

MINUTES OF A REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF FORT PIECE, FLORIDA, HELD IN THE CITY HALL COMMISSION CHAMBERS, 100 NORTH U.S. #1, FORT PIERCE, FLORIDA, AT 7:00 P.M. ON MONDAY, JULY 18, 2005.

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.

Mayor Benton said what they are going to do tonight, they are going to adjourn the City Commission meeting for a few minutes because they have a CRA (**Fort Pierce Redevelopment Agency**) issue they have to deal with. They have one item to deal with so hopefully it will be short.

Motion was made by Commissioner Coke, seconded by Commissioner Nelson, to adjourn the City Commission meeting until after meeting as the Fort Pierce Redevelopment Agency Board.

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

(The meeting of the City Commission was in recess from 7:05 to 7:12 p.m. Mayor Benton recalled the City Commission meeting back to order.)

The next item on the Agenda was Presentation of a Plaque of Appreciation to Howard & Harriet Brenner.

Mayor Benton said he is going to miss a couple of his neighbors who have spent a lot of time and put a lot of effort into Fort Pierce. Harriet Brenner has spent four years on the City's Code Enforcement Board from February 1991 until 1995. She was appointed to the Affordable Housing Board in October 1993 and spent a year on there until 1994. She was also appointed to the City's Planning Board March 1999 through June 2005. She has been working for Fort Pierce for some time. He is going to miss her, for one. He hopes there is somebody in her building to take her place, because they have River Keepers but they don't have somebody overseeing the inlet. Every time a ship came in that shouldn't be here or something, he got a phone call. So he will miss her. Please, they need somebody to replace her in that building making those phone calls. Howard Brenner is a native of Fort Pierce. He was appointed to the Fort Pierce Housing Authority Board in February 1991 until June of this year. He is still an active member of the Human Development & Resources Centre since its start. They appreciate all the hard work he has done for this community and they are going to miss him. He would like to present this plaque to the Brenners for their hard work and dedication to Fort Pierce.

Ms. Harriet Brenner said they have moved ten times, raised six children, and this is the first time they have been able to stay in one city long enough to do something to give back to all the cities they have lived in. It was a privilege to come back home and be a part of the growth and see the improvements that came about. When they came back here they had their boat down at the City Marina; and one of the boaters across from them asked where can he go to get something to eat that he won't get beat up, and they told him Out of Bounds. Then she said, this place looks like it is dying;

and she told the lady, this is the comeback trail.

Mr. Howard Brenner said he can't top that, that's for sure. He just wants to say that when then Mayor Bill Dannahower, who was a high school colleague of his, asked him 14 years ago what he might like to do for the City, little did he realize he would end up serving over 14 years on the Housing Authority. It has been a real privilege to serve the City in this capacity. He can't say the pay was exceptionally good, as Commissioner Becht and Commissioner Nelson will attest; but nevertheless, there were an awful lot of benefits that came from it and he appreciates the opportunity to serve.

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

Letter from Natalie Neil, St. Lucie County Chamber of Commerce, in appreciation of the time and effort and help given by Kia Powers, Deputy City Clerk/Licensing & Permits.

Letter from Elie J. Boudreaux, Fort Pierce Utilities Authority, in appreciation of the City Commission and City Management for their leadership and for highlighting the positive assets of Fort Pierce as well as strengthening community pride.

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

Commissioner Coke said she would like Item 7b (Seagrass Survey and Wetland Delineation for State Road A-1-A), 7c (Moore's Creek Cleanup), and 7n (Waiver of fees against 1503 Avenue J) removed for discussion.

Commissioner Alexander said he would like Item 7d (Amending Department of Building & Community Response 2005 Budget) removed for discussion.

Commissioner Nelson said he would like Item 7e (Trucks for Department of Building & Community Response) and 7o (Comprehensive Plan Update) removed for discussion.

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

a. Approve the Minutes of the Special Workshop Meeting on June 28, 2005; and the Minutes of the Regular Postponed Meeting on July 5, 2005.

f. Authorize piggyback Florida Sheriff's Association Bid for purchase of one (1) 2006 Ford F-150 **Pick Up Truck** for the Solid Waste Department from Don Reid Ford in the amount of \$16,200.00. Bid No. 5472

g. Approve increase of \$10,000 to Blanket Purchase Order for Diesel Fuel for **Golf Cart Equipment** for the Indian Hills Golf Course from Palmdale Oil Company.

h. Approve increase of \$20,000 to Blanket Purchase Order with

Elpex, Inc. for **Tires** and approve increase of \$5,000 to Blanket Purchase Order with Southern Truck Equipment for **Vehicle Parts**; for the Solid Waste Department.

i. Approve expenditure of \$9,867.00 from the Law Enforcement Trust Fund for seventeen **Emergency Vehicle Computer Consoles** for the Police Department from D & R Electronics. Bid No. 5491 - Sole Source

j. Approve expenditure of \$6,551.58 from the law Enforcement Trust Fund for six **Desktop Computer Systems** for the Police Department from Dell Corporation. Bid No. 5491

k. Approve expenditure of \$20,196.00 from the Law Enforcement Trust Fund for twelve **Panasonic Notebook Computers** for the Police Department from Insight Public Sector. Bid No. 5491

l. Accept settlement payment of \$250 toward Code Enforcement Board Lien against **518 North 27th Street**, owned by Barbara Brown, upon payment of \$638.47 in Administrative Costs within 90 days.

m. Approve waiver of \$5,983.36 in interest, penalties, and fees against **1503 Avenue J**, owned by Robert & Gina Devingo, upon payment of \$3,477.94 in Lot Clearing and Demolition Liens within 90 days.

p. Accept the 2005 Community Development Block Grant Supplemental **Disaster Recovery Initiative Funds** in the amount of \$3 million; and authorize Mayor and staff to execute the Subgrant Agreement between the City and the Florida Department of Community Affairs.

The next item considered was Item 7b, which had previously been removed from the Consent Agenda: Approve Specific Authorization No. 3 to Agreement for Professional Engineering Services between the City and LBFH for preparation of a **Seagrass Survey and Wetland Delineation** for State Road A-1-A (U.S. #1 to Blue Heron Boulevard) in the amount of \$7,085.00.

Commissioner Coke said she pulled this item for the same reason she pulls all these things for the last three and a half years. They do not have a "time of the essence" clause in here. And she would have thought they would have been burned enough times with work not being done in a timely fashion and costing the City thousands of dollars and very missed golden opportunities. She would like to see these have time of the essence clauses in them.

Mr. Hector Arias, City Engineer, said they can approve this contingent upon having a clause indicating time is of the essence.

Mayor Benton asked can Mr. Arias recommend how long he thinks this should take? They are looking to get started as soon as possible. Is this going to hold up the A-1-A project?

Mr. Arias said he thinks they have already started, but he is trying to say maybe six weeks or eight weeks.

Mayor Benton asked does this item deal with the retention area around the Smithsonian, or is this something further down?

Mr. Arias said further down. It is a requirement of the South Florida Water Management District that they need to have that. Mayor Benton said for Phase III. So it is not going to hurt,

because they are starting with Phase I or Phase II.

Mr. Arias said no, definitely not.

Mayor Benton asked how long?

Mr. Arias said about two months, 60 days.

Commissioner Coke said she just thinks that maybe it is time, rather than addressing all of these things individually, that they set a policy that the City has a time of the essence clause in all of these contracts with a penalty clause if it is not done in a timely fashion.

Commissioner Nelson said he supports that. Like Commissioner Coke has been talking about a time of the essence clause, he has been trying to get a schedule so they can track the various activities as they are going along in certain phases of these projects, like a chart or something of this nature, so the Commission will know where they are at any given time in a program. They need simply to set up a mechanism by which they insure that their projects are going to come in on time, within specs, and on budget. The best way to do it is to have that time of the essence clause in it and to have some type of chart reflecting the various activities that are going to take place to insure the task is going to be performed in a timely manner. It doesn't take a rocket scientist to do that.

Even he did that a few years back. But for the time being he can forego the chart or anything that shows the delineation of the time schedule, but he certainly would think that the time is of the essence clause is appropriate at this time.

Commissioner Alexander said he just wants to support the request that Commissioner Coke asked time and time again. Not making it an issue, just that they need it done.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve Specific Authorization No. 3 to Agreement for Professional Engineering Services between the City and LBFH for preparation of a Seagrass Survey and Wetland Delineation for State Road A-1-A (U.S. #1 to Blue Heron Boulevard) in the amount of \$7,085.00, conditioned upon the City Attorney and the City Engineer adding a time of the essence clause and penalty clause as appropriate to get the job done.

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

The next item considered was Item 7b, which had previously been removed from the Consent Agenda: Approve proposal by Hayslip Landscape for clearing and trimming trees in Moore's Creek (U.S. #1 to 2nd Street) in the amount of \$24,300. Bid No. 5496

Commissioner Coke said again, she pulled this item for the same reason she pulled the previous item. They do not have a "time of the essence" clause in here. She would approve this conditioned upon a time of the essence clause being added with a penalty for days late.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve proposal by Hayslip Landscape for clearing and trimming trees in Moore's Creek (U.S. #1 to 2nd Street) in the amount of \$24,300 conditioned upon the City Attorney and the City

Engineer adding a time of the essence clause with a penalty for the amount of days late.

Commissioner Nelson said he would like to see them put in a chart indicating when things are going to take place, so they can get things done in a timely fashion.

Mayor Benton said his only comment is, he hopes they watch out what they do there because those are mangroves. He would hope Mr. Hayslip knows the difference.

Commissioner Alexander said in this proposal, it is speaking about removing the mangroves.

Mr. Hector Arias, City Engineer, said they are going to be trimming the mangroves. They are going to have to have permission to do that from the DEP (Florida Department of Environmental Protection). Also, when he gives the notice to proceed, they will have a certain amount of time to do the project.

Commissioner Alexander said it says the mangroves will be removed.

Mr. Arias said they will be trimmed, not removed.

