, just say so. He thinks those kids would be willing to even come in here and speak before them, because they do accomplish things there. He will leave it at that.

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

Commissioner Nelson said he would like Item 23g (Florida League of Cities 80th Annual Conference) and Item 23h (Employment Agreement with David Jenkins) removed for discussion.

Commissioner Becht said he would like Item 23f (Riverside Bank parking lot) removed for discussion.

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

a. Approve Change Order No. 1 to contract with Burkhardt Construction for **Riverwalk Reconstruction Project** in the amount of \$324,530.00 for hazard mitigation items for shoreline protection (\$277,430.00 FEMA reimbursement and appropriation of \$47,100.00 from the General Fund).

- b. Approve execution of the **Urban and Community Forestry (U&CF) Grant Memorandum of Agreement** between the City and the Florida Department of Agriculture & Consumer in the amount of \$144,700.00 for tree replacement caused by Hurricanes Frances and Jeanne.
- c. Approve Application by Police Department for **Edward Byrne Memorial Justice Assistance Grant** (JAG) Program - State Funds.
- d. Approve extension of Contract with **Siver Insurance Consultants**, with proposed rate increase, and with the same terms and conditions as the current contract.
- e. Approve purchase of a **Concession Trailer** for the **Indian Hills Golf Course** from Bayshore Truck & Trailer in the amount of \$16,600.00.

The next item considered was Item 23f, which had previously been removed from the Consent Agenda: Authorize Staff to begin condemnation procedures to acquire a portion of the **Riverside Bank parking lot** from First Citizens Premises Company, Inc. needed for right-of-way realignment of Ohio Avenue at U.S. #1.

Commissioner Becht said he pulled this because he didn't want it hidden in a Consent Agenda. He read the information that Mr. Arias has given them on this. He thinks Mr. Arias has gone out of his way to try to involve Riverside Bank in a peaceful dialogue concerning straightening out one of their messed up intersections. But he just wanted it, not hidden in a Consent Agenda, but pulled from the Consent Agenda. So he will be moving approval of this item now.

Motion was made by Commissioner Becht, seconded by Commissioner Alexander, to authorize Staff to begin condemnation procedures to acquire a portion of the Riverside Bank parking lot from First Citizens Premises Company, Inc. needed for right-of-way realignment of Ohio Avenue at U.S. #1.

Commissioner Alexander asked did they not say they were going to swap out some land with Riverside Bank?

Mr. Hector Arias, City Engineer, said that is the idea.

Commissioner Becht said Mr. Arias cannot get them to respond is the problem. Which is why he pulled it, because anyone who is watching TV, then maybe they can get to the person who will call Mr. Arias.

Commissioner Coke said she was going to pull this if Commissioner Becht hadn't. For many years Riverside Bank has been a wonderful community partner with the City on a lot of different projects. She did put a call in over there today to try to see if she couldn't... Sometimes things, the trickle down effect, it doesn't quite get to the person it needs to. However, everybody she felt she could speak to today that could have done something to help the City was not in. It is a long holiday weekend.

Commissioner Becht said he personally had spoken to Tim Brown when he was at the Ohio branch on the third floor, looked out the window and said, they could swap this property out, and he seemed interested in it. He has had e-mails from Riverside Bank personnel and have given them Mr. Arias's name and said please contact him. Obviously, in the packet Mr. Arias has several letters he has written trying to get a response. So they are trying to utilize FDOT dollars and FDOT planning. The City is caught in a tight time frame where they have to move forward. So maybe with this action now with it being discussed tonight, Mr. Arias will hear from the right person with Riverside Bank and they can work this out, rather than having to go through with the condemnation. But he is moving for the condemnation to proceed.

Mr. Arias said his concern is that FDOT is finding ways to cut funds from projects and they are going all the way along the coast. They asked him last week what was the status of the acquisition and he told FDOT he is working on it. FDOT said they need to have some kind of an answer very soon because they can move these funds to another place and just resurface the road.

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

Then next item considered was Item 23g, which had previously been removed from the Consent Agenda: Approve travel and attendance by Commissioner Alexander and Commissioner Nelson to the Florida League of Cities 80th Annual Conference in Orlando from August 10-12, 2006.

Commissioner Nelson said he pulled that because there is obviously an error there. Commissioner Alexander might be in Orlando, but he is planning to be in Jacksonville on that date and the conference is going to be in Jacksonville.

Commissioner Alexander said yes, it is.

City Clerk Steele said they will correct that.