Mayor Benton said in here it says basically they will be removed. He would hope that is not the case.

City Manager Beach said they couldn't contract with someone to do something that was not legal. Hayslip Landscape and the City do have responsibilities to insure that whatever work done is done in compliance with the law.

Commissioner Alexander said he can understand that too, but sometimes they overlook things. His concern about this, is that the City's right-of-way?

Mr. Arias said yes, it is. It is the Moore's Creek.

Commissioner Alexander asked U.S. #1 to 2nd Street? So why did the City have to have a complaint made by business owners before they addressed this?

Mr. Arias said because of the growth, it is impeding flow of the canal. It is going to be a problem if they don't remove the things. When it rains a lot, they have a lot of debris coming into the area. Does that answer his question?

Commissioner Alexander said no. He is looking at this overgrowth here. It looks like it has been some years.

Mayor Benton said it has been.

Commissioner Alexander said they are working on Moore's Creek right now. The City is spending millions of dollars on that Linear Park, right?

Mr. Arias said not on that section. They haven't done that section yet.

Commissioner Alexander asked does Mr. Arias mean to tell him he didn't address the whole creek?

Mr. Arias said no.

Commissioner Alexander asked why is that?

Mr. Arias said because they are doing it by phases; and that is the funding they had, for the other phases.

Commissioner Alexander said they are speaking of the quality of the water that is running into the lagoon, right?

Mr. Arias said the water quality is handled by the other sections they built. But that section was never included into the project.

Mayor Benton asked could he make a suggestion that in the motion they specify that they are trimming mangroves but not removing mangroves? Because that is what it says in the proposal.

City Manager Beach said they may very well be removing mangroves if that is what is necessary to make the area function the way it is designed to function; but they can't and will not remove them without the appropriate permits.

Commissioner Coke said let's specify that in here. If they are not specific about it and they grant them a contract that says, mangroves in water to be removed, and they do it and there is a big fine involved in it because it was done inappropriately, it is going to come back on the City. Whereas if the City specifies in there that no mangroves are to be removed without the proper permitting.

Mr. Arias said what is between the permits and the fines is his Engineering Department. They are not going to let this project go if they have to have a permit. They have been doing this type of work for many years and he doesn't remember having any fines.

Mayor Benton said because they can see how the mangroves are going to cut the flow down, but they have all seen a three or four inch rain or better and what comes out of there. The mangroves have a job in nature to filter. If they take them out of there, yes they are going to get more water out of there, but they are going to get more garbage out of there too. So to him, he would like to see them leave the mangroves and trim them. There is a lot of other brush that can be removed, but the mangroves have a reason for being there. His personal opinion, he believes they should stay. It might cut a little flow down, but he is sure removing the rest of the vegetation will increase the flow considerably. That is his opinion. How can they sit here and get after everyone else, and now they want to talk about taking mangroves out. That part of the creek is a natural creek. The rest of it was a man-made ditch, a lot of it.

Commissioner Nelson said once again he would agree with Commissioner Coke. They ought to in fact clarify this in a fashion that they don't usurp or violate any state law regarding the mangroves. He would call on the City Attorney to put in a phrase in here to allow them to trim or move or get permits or something that is going to insure that they are not caught in a Catch-22 by telling somebody to do something because of a contract or something that is in violation of the law.

City Attorney Schwerer said the contract already provides for that responsibility to the City and it says specifically that the City assumes the responsibility for permitting and that is to be

provided by the City. What they have to assume is that their engineering staff and the staff that is administering the contract will apply to the necessary agencies for the permits. His understanding is that trimming, removal, or eradication of mangroves in certain types of waterways is a perfectly permissible activity. This is an inland waterway. It is not navigable. They are growing in there for various different reasons. He is not a mangrove expert. But if they want someone to take a look at this to determine if there are any pollution issues, that is a whole different issue. This was for a cleanup proposal only. It is in here that the City would apply for the necessary permits from the agencies and they would have those in hand before any work is to commence. So if they want to take a look at whether they want to preserve these mangroves in there for some reason and have a report from a consultant as to whether that is a good idea or a bad idea. This is a drainageway that flows obviously into the Indian River Lagoon. It has been permitted in the past?

Mr. Arias said they haven't done it before. He has a suggestion. Why don't they table this for the next Commission meeting and then he will bring them a report of all the things they have considered before they submitted this to the Commission. He will send them a report so they know what they have done to avoid all this.

Motion was made by Commissioner Coke, seconded by Commissioner Nelson, to postpone action on the proposal by Hayslip Landscape for clearing and trimming trees in Moore's Creek to the August 1st City Commission meeting.

Commissioner Nelson asked what was Mr. Arias planning to do? Is there any time of the essence in this thing? Are they holding up any projects in any way?

Mr. Arias said no.

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

The next item considered was Item 7b, which had previously been removed from the Consent Agenda: Approve appropriation of \$232,528 from the General Fund to the **Department of Building & Community Response** (amending Department 2005 Budget) for eight (8) additional employees, seven (7) vehicles, and equipment.

Commissioner Alexander said he just wants them all to know he has been having problems with this ever since the workshop last week; and only because his concern is that other departments in this City of Fort Pierce is just badly in need of new employees or replacements or whatever. His concern is when they come before him, and he is looking here where it says about the employees, but then in another section he is looking at seven vehicles. He was reading somewhere, he doesn't know what he did with it between now and then, he doesn't know what happened to the other request. It was more than seven vehicles. Not only that, he looks at the wording equipment. They are talking about eleven computers. He doesn't know where that list came from that he was reading. But could anyone help him with this?

Commissioner Coke said it is on the front page of Mr. Alcorn's request.

Commissioner Alexander asked what does it say? Eleven new

computers.

City Manager Beach said the way Commissioner Alexander is reading it is accurate. That is the request in front of them. He doesn't know the specific number of computers. He assumes it is going to be as stated in the memorandum or in the request. If he understands what Commissioner Alexander is saying, he is not comfortable with this because they have other needs in the organization as well.

Commissioner Alexander said yes.

Mayor Benton asked but isn't this what they heard the other day, isn't this money generated by the Building Department with permitting fees? It can only be used within that Department. This money cannot be used for additional Public Works people or something else.

City Manager Beach said that is correct.

Commissioner Alexander said his concern with that is, if they are getting eight new employees, why are they getting eleven new computers? Who is going to be using them?

City Manager Beach said he is assuming a certain number of those computers are for existing employees and a certain number for new employees. Mr. Alcorn is here. Is he in a position to address that?

Commissioner Alexander asked didn't the Commission just authorize that department with computers last year? He doesn't forget that easy. It is not a big thing. His question to them tonight is, they have a budget coming up, right? At the end of this month or next month? When are they going to start?

City Manager Beach said that is correct, the end of this month.

Commissioner Alexander asked why is it so important that they go before the budget?

City Manager Beach said this is important because of the extent of damage that the City has had as a result of the hurricanes and the need to get additional staff on board to start addressing those issues.

Mayor Benton said he for one would support this, because he knows since the hurricanes they sort of put code enforcement on the back burner to deal with a lot of other issues. They see it all over the City and he hears the screams from people - when are they going to get back to the work of cleaning Fort Pierce up? They have a lot more work to do since the hurricanes. Eight people are just going to touch the problems.

Commissioner Alexander said he doesn't have a problem with that. But when he hears other departments piggybacking off individuals who get new computers and so forth, why is it that the City of Fort Pierce can't piggyback off itself and get whoever or whatever the amount it needs for computers for any time period? They are nitpicking everything. That is with vehicles also. If the City can't do this collaborative together in a dealership or a corporation giving the City better prices, why are they not letting their right hand know what the left hand is doing? That is the

only question he has. They speak about the gas. They don't gas up at the same place, down at Public Works? Do they have different gas tickets?

City Manager Beach asked who is he talking about?

Commissioner Alexander said he is speaking about the gas and oil for these vehicles they are going to be purchasing. They don't gas them up at Public Works?

City Manager Beach said yes, they do.

Commissioner Alexander asked then do they have a line item where they pay?

City Manager Beach said that is correct.

Commissioner Alexander said that is good to know.

Commissioner Coke said all these increases of funds into the Building Department, on an annual basis the General Fund has been covering the expenses of the Building Department. It is her understanding now that the Building Department will be self-sufficient; and the monies that were coming from the General Fund to supplement the expenses of the Building Department that was not covered by permits, then will flow back into the General Fund, freeing up money for other departments.

City Manager Beach said essentially that is correct. They will not have to tap General Fund resources other than those generated by building permits to pay for this. In the past, between the Building Department and Code Enforcement, they have probably taken half of the cost of that operation from General Fund sources other than Building Permits.

Commissioner Coke said so in reality, this actually is going to free up money for other departments, because the General Fund won't be paying for the Building Department. It will be self-sustaining. And then the City can utilize those funds in the other departments throughout the City.

Commissioner Nelson said he has similar concerns. They have just a few months before their budget hearings in September. It is going to take a certain amount of time to get these people on board and trained. He doesn't think they can afford or should free up that \$300,000 or so right now for personnel and equipment in the face of their budget hearings coming up, and look at this thing from a global standpoint as opposed to one specific department, address the totality of personnel, equipment, computers, and all. It could be looked at more realistically if they were to wait and incorporate it in the budget for next year. How long is it going to take them to get these people on board?

Mr. John Alcorn, Director of Building & Community Response, said he would hope within the next month. Actually Human Resources had just recently advertised for an existing Code Enforcement position.

They do have applications there. They would hope as a result of this meeting this evening, if the Commission approves it, that they would have many applicants from within the City that know the City well and can understand the neighborhoods and relate to the people in the neighborhood, so they could get on board quickly and have a very positive influence on their neighborhoods. That is really

what they would like to do, is have local people who know the City well and can be very positive with them to be on board. But if they wait until after the budget, they would probably be into the first of next year by the time staff can get going with this. As the City Manager said, they would like to get working now immediately on the hurricane clean-up activities and then after the first of the year go into the neighborhood approach as they had discussed at the workshop the other day.

Commissioner Becht said based on his understanding, the City isn't going to have any choice but to do something with the \$3 million they created with their permitting fees. All he is doing is starting to do it now rather than later.

Mr. Alcorn said or they can give it back to the big developers by reducing the fees.

Commissioner Becht said he didn't hear that option. They can either start spending it now or do it later, so he is very much in favor of doing this now.

Mr. Alcorn said in answer to one of the questions about the vehicles, he talked to the Finance Director today and they have deleted that amount for the vehicles from the next year's budget. So whether it be today or next year, the dollar amounts are the same. But it has been deleted from next year's budget pending approval here.

Mayor Benton said if these people can't get to the field, they are not doing them any good in City Hall.

Commissioner Coke said she is going to support this because she thinks they need to move forward rapidly to getting their standards back to what they were. The only thing she would request, and she is sure staff has heard it before, that they really make a very diligent effort to hire bilingual people that will fit all the needs. Because if they send people out into the Haitian community who can't communicate with the people or the Creole community or any other little pockets of people, they need to be able to communicate with everybody in the City.

Mr. Alcorn said they feel very strongly that way. As of now they have four bilingual within their department and are looking for more.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve appropriation of \$232,528 from the General Fund to the Department of Building & Community Response (amending Department 2005 Budget) for eight additional employees, seven vehicles, and equipment.

Commissioner Alexander said again, it has been troubling him since the workshop. If they think he is taking up too much of their time, then so be it. But when they are giving Mr. Alcorn the \$232,000, that is just for the rest of this year. That is not calculating what it would cost from year to year. That is to October 1st.

Mr. Alcorn said that is correct. Should it work out that not all of that is spent, it will go back into the General Fund obviously. It doesn't carry over.

Commissioner Alexander said in actuality, he has not gotten what it

is going to cost the City for these employees from October 1st to October 1st.

Mr. Alcorn said he does have the 2006 budget prepared, what their proposed budget would be. What they would have to subtract from that is the vehicles.

Commissioner Nelson said he noticed in one of his documents, Mr. Alcorn coordinated with Finance Department and did not get in the certification of the funds that were available. They just talk about \$3 million he got from some fees from the developers. In his request for vehicles next on the Agenda, he did coordinate with it. It is confusing as to the unit cost of the vehicles. He has \$96,000 and \$98,000.

Mr. Alcorn said just let him answer that quickly. The procurement department had used the State bid. On the piggyback it was a little over \$13,000 per vehicle for extended cab Ford pick-up trucks.

Mayor Benton said they can't beat that price.

Commissioner Nelson said he just wants them as staff to coordinate with each other - Finance, Purchasing, and all - so when he looks at a document. When he sees something in one and in another he doesn't, it confuses him on the total cost. He is going to go along with it based on his input at this time though.

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

The next item considered was Item 7b, which had previously been removed from the Consent Agenda: Approve piggyback Florida Sheriff's Association Bid for purchase of seven (7) 2006 Ford Ranger **Pick-Up Trucks** for the Department of Building & Community Response from Don Reid Ford for a total of \$96,019.00. Bid No. 5472

Mayor Benton said Commissioner Nelson just got his answer for that.

Commissioner Nelson said yes, he got his answer during the previous discussion.

Motion was made by Commissioner Nelson, seconded by Commissioner Coke, to approve piggyback Florida Sheriff's Association Bid for purchase of seven (7) 2006 Ford Ranger Pick-Up Trucks for the Department of Building & Community Response from Don Reid Ford for a total of \$96,019.00.

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

The next item considered was Item 7n, which had previously been removed from the Consent Agenda: Approve waiver of \$2,048.79 in interest, penalties, and fees against **428 North 8th Street**, owned by Carolyn & Donald Kowalski, upon payment of \$3,862.64 in Lot Clearing and Demolition Liens within 90 days.

Commissioner Coke said she got confused with this one because it says the owners are Carolyn & Donald Kowalski and the applicant who is requesting that they waive these fees is Chad C. Caramanna. It doesn't appear that this person owns the property, although he

references it as if he does. It says the former owner is Carolyn & Donald Kowalski, but it is still showing them as the owners of the property. Her question is, who actually owns the property? If this gentleman does own it, then fine, they can move ahead; but if he doesn't own it, she doesn't think they can grant this when the people who own the property aren't even requesting it.

Ms. Clelia V. Riccardi said she works for Capital Abstract & Title. They had the closing regarding the Kowalski's to the Caramanna's, who are here. Lois Caudill from the City stated they would have to be the people representing; and that is why they are asking for the courtesy of the reduction and they would be glad to pay for the actual fee.

Commissioner Coke asked who owns the property right now?

Ms. Riccardi said the property is in the transferral of the Kowalski to Caramanna which they will then get the documents. It hasn't fully properly cleared.

Commissioner Coke asked the Kowalski's still own the property?

Ms. Riccardi said no. It is under the Caramanna.

Commissioner Becht said he is confused. Does Ms. Riccardi work for the title company?

Ms. Riccardi said yes, they are the office that did the closing. They have the owners here also. She did all the research and managed the portion of the tax and lien, so she was familiar with what actually had to be done and why they went through the courtesy through Lois Caudill and the City staff.

Commissioner Becht asked did she insure title to this property?

Ms. Riccardi said yes, they did.

Commissioner Becht asked did she miss the lien?

Ms. Riccardi said no. They realized the lien was there, but they held funds in escrow because the City gave them the courtesy to have the closing and then come before the Commission, because the Commission only meets in so many days that they had to go by their abiding rules.

Commissioner Becht asked how much money did she hold in escrow?

Ms. Riccardi said they did hold the full amount.

Commissioner Becht asked the full amount of the lien?

Ms. Riccardi which was the \$5,800 and some change, yes.

Commissioner Becht said so they currently are holding all the money necessary to pay this lien in full.

Ms. Riccardi said yes, they are. They just came before the Commission requesting that they have courtesy of that.

Commissioner Coke said once again, she has a little bit of a problem with this, because here is property that was neglected, was owned by people who don't live within the City limits, and it was

not maintained properly. And in the usual fashion as with these cases... Of course, she doesn't have as much information on this as she usually does from staff as to when the lien started and the fines started. But now they have another future owner who is also not from Fort Pierce and no guarantees that the property is going to be maintained. Her inclination is, unless they let people who don't reside here understand that they are responsible to maintain their property, then they are going to continue to let the City take care of it, and then come and ask to please forgive their lien and fine.

Commissioner Becht said in this particular instance, he doesn't see any reason or justification to reduce the fine. They have in escrow all the money necessary to pay the full amount of the fine. The buyer was okay with it because the money got escrowed. The seller was okay with it because the money got escrowed. Let's get paid what the City is entitled to get paid on this particular one.

Commissioner Coke asked is that a motion to deny?

Motion was made by Commissioner Becht, seconded by Commissioner Nelson, to deny the request by Carolyn & Donald Kowalski that the City waive of interest, penalties, and fees against 428 North 8th Street.

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

The next item considered was Item 7b, which had previously been removed from the Consent Agenda: Approve proposed Contract with Calvin, Giordano & Associates for professional planning services for development and adoption of a local **Comprehensive Plan** and required Elements subject to review and approval by City Attorney.

Commissioner Nelson said he appreciates the effort on the part of the staff and the company and the fine work that is done by the Deputy City Manager, but he is not satisfied with this. They did address the time of the essence; but when they talk in terms of comprehensive plans, saying the driving force behind the plan rewrite would be a public participating process, he doesn't think that it is going to be the driving force. He thinks the driving force is going to be the following of the dictates of the law, the law as it was passed by Senate Bill 360 and further explained in terms of Florida Statute 218. If either or both of them is not in fact adhered to, then the plan is going to be rejected. He has said it over and over again. Their first responsibility is that of upholding the law. The law has been set. He also notes that in Task 2 they are talking about gathering existing information from the City of Fort Pierce. There is information out there over and beyond existing information that they need to put in their Comp Plan before it goes to DCA for approval. The environmental people, the transportation people, and the community affairs people have put out information indicating exactly what they are looking for. Now go back to the "Time of the Essence" program. He would like to have somewhere put in there the fact that, as the City moves forward with this plan and executing this contract, that they will go up to DCA, get certain comments, and come back to the Commission. The Commission doesn't want this plan to be like the other Comp Plan they have had - they bring it back and sit it on the shelf and nothing done to it. So if they are going to say time is of the essence, they ought to say it is subject to the approval and the possible implementation by this City relative to the

dictates required in the Comp Plan. They were burned severely by doing a study down there at the river down there at the Port. They got this study and it didn't follow the dictates of the contract. They had a building being built over there and the architect plan did not comply with the laws relative to the fire problem, i.e. it didn't meet the criteria needed so they could use it. So they go up there and get a plan and put it out there and it comes back and it doesn't satisfy all the requirements, they sit it on the shelf.

Somewhere along the line he is trying to say, they need the language in terms of time, in terms of usability, and of course it complies with the law. How do they incorporate that in this plan?

Where do they say that in this proposal they have here?

Mayor Benton said he thinks at the end when it says final adoption, he believes that means it makes it law. It has to be adopted by DCA and the City Commission. Is he right? Isn't that what final adoption means? It means it is adopted. That means it is approved by DCA and the City Commission.

Commissioner Nelson said if he says that be the case, if it is a final adoption, it could go on for the next 15 years, because he is going to be asking every time whether or not it complies with the law; and if it doesn't, the City would be remiss in adopting it when it doesn't comply with the law.

Mayor Benton said if it doesn't comply with the law, DCA will not approve it.

Commissioner Nelson said he hopes that is the case.

Mayor Benton said it is the case.