Motion was made by Commissioner Becht, seconded by Commissioner Coke, to approve travel and attendance by Commissioner Alexander and Commissioner Nelson to the Florida League of Cities 80th Annual Conference in Jacksonville from August 10-12, 2006.

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

The next item considered was Item 23h, which had previously been removed from the Consent Agenda: Approve Employment Agreement between the City and David Jenkins as the Executive Director of the Sunrise Theater.

Commissioner Nelson said he keeps seeing these contracts and they keep really making his mind go blanked-blank with the lack

of consistency. He specifically would like to know whether or not this individual is going to have rights under Civil Service appeals procedure as put forth in their personnel manuals. Because when they talk about unilateral termination by the City Manager, he is concerned about that. What is the intent there?

City Manager Beach said he can address the intent and maybe the City Attorney can address the language. The intent is that the employee does not have Civil Service appeal rights. That is the intent of the agreement.

Commissioner Nelson said the next question is in the area, on Page 2, Paragraph 2, Compensation. They talk about the City Manager may determine his salary based upon a performance appraisal. It doesn't give a limit. The City Manager might say he wants to double his salary, for example. To leave it open to that, based upon a good performance appraisal, that is the question.

City Manager Beach said he thinks that is standard language that they include in all of these. But it is a very rare occasion that he grants increases beyond what is authorized by the City Commission on an annual basis. The only general exception to that is after six months of employment and once they have ended their probation, but that is normally included in the employment agreement if that is the case. Commissioner Nelson keeps a close eye on what he authorizes and what he doesn't authorize, so he knows that hasn't been an issue in the past.

Commissioner Nelson said it is part of his job. He has to be careful about these taxpayer's dollars.

City Manager Beach said he understands.

Commissioner Nelson said the next question in that same area, it says a salary adjustment may be awarded to regular full time employees during the FY07 time frame, but it is a three-year contract. He is not sure it means that. Are they going to give him a raise in 2008 and 2009?

City Attorney Schwerer said that shouldn't have been in there. This agreement technically did not make it to the City Attorney's office, but they would have caught that. They haven't signed off on this agreement yet.

Commissioner Nelson said he doesn't know about Mr. Schwerer. This is the second one.

City Attorney Schwerer said there are three issues he has with this contract and he is intending to address it. Apparently they attempted to use a previously drafted agreement and it made it to the Agenda. There are just a couple of issues in here. There is some language change he is going to ask for, it is just one or two words in the agreement, before he signs off on it. That is one he is going to make a suggestion. It shouldn't be limited to just a year.

City Manager Beach said it is just an extraneous comment is what

it is. It doesn't need to be there.

Commissioner Nelson said he agrees. But they have these guys like to practice law up here. One of them is a lawyer too.

Commissioner Becht said he is not practicing law up here.

Commissioner Nelson said Page 3, Paragraph C, talks in terms of reducing the salary of the employee. What is the rationale for reduction in salary?

City Manager Beach said it isn't just a comment about reduction in salary. What it addresses is, any time the City Manager should do anything that would change the terms and conditions of this person's employment. At that time, the person with the contract has the ability to consider the contract violated and exercise the terms of the termination provision, should they decide to leave. As an example, if he attempted to transfer this individual from his existing position to Director of Public Works, he would have the right under this agreement to end the agreement and collect his severance. That is what that is about

Commissioner Nelson said he hasn't hired him as his lawyer, don't get him wrong, because he would be a fool if he did. He is asking these type questions. In here somewhere it appears that the City Manager can unilaterally fire this individual. This is going to be an enterprise fund organization. Since they have this as an enterprise fund and the City has put up considerable money on this theater, should it not be such that they do have some say in the management, the termination, the employment of those people over there some kind of way?

Commissioner Coke asked isn't that a violation of the Charter?

Commissioner Nelson said it is not in the Charter. Nowhere in this Charter do they have a theater that says they have approval over. He is not sure as to whether or not... And the next question would be, is this going to be considered another Department Head. He doesn't know. They have some sticky issues in this whole thing about the theater, about the FPRA, they don't really have a firm handle on as far as the management standpoint or supervision is concerned, the oversight. They are going along, in his opinion, by the seat of their pants. They are doing all right, but he thinks they are missing the boat in terms of closing all those loopholes from an administrative and managerial standpoint that they need to address.