Commissioner Becht said DCA doesn't set law. DCA attempts to interpret law. What the DCA may this month or in November of 2006 when they submit to them, he doesn't want to tie their hands to what Commissioner Nelson is talking about because he thinks it does just that, it ties their hands. The City may or may not want to be more aggressive with the DCA. There are counties or municipalities who have actually sued the DCA because the DCA took a position that those counties or municipalities felt was unreasonable. What is lawful is, in his field, a very difficult thing to predict what it is. They can go all the way up to the Supreme Court to figure out what the law is. He is not saying they want to go there. But to put in here that it will be a lawful plan would imply that it is acceptable to DCA when the City may have to sue DCA to tell them they ought to have accepted it. He doesn't know what Commissioner Nelson is looking for in here exactly, but he is not sure they want it in there.

Commissioner Nelson said he submitted to them a document on the 16th of June reflecting the fact that the lawmakers, under provisions of Florida Statutes, signed into law by the Governor and being pushed by the Legislature being delegated sub-elemental authority by the Environmental Protection Agency, the Transportation Agency, and DCA to make sure these Comp Plans comply with certain provisions of the law. He is not a lawyer trying to argue with him the law, but he has sworn to uphold the law as set forth before him. Yes, Commissioner Becht is right, DCA does not.

But DCA has been charged, the Environmental Protection Agency has been charged, the transportation people have been charged, and they are pursuing that. He has shown it to them in writing, it is covered in most of the professional magazines and all. And what he

sees here does not comply with it in terms of quality, in terms of timeliness, in terms of making sure that all of those elements are adequately covered. Until he does that, his vote would be to hold off on submitting this plan unless the contract man here can tell them where he has read the Senate Bill 360 and Florida Statute 218 he is sure. If he can convince three of them, they can do it. But what he sees from his vantage point, it is not adequate.

City Attorney Schwerer said following up on comments by Commissioner Becht, who happens to be a land use attorney, he is very correct. What they are going to get and what they can expect from their consultants is their consultants will be charged with the responsibility of telling them what is the minimum mandatory required action in each element of their plan - whether it is transportation, whether it is land use, etc. They as a Commission have the option, and what they send to Tallahassee, will be something the Commission approves. They may or may not approve something which is technically legal, at least in the eyes of the DCA. They can require, as Commissioner Becht pointed out, raise the bar so to speak in certain elements; and they may go to task with DCA. But he can assure the Commission that as this contract is administered, the staff will be charging these consultants with the responsibility to comply with Senate Bill 360 - it is mentioned in the Overview here - and to present to the Commission the various alternatives. If they don't do that, then he would expect them to not be in compliance with their contract. But to add a clause in the end that says the plan must comply with law is probably not able to be put in there because the plan will have to be signed off by the City Commission, after all the public hearings, and then sent to DCA and the DCA has to sign off on it. So it takes two entities, the Commission and the DCA, and that is when it will become law.

Mayor Benton said there are also public hearings at the Treasure Coast Regional Planning Council level.

City Attorney Schwerer said there will be public hearings throughout the entire process that are mandated by statute. That doesn't necessarily need to be in this contract because it is presumed that when they administer a Comprehensive Plan re-write that they are going to follow the law in each step that they take.

Commissioner Coke said it has taken them an awfully long time to get to this juncture. She hates to see this get postponed any longer. It is already a plan that is going to take a couple of years from start to finish. Although 18 months would be a nice target, but they don't want to kid themselves either. She doesn't think, with all the development going on in the City and everybody wanting them to move forward, that they can afford to put this off any longer. She thinks the City needs to bite the bullet and move forward and these people can start expediting things. If there is a change or two that the City Attorney needs to fine tune in the contract, then he thinks Mr. Schwerer would tell the Commission that he felt they needed to fine tune something in the contract. And irregardless of that, she thinks they should move forward on this tonight and leave the fine tuning to the legal man over here.

These people are professionals. They do this for a living. They certainly understand the fact that they need to present to the City a plan that they can accept that is within the boundaries of the law and within the boundaries of what will be accepted.

Mayor Benton said Commissioner Becht has found one item that needs

to be changed.

Commissioner Becht said he needed it to be clarified. Page 5, Task 2.2-2.4, it says 10% in April 2005.

City Attorney Schwerer said that is supposed to be changed. If he can point out, time was of the essence and they were trying to get this bond issue done for the Commission to have that on schedule for those issues. He had done an interoffice memorandum which the Deputy City Manager has which suggests changes to about four things in the contract, one of which is the Time of the Essence clause. They are rewording that in a slightly different way and coming to a certain amount. They are striking any reference to the contractor getting a bonus for completing early, because the City is going to set the time schedule they need to set and they are not going to do this thing in a hurry. There are some issues about a not to exceed price of \$225,100.00, they will add that to the contract. There is an issue dealing with travel expenses. They want that clarified. They are not going to pay travel for local issues that were supposed to have happened here. And they are going to talk about any extras in this contract to have them delineated. So there are a number of changes he is going to be proposing or have proposed that are not before the Commission. But if they move tonight to approve the contract subject to final review and sign off by his office as well as the Deputy City Manager who has been negotiating this, then that should be sufficient.

Mayor Benton said he is glad he caught those.

Commissioner Nelson asked Mr. Schwerer endorsed the idea for the driving force is the public's participation or the law?

City Attorney Schwerer said no, he doesn't view that verbiage as actually part of the contract. The contract part he is looking for is what are the tasks they are going to do, what are the deliverables, what is the time schedule, how much are they going to pay, and what are they going to have in the end result. He agrees that Senate Bill 360 is certainly a very significant driving force, not only to this Comp Plan, but to all Florida cities; and it will be something they will have to deal with in the next year and a half to two years as they go through this process with these consultants.

Commissioner Nelson asked where can they insert in there that it is going to be acceptable by the various departments that oversee these Comp Plans? What kind of assurance can staff put in there to address the fact that it is going to be a plan that they can use?

Commissioner Coke said if it is not, they won't approve it.

Commissioner Nelson said they had that experience before.

Mr. David Recor, Deputy City Manager, said that will ultimately be his responsibility as the Deputy City Manager to make sure they change the culture of the organization to make sure that plan doesn't sit on the shelf, that it guides the decisions and their recommendations that they make to the Commission on a bi-weekly basis.

Commissioner Nelson said but usually the fact that sometime they approve things that become a contract between two people. They

have had that with the garage, they had that with the port, they had that with the guy planting one type of tree. And what is on the written document approved by this Commission and the party they are dealing with becomes the driving force.

Mr. Recor said every recommendation that the staff makes to this Commission will be based on consistency with the goals and objectives that are identified in the new Comprehensive Plan. Whether they choose to use that recommendation in their decision-making is entirely up to the Commission. But it will be his responsibility to make sure that any recommendation made to them is based on the requirements of that Plan.

Commissioner Nelson said that sounds good. He is going to trust him.

Mr. Recor said he hopes he does.

Motion was made by Commissioner Becht, seconded by Commissioner Coke, to approve proposed contract with Calvin, Giordano & Associates for professional planning services for development and adoption of a local Comprehensive Plan and required Elements subject to review and approval by City Attorney.

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 Mr. Calvin Knowles, Meridian Community Services Group, Inc., to present 2005-2010 HUD Consolidated Plan and 2005-2006 Annual Action Plan.

Ms. Dorina Jenkins, Assistant Director of Community Services, said Calvin Knowles, Project Coordinator from the Meridian Community Services Group from Tallahassee, will present the City's five year Consolidated Plan followed by a Public Hearing for public input.

Mr. Calvin Knowles said he works with a company called Meridian Community Services Group, Inc. They are a housing, economic development, community development, and disaster recovery firm based in Tallahassee. He actually resides in St. Petersburg. They were contracted by the City to prepare the 2005-2010 Consolidated Plan and the 2005-2006 Action Plan which is part of the Consolidated Plan. As some of them are probably certainly aware, HUD requires them to submit a five year plan every five years. Some communities do it more, some communities do it less, but five years is about the average. His associate, Susan Cook-Warner, has been working very closely with the City of Fort Pierce and with staff and with their Communitywide Council to update the Plan and to painstakingly go through the tables and try to put everything in light of the recent hurricane events and to create their new Action Plan. The reason they are here tonight and the reason he is up here talking to them right now is because Fort Pierce is in the middle of their 30 day comment period on the Consolidated Plan and the Action Plan. Public meetings have already been held regarding this Plan. This Public Hearing is a requirement of HUD. A second Public Hearing will be held August 1st which will be the expiration date of their 30 day window. At that meeting the Commission will adopt the Plan and submit it to HUD, which is due no later than August 15th. They are not required to take any action here tonight. The purpose of this is strictly to receive their comments on the plan and to receive any public input on the Plan. He will

be happy to answer any questions they have about the Plan. It is rather weighty and it contains a number of charts and observations about the housing needs of their community and the demographics of their community. Much of the plan is based on 2000 census data, which of course hasn't changed. But a variety of elements to the Plan were updated by Dr. Cook-Warner. If the Commission has any questions he will be happy to take those. Their Action Plan, their activities are very similar to activities funded in the past. They have a capital project for Pioneer Park for \$150,000, they have \$372,000 for Housing Rehabilitation activities, and the rest of their funds are scattered among various public service agencies which submitted applications back in November. Roughly, just to give them an idea of scope here, this is a five year plan; and that represents about \$4 million over five years in block grant funding.

Many of the other sources of funding come through the County to work in conjunction with Fort Pierce, HOME and SHIP, but they don't have direct jurisdiction over those activities. He will turn it over to the Commission for any questions or observations they may have; and certainly would appreciate if anyone in the audience has any comments, this would be the time to lodge those. They will incorporate their comments and observations into the plan for submission to HUD. If there is anything he can answer, he would be happy to do that; and if he can't answer it, he will find the answer and get back to them.

Commissioner Alexander said they have a Housing Authority associated in the City of Fort Pierce with HUD. How are they interacting with the Housing Authority?

Mr. Knowles said that is an interesting question. Every community is required to consult with the Housing Authority whenever they receive HUD funding of any kind. The level of cooperation varies from community to community. He is not intimately aware of how the particular Housing Authority here is cooperating with the City on this particular funding. He can tell them that there are no projects in here contained that concern the Housing Authority directly, so there aren't any direct funding projects. He can tell them that the Housing Authority does consult with City staff and certainly Dr. Cook-Warner did consult with Housing Authority staff.

Mayor Benton said on the first page, Items 2 through 8, do they have a list in here that shows the address of these properties or a map to show them where this money will be spent?

Mr. Knowles asked does he mean the specific projects that were identified?

Mayor Benton said it says Housing Rehabilitation (11 projects proposed), Housing Replacement (10 projects proposed), Property Acquisition (2 parcels proposed), Downpayment Assistance (17 proposed).

Mr. Knowles said the target area is Citywide.

Mayor Benton said right. He wants to make sure this money is spent Citywide, not just in part of the City.

Mr. Knowles said he doesn't think they have actually identified sites.

Ms. Jenkins said she thinks Mayor Benton is referring to a different plan. The Mayor is looking at the Disaster Recovery Plan

(approved under the Consent Agenda).

Mayor Benton said he thought they were both one.

Commissioner Nelson said now he is confused on that because he was looking at the same thing.

Mr. Knowles said they have two packages there. One was previously on their Consent Agenda, their Disaster Recovery Agreement with the DCA.

Mayor Benton said then his question would be on the Consolidated Plan. Is it going to be spent citywide?

Mr. Knowles said it is citywide. The target area in the City of Fort Pierce is citywide. That was done by Commission decision. That was the choice they made. That is a reflection of the people who live in the City and the types of demographics they have in the City. Over 60% of the City is low to moderate income. So the decision was obviously made, he thinks a very wise decision, to make a communitywide target area. So as these projects are identified, those are not going to be in one particular neighborhood, but could be anywhere in the City. If the concern is that there might be a cluster of activity in one area, then that is a concern he is sure staff would be happy to address.

Mayor Benton said he knows they have some folks here, at least one on the Communitywide Council, but he knows in the past they didn't have the opportunities they have today where the CRA has the ability to help in some areas of the City, but not all areas. Some areas of Fort Pierce that haven't gotten a lot of attention through Community Block Grant money, that is the only financing they have now. The other areas, two-thirds of the City, appear to have CRA money. So he hopes they take that into consideration in the future.

Mr. Knowles said one of the ironic things as he goes around the State and talk to people about their Federal funding is that they are expected to create this voluminous document for what frankly isn't very much money, but they have to stretch it as far as they can.

Mayor Benton said hopefully that money will continue to roll in.

Commissioner Nelson asked the \$419,000 for South 26th Street, what is the story behind that?

Ms. Jenkins said that was the agreement the Commission approved on the Consent Agenda.

City Manager Beach asked is this the joint project with St. Lucie County?

Ms. Jenkins said yes.

Mayor Benton said with the Fort Pierce Utilities Authority too.

Commissioner Nelson asked that includes the County's input too?

Ms. Jenkins said no, that is just the City's portion. The County is putting in much more.

Commissioner Nelson said back to the Five Year Plan. Mr. Knowles indicated that he has insured that the City project is going to be on time and on budget. How has he done that? How are they proposing to do it?

Ms. Jenkins said as far as the Consolidated Plan staying on time and on budget, that is just the annual requirement by HUD to meet their timeliness requirement.

Commissioner Nelson said that it is on time and within budget. Their track record is such that they have in fact been on time and within budget?

Ms. Jenkins said yes. If not, HUD would have taken their funding.

Commissioner Alexander said as he read through this package he got, it took him all night, he is looking at when they spend economic opportunities for citizens and it has job creation and retention. How would Ms. Jenkins implement that into her program and where does that fit in with her program, the creation of jobs? Is that something they are asking the City to participate in? Because he hasn't seen that and he doesn't see it in the near future for this five year plan.

Ms. Jenkins said that is something that Brian O'Connor, the new Director, will be working on is implementing, the economic development opportunities.

Commissioner Alexander asked creating jobs?

Ms. Jenkins said yes.

Commissioner Alexander asked did she say Mr. O'Connor is going to take care of this one?

Ms. Jenkins said yes, he will be implementing that strategy within the plan.

The next item on the Agenda was Public Hearing on the City's Five Year Department of Housing & Urban Development **Consolidated Plan & 2005/06 Annual Action Plan.**

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

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

Mayor Benton asked do they need to adopt this?

City Clerk Steele said no action is required by the Commission tonight.

The next item on the Agenda was Public Hearing on Application for **Waiver of Distance** submitted for TAAN, Inc. for construction of a **Filling Station** at the southeast corner of North 25th Street and Avenue C; said property zoned C-3, General Commercial Zone.

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

Mr. Randy Rodgers said he is with the firm of Friscia Engineering. He is representing TAAN, Inc. What they are proposing is a convenience store including a filling station on the southeast corner of 25th Street and Avenue C. The reason they are before the Commission tonight is, they are requesting a distance waiver. Code Section 9-323(d) states: The minimum distance between a new filling station and an existing filling station is 1,000 feet as measured by the nearest exterior wall lines. They are proposing a variance of 2%, which is approximately 20 feet, between these two. They can look at the location map and see this is measured out. That is basically what they are here for, is approval on this.

Ms. Marcia Baker said she is a member of the Communitywide Council and they just heard about the HUD Five Year Plan. This proposed filling station is in the middle of the HUD Redevelopment Plan. It is on 25th Street, which is a main thoroughfare, and is on the corner of Avenue C. Avenue C does not go through. It goes through on the maps, but physically it does not go through on the west side of the street. On the east side of the street of Avenue C is barely a lane, certainly not what she would call a thoroughfare. Even if the property were not in the middle of the HUD Redevelopment Zone and even if it didn't abut residential properties, she does not think from a point of view of safety or anything else like that, that a filling station on what is essentially really only technically a corner is appropriate. She is sure none of the adjoining property owners in the back on 24th Street are here. There are several residential homes that are there, those have been owned for years. There is an abutting vacant residential lot. These homes and that vacant residential lot are key to the redevelopment of the residential areas of the City. They are a part of the whole plan to upgrade the residential housing. To her, it is unconscionable that the only people who can benefit from homeownership in this City are those who are fortunate enough to live in areas where the commercial development has not deteriorated the residential values. She would strongly urge the City Planning Department and the City Commission, in whatever actions they take, whether on this particular situation or on anything else that is going to abut residential properties in the HUD areas, that they understand that it will be taking away the future benefit of homeownership from the people whose properties abut that on the other side on 24th Street and on Avenue C.

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

Mayor Benton asked what was Staff's recommendation and Planning Board?

Mr. Travis Gibbons, City Planner, said staff recommendation is approval for this project. Planning Board doesn't vote on this. This was sent directly to the Commission.

Commissioner Alexander said maybe it is something he has been holding back in his head. He thought along 25th Street corridor that it would not be allowing entrance off 25th Street. He is just asking the question. He thought on that corridor of 25th Street they were no longer allowing an entrance off 25th Street.

Mr. Hector Arias, City Engineer, said that is a FDOT (Florida Department of Transportation) road and that would be FDOT permit.

He hasn't heard anything that they don't allow an entrance at 25th Street. It depends on where the driveway is that FDOT would have the privilege of approving or disapproving the entrance. It has to do with distances from the driveway to the corner and things like that.

Commissioner Alexander said he doesn't see any turning lanes in that area there. That is a fast paced little stretch of road there. Is he looking at this right? This is 25th Street and he doesn't see any turning lanes off 25th Street. That is kind of dangerous for an individual just stopping and pulling in there.

Commissioner Becht said there is no deceleration lane.

Commissioner Alexander said he knows the area very well.

Commissioner Nelson said he knows that area quite well. As a matter of fact, he is concerned that the property owners in the area have not been contacted in that regard, or were they?

Mr. Gibbons said no, they were not. They will be once the site plan comes through to the Commission.

Commissioner Nelson said there are right now, starting at Avenue Q going on over to Okeechobee Road, about five service stations along that corridor. He thinks the property owner has the potential for use of that property without a variance or exception by this Commission. The fact that it is zoned commercial does allow the owner to develop it to a different usage. And another service station in the area that does not comply with the code is not warranted at this time.

Motion was made by Commissioner Nelson, seconded by Commissioner Becht, that the Application for Waiver of Distance submitted for TAAN, Inc. for construction of a Filling Station at the southeast corner of North 25th Street and Avenue C be denied.

Commissioner Becht said his understanding of a variance is that they have to demonstrate some sort of hardship. Is that correct?

City Attorney Schwerer said to the extent that this is a distance waiver, technically he guesses they call it a variance. But the applicant has to put forth a case as to why he believes he can be granted this within the code. The Commission, in order to deny it, would have to come up with a reason that rebuts that and also citing any type of public safety or public welfare issues that they feel by granting it. In other words, they have this 1,000 foot limit between service stations. He is asking for a 20 foot distance waiver. He meets the code except for 20 feet. He has presented his case. If the Commission feels he has not adequately presented it, they need to so find; and they also need to cite in their denial some public safety issues, which he thinks are covered already in the record, and some general welfare issues for the public.

Commissioner Becht said he thinks Ms. Baker hit on some very key points. There is a gas station eight blocks over at 33rd Street that is under construction now, a very nice big gas station there.

He thinks during his tenure they approved a gas station on U.S. #1 there at Edwards Road, which is now closed up. They have a proliferation of gas stations. They don't need any more of them, particularly within 1,000 feet of one another. So he would be

against this.

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

Ordinance No. K-355 entitled, "AN ORDINANCE OF THE CITY OF FORT PIERCE, FLORIDA ADOPTING **AMENDMENTS** TO ITS **COMPREHENSIVE PLAN** BASED ON ITS EVALUATION AND APPRAISAL REPORT INCLUDING AMENDMENTS TO THE FUTURE LAND USE MAP, THE TEXT OF THE TRANSPORTATION ELEMENT, ~~PORT SUB-ELEMENT~~, AND INTERGOVERNMENTAL, COORDINATION ELEMENT AND ADDING APPENDIX "A" LAND USE CATEGORIES, IN ACCORDANCE WITH THE MANDATES SET FORTH IN CHAPTER 163, FLORIDA STATUTES; PROVIDING FOR ADOPTION; PROVIDING A CONFLICTS CLAUSE AND SEVERABILITY CLAUSE, PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES." was placed on first reading and read by title only.