City Attorney Schwerer said anybody who serves in the position of a City employee, if they are hired as a City employee, they serve directly under the City Manager by the Charter, and the Commission is prohibited by law in the Charter from either recommending people for jobs, for promotions, or even attempting to influence the discharge of a person. So the Commission is prohibited by Charter from even looking at whether or not the City Manager wishes to discharge. The reason that these employment contracts are important is that these are their key management people; and if management needs to make a change, that it can be done swiftly and clearly so it avoids the

entanglements they have with the Civil Service for people's appeal rights and grievance rights. It defines a contract. If the City Manager believes that the contract is not working, he has the option to undertake to terminate it. But that is the way the Charter works. If these people are City employees, then they are technically outside the scope of the Commission as a body from either supervising, managing, or in any way, shape, or form influencing the City Manager's decision. He didn't write the Charter, but that is the Charter for the City of Fort Pierce. It has been in existence since the 1901 version.

Commissioner Nelson said he says that with a certain degree of certainty, but he didn't put in there...

City Attorney Schwerer said he will read the Charter for him if he wants him to. He has it.

Commissioner Nelson said if he wants to. But if he looks in there, it talks in terms of the City Commission having direct responsibility for approving and hiring Department Heads. They can fire the Police Chief, it pays the salary of the City Clerk and a few others. So if he wants to take the Charter and recite those particular entities, please be his guest. But he thinks he has read it fairly thoroughly himself and he thinks he is correct along those lines, unless Mr. Schwerer is going to assert some exceptions in some of those cases. Take the one for the Police Chief, for example.

City Attorney Schwerer said let him first point out, there are specific designated offices that are appointed by this Commission. Those appointments are the City Manager, the City Clerk, and the City Attorney. Then there are certain high level appointments that are made by the City Manager with the consent of the Commission, and then there are certain people who are only dischargeable by the City Manager with the consent of the Commission. But the main Charter provision is Section 30. It says, Commission to keep out of managerial details - Neither the Commission nor any of its members shall direct or request the appointment of any person to or his removal from the administrative service of the City by the City Manager or by any of his subordinates or in any manner take part in the appointment or removal of any officers or employees as heretofore specified. So that is pretty clear and he is not going to debate it legally. But they do have the direction over certain employees under the Charter. It talks about the offices of the City Manager, the City Attorney, the City Clerk, the Finance Director, and Chief of Police. Now they can go through all those, but they are not talking about any of those offices, they are talking about the Sunrise Theatre Manager and that is the contract before them. So he doesn't have any other suggestions other than looking at this Charter again, if the Commission wishes him to look at it.

Commissioner Nelson said that was not his intent. He was just looking at the magnitude of this investment they made over there on behalf of the people of this City. They spent a lot of money over there on behalf of the people. They need to make doubly sure as Commissioners, who have got oversight responsibilities,

that they look at this real hard, real long. He has noticed this new man they have over there, Mr. Jenkins, who seems to be a fine individual and is doing a great job, and he applauds him for the contract. But he wants to make sure the Commission does not, as they have an oversight responsibility, leave some stones unturned with respect to making sure that they have safeguards for the people and don't have turmoil in their organization. That is what he is after.

Mayor Benton asked how do they feel about this contract?

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve the Employment Agreement between the City and David Jenkins as the Executive Director of the Sunrise Theater.

Commissioner Nelson asked may he discuss it now?

Mayor Benton said they have been discussing it for some time.

Commissioner Nelson asked can he ask the City Manager and the City Attorney to further refine this contract?

City Attorney Schwerer said he would definitely indicate that he is going to refine the last sentence of Paragraph 2 where it talks of the Fiscal Year 2007, so that this gentleman would be entitled to any annual raises from here on out. In other words, not just the one year raise from 2007, so that the City Commission through its budgetary control...

Commissioner Becht asked what other changes?

City Attorney Schwerer said Paragraph 2, last sentence deleted. Paragraph 5, there is an "and" instead of "or" there. Where it says, with and without cause. It should be with or without cause. Somebody made a typographical error in typing this. Paragraph 5C, the second whole sentence just needs a little clarification as to the intent of what is happening there.

Motion was AMENDED by Commissioner Coke, seconded by Commissioner Becht, to approve Employment Agreement between the City and David Jenkins as the Executive Director of the Sunrise Theater, and to stipulate to the changes being brought forth by the City Attorney's office to be included in this contract before its execution.

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

Mr. David Recor, Deputy City Manager, said it gives him great pleasure to introduce them to **Matthew Margotta**. He is their new **Planning Director**. This was Mr. Margotta's first day. He comes to them by way of Bluffton, South Carolina. He had the pleasure of working with Mr. Margotta in Hilton Head, South Carolina, for a number of years. He thinks Mr. Margotta will be a wonderful addition to the Planning Department, given his background in Community Development Planning and his military training. He thinks his leadership will be welcomed and he really looks

forward to his contribution to the City moving forward. So welcome, Matt.