City Clerk Steele said the Public Hearing was postponed from the June 20th City Commission meeting.

Mayor Benton asked does he see that Mr. Recor has a recommendation that this be continued in August?

Mr. David Recor, Deputy City Manager, said he did. But if the Commission would indulge, he would like to discuss the matter and perhaps change that recommendation this evening.

Mayor Benton said before he opens the Public Hearing, maybe they should hear him.

Mr. Recor said this is a fairly involved issue, so what he would like to do is briefly summarize the background information for the Commission but primarily for the public, so they all understand exactly what this matter is and what the Commission is being asked to do this evening. If they recall, earlier this year the Commission transmitted two Comprehensive Plan amendments to the Department of Community Affairs on the heels of an annexation approval involving KB Home. KB Home was proposing to construct two projects located off of Jenkins Road. He believes preliminary site plans were even presented to the Commission. In June at their last meeting Ruden McClosky, representing KB Home, had indicated that the Department of Community Affairs waive the Objections, Recommendations, and Comments Report, what is known as an ORC Report, which basically means that the DCA didn't find any real issue with those Comprehensive Plan Amendments. They waived their opportunity for formal review. But at the same time they pointed back to some outstanding EAR-based amendments dating to 1999 and 2000 that the City had not addressed. What they said was, even though they were waiving the formal review of these future land use map amendments, they weren't going to act on them formally until the City went back and addressed the issues dating to 1999 and 2000. Those issues involved three areas. One was establishing Level of Service standards in the Transportation Element of the Comprehensive Plan. There was an issue of establishing school siting criteria in the Intergovernmental Coordination Element. And third is an issue that has risen to the top of their agenda lately; and that is, the issue of the Port and the Port Sub-Element. Their initial discussions with DCA, their initial approach to addressing the issue with KB Home involved addressing those three issues as part of their Comprehensive Plan update, the contract which the Commission just authorized staff to proceed with subject to approval by the City Attorney. That brings them up to date to June 20th. What they did on June 20th was extend this Public Hearing or

continue this discussion to tonight's meeting to give staff an opportunity to work with DCA to develop an adoption strategy, a game plan on how to move this issue forward. They have had conversations with the Department of Community Affairs and the City has not received a formal written response to the City's strategy.

The strategy is this. Of the three outstanding issues, the only issue that the Department of Community Affairs has any authority to prohibit consideration of additional Comprehensive Plan Amendments, is the school siting issue. So what they have discussed with the Department of Community Affairs involves addressing the school siting issue right now, along with the amendments to the KB Home future land use map amendments, and then committing to address the transportation issues and the Port Sub-Element issues as part of their Comprehensive Plan rewrite. He received general concurrence with the Chief of Planning in the Department of Community Affairs; however, he was leaving the organization and had recused himself from any regulatory decisions and referred him to a subordinate. So hence, he didn't receive a written response. That was what his initial recommendation in his memo was based on to the Commission.

He thinks there is another way they can proceed; and that is, simply address the issue that the DCA has a stick that they can hold over the City, the school siting issue. Go ahead and transmit that issue back to the Department of Community Affairs. Their consultant has already done the work. They have addressed the school siting criteria from 1999 and 2000. Along with that, the City will forward KB Home's amendments back to them as well and commit to addressing those two outstanding issues as part of the Comprehensive Plan Update. It is a roll of the dice. DCA may not honor that general conceptual agreement he had with Charles Gauthier before he left the organization on July 15th. However, they may very well move them through the process as well. So what they are recommending to the Commission tonight is that they go ahead and transmit the school siting criteria as well as the amendments for KB Home and see if they can't get a decision from the Department of Community Affairs.

Mayor Benton asked couldn't they also pass on the agreement they had with the County on the Port to their Master Plan and they can take care of two items?

Mr. Recor said if the Commission believes that would address the issues that have been raised by the public, absolutely they could do that as well.

Mayor Benton said he thinks that is what the public was loud and clear on. They haven't done that to this date. They agreed to it, they just didn't pass that information on to the Department of Community Affairs.

Commissioner Coke said she has a problem with what Mr. Recor is suggesting. She read his memo, which pretty much reiterates everything he just stated, and she read his recommendation to postpone until the second meeting in August. Under that assumption, the other 35 pages went unread by her. Had she known that staff's recommendation was going to be changing, especially on an issue that is this important, she would have assumed that everybody's inclination would be to accept staff's recommendation.

So not having studied recently these elements and not having reviewed the Port Sub-Element or any of those other things, she is not prepared to accept a change and go forward this evening.

Commissioner Nelson said he did the same thing. Couple that with his knowledge of the efforts in this area. Those people on this

Comp Plan issue are serious up there in Tallahassee. He doesn't know whether this guy who left has gotten with somebody or not. But he can assure them they are serious about these issues of this Comp Plan. They are putting money behind this effort. They have charged those respective departments and the Governor has personally gotten involved in it and the various legislators involved with it. They are not going to take too much flack. He thinks Mr. Recor's recommendation was sound and he would think they ought to move forward on it.

Commissioner Alexander said he has two points of concern. He thought at the last meeting they did speak in some manner of separating the Port from the rest of it, did they not? So what happened to that suggestion?

City Attorney Schwerer said staff spent some time analyzing their differences with the County. Mr. Walker was assigned by his office, who as they know is a Comp Plan expert, and he went back and looked at all of the details. They have identified at least three or possibly four significant areas where the City is at odds with the County. One is the geographical designation of the Port and some others. Not that they can't solve those. But he would just simply ask the Commission not to take any action on that Port issue until staff can bring that to the Commission with a thorough report of where they are at odds and then the Commission can make a decision on whether they want to send a recommendation for approval or they want to go back to the County and ask them to discuss some possible revision of their plan before they accept it. So if they could take the Port issue out, that is the only comment he has. He would recommend they take the Port issue out of this, have that separately before them so they thoroughly understand where they are at odds with the County, and understand what their decision would be based on.

Mayor Benton said he just didn't want to wait until a year and a half or two years from now. He hopes it is something that when they come on board they can look at doing maybe in the next 30 to 90 days. Hopefully they can straighten those problems out.

Commissioner Alexander asked can they elaborate on speaking about the school siting that the DCA has a problem with? They said 1999?

Mr. Recor said it was an issue that was not addressed as part of the EAR-based Comprehensive Plan Amendments. And the feedback from DCA, after they had an opportunity to review the transmitted EAR-based plan, they said these are the things that the City failed to address.

Commissioner Alexander asked what was the issue?

Mr. Recor said it was based on the number of population, the number of schools that need to be built, the locations of where schools need to be built, and legislation that was passed at the time.

City Manager Beach said the revisions that were sent to DCA in 1999, those were prior to school siting issues being part of Comprehensive Plan requirements. That is a relatively recent requirement of Comp Plans and that is why it was not addressed. But he doesn't think it is a difficult issue to address.

Commissioner Alexander said that is what his concerns are. If Port St. Lucie can get the plethora of all the new schools, with the

impact of projects such as KB Home, why is Fort Pierce not looking at that now? They are looking at quite a few projects that are going to be coming in within the City limits. So why haven't they addressed that? They should.

Mr. Recor said if they recall, the City's Comprehensive Plan has not been amended since 1990.

Commissioner Becht said he would like to have the KB Home representative talk to the Commission and explain what this means to him. He appreciates that Mr. Recor is coming up to speed very quickly. But at the June 20th meeting, his understanding was that staff would be back before the Commission at this meeting, not with a recommendation for another delay, but with a recommendation so they could move forward. Now maybe that wasn't achievable, maybe that was overly optimistic. Unfortunately he has attended several meetings in the last couple of months where he has represented to the public, based on comments he received from staff, that the only issue between the City and the County on the Port was the geography, not three or four other issues. He appreciates that maybe Mr. Walker hadn't looked at it yet; but he would like to know from Mr. Schwerer when Mr. Walker or whomever will be through with the review so they can identify comprehensively, once and for all, where they have issues with the Port plan. He would like for Mr. Ferguson to speak. He would like for Mr. Schwerer to let the Commission know when they are going to have this final review. And he would like to move forward tonight, because that is what the Commission told these folks, they said come back in to this meeting and they will be able to do something for them. Commissioner Coke and Commissioner Nelson are on some traffic or road boards that make them particularly astute at recognizing problems with some levels of standards. Did Mr. Recor say the school siting is the only issue that DCA really has a stick over the City, right?

Mr. Recor said that is correct.

Commissioner Alexander asked what about transportation?

Commissioner Becht said he doesn't want to move forward on the Port Sub-Element with Counsel telling them there are three or four areas where the City is contrary to the County. He does want those identified, he would like those identified as soon as possible, so he can go on record in correcting what he has already been saying which was based on what he had already been told. That is a bit embarrassing for him.

Mr. Recor said staff never intended to address the Port Sub-Element this evening. It was always the strategy to get the DCA to commit to allowing the City to address that as part of the Comp Plan.

Commissioner Becht said he understands that. His frustration is that he had been told there is one area of contradiction with the County, which is geography. He represented that to various boards and to the public. And now that is not true; or maybe it was true when it was represented to him. But obviously they hadn't even reviewed the document because Mr. Schwerer is telling them they have three or four problems. They are going to move forward, they are not going to point fingers. They can't deal with the Port Sub-Element tonight. The only one Mr. Recor is saying the City needs to deal with to move forward is the school siting, is that correct? Mr. Recor said that is the only issue that the DCA has a prohibition of allowing additional Comp Plan Amendments.