Mr. Matthew Margotta, Planning Director, said he doesn't want to add to the evening any more than just saying that he is very proud to be a member of Fort Pierce and he is looking forward to all the interactions and everything they are going to accomplish from here on forward.

Mayor Benton said welcome to Fort Pierce. They are glad to have Mr. Margotta here. He will have quite a few challenges.

Mr. Leslie Lasenby said he approached the Commission several weeks ago in reference to the **insurance for the widows of the slain police officers**. He has not heard any response to the questions that arose from that request. There were some questions from Mr. Bergalis, there were some questions he believes from Mr. Beach. He has not heard any response to any of those questions. Have they had any results? Do they have any direction to go?

Mayor Benton said he couldn't tell him now, but they have an appointment this week? Mr. Lasenby is coming in to see him?

Mr. Lasenby said yes.

Mayor Benton said he will see that they have answers at that meeting. Staff does have information?

City Manager Beach said they are still trying to accumulate that information. That assignment has been made. He believes they are going to try to have that back at their July 17th City Commission meeting. His understanding is there is some difficulty in communicating with these individuals and their willingness to share the information. But again, they will have this up for discussion on the 17th of July.

Mayor Benton said any information they have, because he has a meeting coming up this week with Mr. Lasenby and Ms. Wouters.

Mr. Lasenby said part of the information problem is, he was trying to keep the widows themselves out of this and try not to rehash any problems. Apparently some of the information that is being required has to come from the widows. He has no idea what it is that they don't already have.

Mayor Benton said they will have that discussion.

Commissioner Coke said happy 4th of July.

Commissioner Nelson said some time ago they talked in terms of an investigation due to some turmoil they are having among their employees (in the **Code Enforcement Department**), people alleging negative comments about their employees. They have an investigation going on. What is the status on that?

City Manager Beach said his understanding is that Mr. Recor had met with Commissioners personally to discuss the outcome of

that.

Mr. David Recor, Deputy City Manager, said Commissioner Alexander and he have met. The Mayor Benton and he have had a discussion. His and Commissioner Nelson's paths, however, have not crossed.

City Manager Beach said Commissioner Nelson will be given a one on one briefing of the results of that.

Commissioner Nelson asked is it such that he should have a one on one? Is it secretive?

City Manager Beach said it is not secretive. They just think it is important that they have a one on one for discussion.

Commissioner Nelson asked are they going to have a formalized report on it?

City Manager Beach said yes, they are.

Commissioner Nelson said as soon as possible on that, please.

Commissioner Nelson said the **Consent Agenda**. They shifted around to have it virtually the last portion of their Agenda. They have people come here and they could save a lot of time and have people go away happy if they were to put it back up front. He is advised that the Charter said do it this way. They did it another way for quite a few years. Can they put it back the other way? Why do they have it this way now?

Mayor Benton said they have it this way because they have had so many Public Hearings. They decided to let the public speak first. Because most of the items on the Consent Agenda are items that they have already voted for when they approved the budget. These are budgeted items most of the time, 99% of the time, so normally there is not a lot of discussion on them and the public doesn't normally get involved. There is not public discussion on those. So it is mainly to get the public home at a decent hour, because some of their meetings have been going to midnight.

Commissioner Nelson said he has had people say they had this on Consent Agenda, quite a few items have been placed on the Consent Agenda like the alcoholic beverage permits and all sorts of mundane things which they alluded to. He would like to get them out of the way, if they can.

Mayor Benton said that is why they wait until the end of the meeting, everybody wants to go home.

Commissioner Nelson said if nobody else feels that way except him, it is all right with him.

Commissioner Becht said if he gets some feedback from citizens that they are having a problem with it, then he would agree with him; but he has not had any feedback from anybody to date on any item. Personally, he found that it moves smoother the way they

set it up. But if the public starts complaining, if their item is on there, then he would bring it back up as soon as there is a problem with it. But it seems to be working better the way it is now set up.

Commissioner Nelson said he has had it brought to him in contrary.

Commissioner Alexander said he has been getting some calls and concerns about their youth again. He is thinking, he remembers at one time they had a **curfew** for these youths. The complaints he is getting is that these are small children who are hanging out with the almost grown teenagers and the public has a concern about that. He doesn't know what they can do about it, but they need to put a grip on it. Because with all this heat and nothing to do, he can just foresee trouble coming. He is satisfied with it if they are all satisfied with it.

Mayor Benton asked do they have a set curfew for people under 18?

Assistant Chief Sean Baldwin, Fort Pierce Police Department, said they do have an ordinance that recites a curfew; however, due to some court cases that were settled, he believes over on the west coast, their ordinance for all practical purposes is defunct and illegal. Mr. Schwerer's office has worked very hard with them over the last probably six months to revise that ordinance. He saw a draft of it about two weeks ago and they returned some comments regarding the ordinance. He would expect that will be presented to the Commission very shortly, a revised ordinance that will meet the requirements of the court case that was decided against ordinances. It will be restored. It will be a friendlier ordinance. It will be pointed toward the protection of their youth, rather than the incarceration of their youth.

Commissioner Alexander said he knows they had a program at one time that County Commissioner Trefelner had, a program that when the kids are picked up, they were taken to one central location. But he does have a concern when he takes his time out late at night and he rides and he sees what the community is complaining about. Anytime they are getting a gathering, he remembers one time they said the Commissioners had made the statement that if it was a group of three or more, then they are supposed to disperse them. He noticed a great many times that they have a large group of young kids; and they can't be doing anything worthwhile at that time in the morning, because they should be home with their parents. He doesn't know what they are going to deal with, but he guesses it is not only his concern, he sees it is Chief Baldwin's concern as well as the City Attorney, and he will be in agreement with that.

Mayor Benton said he thinks it is all their concern. Because nights when he couldn't sleep, it is amazing when they see 8 and 10 year olds riding around at 3:00 in the morning and they should be home.

Assistant Chief Sean Baldwin said he certainly shares their

concerns. He thinks they will be impressed with the effort of the City Attorney's office when they see the draft.

Commissioner Alexander said any effort is fine.

Commissioner Becht said he would like to thank their hosts - St. Lucie County - for what he hopes is their last evening over here sitting in their chairs. Are they prepared to meet July 17th at home?

Mayor Benton asked the next meeting will be here, right?

City Clerk Steele said the July 17th meeting will be at the **City Commission Chambers**. It may not be televised. But she was told it will be in the Chambers.

Commissioner Becht said they will be home.

City Clerk Steele said they will be home. They do have special meetings next week. One in Port St. Lucie and one at the Utilities Authority.

Commissioner Becht asked but their regular meeting will be back home? He would like to thank their host. They have been very accommodating and the facility is obviously very nice. Happy July 4th to everybody.

Commissioner Alexander said he just heard the City Clerk say they may not be televised. All that money in they put in there?

Mayor Benton said it is just a temporary thing.

City Clerk Steele said just that one meeting. They are having a problem with the cable, that is all.

Mayor Benton said it is getting the cable underneath U.S. #1.

Commissioner Alexander asked it is wired for cable now?

Mayor Benton said this is the way they are doing it. They found the conduit. It is just going to take a little longer. He should ask the City Manager.

Commissioner Alexander said he sees they have a smile and a smirk.

Mayor Benton said there is a little more to the story, but they aren't going to talk about it here tonight.

Commissioner Alexander said he doesn't like to be on the tail end of these smiles when they spend a great deal of money to put forth that effort.

Mayor Benton said this was out of the City's hands.

Mayor Benton said he just wants to say happy **4th of July** to everyone. Tomorrow night down at the Amphitheater in Veterans Park they have bands playing and entertainment for everyone.

They will be rededicating the CeeCee Lyles Memorial at 5:00 p.m. and fireworks at dark. So everybody have a good time. He does want to ask everyone to be careful with the fireworks; and remember if their neighbors or themselves have animals, animals don't like fireworks. The Mayor gets phone calls every year from people whose dogs or cats take off and they never see them again. He is serious. It is not a joke. So please take that into consideration and watch out with the fireworks because things are dry.

Tuesday, July 4, 2006, 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 & Country Club - will be closed. There will be no garbage and/or trash collection on that day by the Solid Waste Department.

There will be a Special Joint Meeting of the Fort Pierce City Commission and the Fort Pierce Utilities Authority Board on Wednesday, July 12, 2006, from 9:00 a.m. to 11:00 a.m. in the Fort Pierce Utilities Authority Energy Services Center, 1st Floor Conference Room, 1701 South 37th Street, Fort Pierce, Florida.

There will be a Special Joint Meeting of the Fort Pierce City Commission with the St. Lucie County Board of Commissioners and the Port St. Lucie City Council on Thursday, July 13, 2006, from 2:00 p.m. to 4:00 p.m. in the Port St. Lucie Community Center, 2195 S. E. Airoso Boulevard, Port St. Lucie.

There being no further business, Mayor Benton declared the meeting adjourned at 9:03 p.m.

Adjournment.

ATTEST:

CITY CLERK

MAYOR COMMISSIONER