Commissioner Becht asked who prepared the language for the school siting that is in their packet?

Mr. Recor said Jim LaRue of Land Management in Fort Myers, who was the City's Planning Consultant at the time.

Commissioner Becht said he for one would like to hear from Mr. Ferguson. He doesn't know if anybody else wants to.

Mayor Benton asked should they move forward with the Public Hearing. Does everyone feel comfortable?

City Attorney Schwerer said if the Commission is going to move forward with the Public Hearing, the Mayor needs to open it and read the ordinance because there is an ordinance on this. If they are going to postpone it, they can make the motion before they open the Public Hearing.

Mayor Benton said before they go anywhere, he thinks they need to decide.

Commissioner Coke said she is going to run it up the flag pole just to see if it flies. She understands the position these people are in. But the City cannot allow their Comprehensive Plan and the future, even if it is the transportation element, of this City to be managed or pushed forth by a developer. The Commissioners have an obligation to the City as a whole. Unfortunately Mr. Recor has changed his position from the staff's recommendation. But her position was the second meeting in August and there was no need for her to do an hour or two worth of homework on this.

Motion was made by Commissioner Coke, seconded by Commissioner Nelson, to postpone the Public Hearing and first reading of Ordinance No. K-355, Adopting Amendments to the Comprehensive Plan, to the first City Commission meeting in August.

Commissioner Nelson said he cautions that they not put themselves in a position with DCA or any other of those organizations in Tallahassee, or that DCA gets the signal that the City is going to send up anything to them and ask them to react to it. What they are going to do, he has been advised, if it is incomplete or not correct, they are going to set it on the side and work on those that are near what the requirements call for. The more comprehensive the City is in their submittals, the better response they will have. It is to the City's advantage to take the time and do the necessary shovel work to get this thing as right as they possibly can. If it means that they eliminate or omit an element, that is fine; but that which they submit forward should be correct to the fullest extent possible.

Commissioner Alexander said when the Commission speaks for the citizens of this community, their concerns should be foremost the citizens. Because with projects like this coming in here, they know the tax base is going to put some kind of relief on their citizens. That is what his concern is. If DCA can waiver reports coming in, then he doesn't see why they should be taking a back step on this. They can go forward with the necessary... Because when it comes down to the school siting, he is sure the St. Lucie County School System, if all this development can go on in Port St. Lucie and they are telling him they don't have a Comprehensive Plan for the entire County?

Mayor Benton said he thinks the City's would probably have to be in line with theirs.

Commissioner Alexander said so they don't have to reinvent the wheel.

Mayor Benton said right. But he thinks what DCA is telling them, Fort Pierce has not done their job in the last ten years. These three items should have been amended at the time. Staff didn't do that. Unfortunately, these people are being held hostage because of the work that wasn't done by staff.

Commissioner Alexander said so they know they didn't do their homework. He is telling him the School Board has done nothing to...?

Mayor Benton said he is sure the School Board has a siting plan.

Commissioner Coke said she is going to point one thing out here too. The City Commission has approved all kinds of site plans for all kinds of developers. This is the only developer that came in and decided they wanted a Comp Plan Amendment. The City didn't request it. The Developer requested it. So if they wanted to open the can of worms, then they need to...

Mayor Benton said he thinks they just wanted to go by the law.

Commissioner Coke said they have done it. Mr. Schwerer at the time said it wasn't necessary.

Mr. Recor said he thinks her description is an accurate one. What he wanted to respond to was to both Commissioner Nelson as well as Commissioner Coke. He doesn't want the Commission to think for a minute that staff is testing DCA, that they are simply passing on something to see if DCA will accept it. Their Planning Consultant, Jim LaRue, worked with the Department of Community Affairs to develop the school siting criteria in response to the EAR-based Amendment. Again, he doesn't want them to think they are simply passing something along to pass something along. Second, the reason and the basis for his change in recommendation to the Commission this evening was, this is the strategy he discussed with Charles Gauthier with the Department of Community Affairs and he agreed in concept. The only difference is that he did not receive a written reply stating this is an acceptable methodology. But based on the fact that their Planning Consultant worked with the Department of Community Affairs to address these three issues, and based on his initial conversations with him, he felt comfortable with the change in strategy of continuing it for 30 days to wait for that written reply that may or may not have come. They could simply advance it, addressing the issue they know DCA has a regulatory position that they could prohibit future plan amendments, rather than delay it for 30 days waiting for that written reply.

Commissioner Coke said she understands what he is saying. But she is saying this memo was included in her package Friday that it was going to be postponed. She is not saying they are looking to send things to DCA for their approval or non-approval. What she is saying is, this Commission has decided they would not allow somebody to come in here at the last minute and put an item on the Agenda and have the paperwork sitting here prior to the meeting.

If she doesn't accept that, then she should not accept the fact that all of a sudden staff is changing their recommendation. The recommendation was to postpone. And now the recommendation is, let's see how smart Commissioner Coke is, did she read these 35 pages even though they said they were going to postpone it? And she doesn't think that is a fair thing for him to have done to them.

Mayor Benton said his suggestion is, if the Commission postpones it, which the motion is, that they try to get a letter from DCA by that meeting saying that the only items... Seeing someone has left, hopefully get in touch with somebody who is not going anywhere and they get something in writing that would make everyone here feel more comfortable with this.

Mr. Recor said they will absolutely do their best. He can tell them that staff did not agree to put this on the Agenda in the first place. He would not have put this on the Agenda unless staff had the methodology worked out with the Department of Community Affairs.

Commissioner Becht asked can Mr. Recor take him to the Appendix and show him the section... Is there one particular section that deals with the school siting criteria? Can they pull it out?

Mr. Recor said it is under the Intergovernmental Coordination Element.

Commissioner Coke said this could all be pointless. Let's call the question and vote on it, if they are going to postpone it, or open the Public Hearing, because otherwise they could be here all night. If they are going to postpone it, then there is no sense in looking at all that. They can vote however they want on it.

Commissioner Becht said he would ask that before they do that, not that they go through it, but figure out whether they are talking about a half a page or talking about 35 pages to deal with just the issue that DCA has a stick with. Is it a bunch of pages?

Mr. Recor said no, it is not. It is Policy 8.1.4.2 and it is basically three paragraphs, more or less.

Commissioner Becht said so if this Commission wanted to deal with just the school siting criteria, he is talking about three paragraphs.

Mayor Benton said that could be brought back at their next meeting. That is what they are looking at here. That is what the motion is. It depends on what the vote is. There is a motion and second and he has to follow through. They have asked him to call the question.

Mr. Recor asked can they clarify the direction for staff, please?

City Clerk Steele said the motion is to postpone the Public Hearing to August 1st.

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

MOTION FAILED TO PASS.

Commissioner Becht asked can they hear from Mr. Ferguson?

Mayor Benton said let him open the Public Hearing. His understanding is now they need a motion to deal with this tonight?

City Clerk Steele said not yet. The Mayor should open the Public Hearing because the Ordinance No. K-355 is now in front of them.

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

Mr. Johnathan Ferguson said he is an Attorney with a law firm of Ruden McClosky. He is here on behalf of KB Home which has been wrapped up in all these Comprehensive Plan Amendments. If he may take two minutes to clarify what they are talking about and a little bit of the history. There is a little bit of a misconception that was expressed tonight. There are two sets of amendments that the City is required to adopt. One had been referred to as the EAR-based amendments; and that is a cycle that every city and county goes through every six to seven years where they have to re-look at the Comp Plan and come up with amendments to fix things that either DCA has found or that the city or county has found through its own self-analysis. The EAR-based cycle was in the late 1990's and some of those amendments are part of this package, they are addressing those EAR-based comments. The City had the transmittal hearing. They adopted amendments to address those. At the same time, and what has been wrapped up but is not technically part of their EAR-based amendments, in 1998 the State Legislature passed an amendment to Chapter 163 that said every city and every county shall adopt what is commonly referred to as a school siting amendment to their comprehensive plan. What that amendment had to do at a minimum was identify the land uses where schools could be sited. Every city and county was required to adopt that no later than June 1, 1999. The City of Fort Pierce did not do that. They transmitted an amendment to DCA along with their EAR-based amendments that address the school siting. But again, those are two separate things, but they were occurring at the same time so they got addressed at the same time. There was no controversy, there were no comments from DCA on their school siting amendments. DCA had comments on their other amendments. Mr. LaRue and Mr. Virta, hired as consultants by this City, worked on changing the text of those amendments and working with DCA, but those sort of fell through the cracks and have been lingering. Also what fell through the cracks is the school siting amendment. Again, there were no comments from DCA; but because they were wrapped up with the EAR-based amendments, that sat on the shelf and the City never followed through. Under the revisions to Chapter 163, it said all cities and counties that do not amend their comprehensive plan to add a school siting component to their comprehensive plan, cannot amend their comprehensive plan in any other fashion until that school siting amendment is adopted. The issue would have arisen a lot sooner obviously if they had processed other Comprehensive Plan Amendments, but Fort Pierce has not. So again, it sat on the shelf and no one knew the difference. KB Home came in and has two projects, two pieces of property. There is a difference of opinion with the City Attorney's office as to what the process is when they annex property and whether or not they need to amend the Comprehensive Plan to adopt a land use for the property. Be that as it may, KB Home felt it was appropriate to file two applications to amend the comp plan. Those went before the Commission. In talking to Mr. Recor, they are willing to run the risk that DCA will not look at the EAR-based amendments as an

impediment to adopting the land use amendment. DCA has no choice when it comes to a school siting amendment. In discussing it with Mr. Recor, what they are requesting tonight, boiling it down, this is the first reading of an ordinance that would adopt the school siting component of their Comprehensive Plan, which simply identifies the land uses where they can place a school in the City of Fort Pierce. For Commissioner Alexander, it has nothing to do with the overall plans the School Board may have as to where they will put schools. It simply says if they are going to put a school in the City of Fort Pierce, then it has to go in certain land use categories. So when the School District is looking at land, they look at the future land use map and they decide whether they can put a school there or not. That is all it does. The City of Port St. Lucie has adopted such an element, St. Lucie County has adopted such an element, and most of the cities and counties in the State have adopted such an element. There is a short list of cities that have not and those cities cannot adopt any other amendments. What they are asking is if the Commission will adopt that very simple amendment to their Comp Plan; and then adopt the two land use amendments they are asking on behalf of KB Home, which would allow their projects to go forward, which they have seen in a conceptual stage. Tonight would be the first reading of an ordinance that does two very simple things. It adopts a couple of paragraphs as Mr. Recor referred to and it adopts two amendments to the future land use map. It keeps them moving forward.

Commissioner Alexander said again, back to the schooling aspect of it. When he speaks in defense of developers coming in and helping this community to be prosperous, he also is thinking of raising the bar when they are discussing things with the developers. Not only in his defense of developers, he wants the developers to bring something forth to this community. If they bring it in as a big a project as he is bringing in, they have an impact automatically just with theirs. That is when he asked that KB Home come back to the City of Fort Pierce, that they bring not only suggestions but some remedies as to the impact they are going to bring into this community. If so be designating properties for a school, then so be it. He is just saying the City is going to raise the bar, then he expects them to have some concessions, he expects those in return.

Mr. Ferguson said they will certainly be happy to address those when the site plans come back in front of the Commissioners. He understands, he has heard him loud and clear.

Commissioner Becht said would Mr. Ferguson identify for him what he thinks the policy or policies are that need to be dealt with tonight in establishing school siting criteria? Mr. Recor has said it was 8.1.4.2. Is that the only one or are there any others?

Mr. Ferguson said he would suggest that it would be Objective 8.1.4 which states that the City shall continue to coordinate with the St. Lucie County School Board on the location of schools. And Policy 8.1.4.1 and Policy 8.1.4.2 - those two policies implement that objective. The first one says that schools shall be allowed by right in residential high density, commercial, general and public service land use categories; and the next policy has to do with minimum acreage.

Commissioner Becht said he has read them and everybody has them. He has a little bit of knowledge which makes him dangerous. Mr.

Ferguson used to work with Dan Harrell, who is, he thinks, still the School Board Attorney. Does he know if Mr. Harrell has reviewed this or if he would have a chance to review it before the next reading of this ordinance?

Mr. Ferguson said he can certainly double check with Mr. Harrell and make sure the School District doesn't have a problem with this. His conversation with him, in trying to figure out if this had ever been approved, there is an Interlocal Agreement that has been executed by the City and the School Board which essentially adopts these same principles, but he can confirm absolutely that he doesn't have a problem with this specific language.

Commissioner Becht said what he is asking Mr. Ferguson is to use his relationship with Mr. Harrell to get them perhaps a letter before the final reading of the ordinance so the Commission knows that the School Board doesn't have a problem with this. He doesn't know if that is important for the rest of the Commissioners, but that would give him a comfort level at the next meeting knowing that the School Board has blessed this. He certainly doesn't have a problem with it. It is very simple language. And if he had a letter from the School Board stating they don't have a problem with it, then he doesn't know how he could have a problem with it.

Mr. Ferguson said that should not be a problem.

Mayor Benton said he knows a lot of the Commissioners have met with his firm and KB Home months ago. He has seen what their development is going to be. Has he made a formal presentation? He hasn't been able to get an answer from staff if they have made a preliminary site plan approval yet. Or have they?

Mr. Recor said he believes the preliminary site plans were presented; however, there wasn't a preliminary approval granted.

Mayor Benton asked it was shown to the Commission so he could apply for these changes to the Comp Plan?

Mr. Ferguson said it was shown to the Commission at the transmittal hearing for these amendments, but they did not ask for formal Commission action. But it has gone through technical review and Planning Board approval.

Mayor Benton said his suggestion, what he is looking at from big developments now, when they make that formal site plan approval to the Commission, if he could somehow implement in his site plan, housing. He doesn't mean cutting back the looks of the housing, but maybe some housing that on the inside, instead of using fancy cabinets... Affordable housing for teachers, policemen, and firemen in the community. He is looking at throwing a number out there, maybe 5% of their development, if it is possible. He is not looking at bringing the numbers down a lot. They have told him what he thought the cost would be, he hopes that hasn't gone up. Maybe they can talk about this before it is presented to the Commission. But it is something he is going to ask the City to do in the future and require developers to do it. But right now he is looking for some voluntary help.

Commissioner Alexander said it is raising the bar.

Mayor Benton said it has been very difficult, because of the property values, for new teachers, firemen, policemen - the people

Fort Pierce really needs in this community - to find a home here. But he doesn't want it to be the homes that look a little different down the road. He wants something that is comparable to what he is doing or identical.

Mr. Bill Orazi said he is with KB Home. They actually have worked on a new product just for this. They are a business unit of the Treasure Coast Division. Their architectural department has put together some really nice stuff - new elevations, new plans - just specifically for these communities. He thinks the City will be pleased.

Mayor Benton said he just doesn't want the homes cheaper looking. Just maybe some of the amenities inside won't be as nice.

Mr. Ferguson said what they can commit to in that respect, he has been working coincidentally on a couple of projects with the County and with Beth Ryder in the Community Services and understand the pots of money that are out there. They will work with the City folks who are looking at the same programs and see if there is not something they can do in that respect.

Commissioner Becht said Mr. Recor heard Mr. Ferguson's remarks about adopting the Objective 8.1.4 and the two Policies that support that. Does he have anything he wants to say? Is he in favor of that or not in favor of that? Do these things need to be changed, not changed? Does he need more time to review that objective and those two policies?

Mr. Recor said no, he doesn't need additional time to review those policies. But he will go back to his statement that he made to the Commission earlier; and that is, he would not have brought this to the Commission in the first place until he had a commitment from DCA on the acceptable methodology. But this item appeared on the Agenda and they are reacting to it.

Mayor Benton asked isn't there a second reading on this? This would be the first reading. So by the time this is brought in front of the Commission for the second reading, any changes can be made?

Commissioner Alexander said absolutely.

Commissioner Coke said she has a point of clarification from Mr. Recor. Is he saying now this is not something staff would actually recommend? It is something that was brought up, so he reacted to it? Is he correct in her interpretation of what he is saying?

City Manager Beach said what he is saying is, that when the Commission passes a motion or does something with an Agenda item, they will say bring that back July 18th. And whether staff is ready to come back July 18th or whether they are not, it comes back to them.

Commissioner Coke said she doesn't believe that is what Mr. Recor is saying.

City Manager Beach said yes, that is what he is saying.

Commissioner Coke said Mr. Recor is saying he would not have put any of these amendments on the Agenda were it not brought up by an

outside person.

City Manager Beach said that is probably accurate too, but that is not what he is saying. What he is saying is that this wouldn't be on the Agenda if it were not automatically put on it.

Commissioner Coke said Mr. Recor is shaking his head yes, that is exactly what he is saying.

Mr. Recor said he is agreeing with them both.

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

Mayor Benton said this is the first reading, so any changes that would need to be made can be conditioned in a motion and it can be brought back for the second reading, right?

City Attorney Schwerer said technically that is correct. But he does need some clarification from perhaps staff on this. Looking at the title of the ordinance, if he can concentrate to the title only for Ordinance No. K-355. About midway down after it says refers to amendments to the future land use map, it is also referring to the text of the transportation element. That is not being part of this transmittal, is it? On the motion on the table, only the Intergovernmental Coordination Element, is that correct?

City Clerk Steele said there is no motion yet.

City Attorney Schwerer said he is just trying to get the Commission focused on what the motion should be, because they need to change the title right now if they are going to deal solely with the school siting issue. That is all he is trying to do. That is embodied within the Intergovernmental Coordination Element, correct?

Mr. Recor said he believes that is where they are both contained.

City Attorney Schwerer said this ordinance was previously drafted so the Commission would have all of these things transmitted to DCA. If they are going to limit their transmittal, they have to be very specific on that. If they want to make the motion on what they are going to transmit, if it is just going to be the school siting, then he will have to work with staff on second reading to delete all of those references in the title. Deleting them from the title is not a problem or deleting from the ordinance is not a problem. Adding substantive matters is a problem.

Motion was made by Commissioner Becht, seconded by Commissioner Alexander, that Ordinance No. K-355 be passed on first reading, eliminating from its content the Port Sub-Element and essentially everything except for Objective 8.1.4 and Policy 8.1.4.1 and Policy 8.1.4.2.

Commissioner Becht said he wants to make sure before they get into discussing this that Mr. Schwerer can live with this through a second and final reading.

City Attorney Schwerer said he can as long as they have identified those objectives and those policies that deal with the school siting. He would have to rely upon Mr. Recor and Mr. Ferguson for that which he just cited.

Commissioner Becht said the motion was to adopt Ordinance No. K-355 excluding all portions of that which are in conflict with or don't support Objective 8.1.4 and Policy 8.1.4.1 and Policy 8.1.4.2.

Commissioner Coke asked what about Policy 8.1.3.5? That has to do with the School Board.

Mr. Recor said they should also include in the motion that they are transmitting the amendments for KB Home as well, the future land use map amendments.

City Clerk Steele said this is first reading of an ordinance, not the transmittal. They are not transmitting the comp plan amendments tonight are they?

City Attorney Schwerer said no. It will be transmitted upon second reading at the final passage.

City Clerk Steele said then they don't need to put that in the motion tonight.

City Attorney Schwerer said it has the technical language in the ordinance that they need.

Commissioner Coke said she is not going to support this this evening, because reviewing this in short notice is not her idea of a proper way to make a Comprehensive Plan Amendment. Her concern is, at a quick glance she sees two or three policies that Commissioner Becht did not include in his motion that she believes are directly part of the School Siting Element. She thinks they are doing a disservice and leaving the City open to getting this rejected.

Commissioner Nelson said he can't support this either. A major part of this is the school system. They don't have one scintilla of information indicating that the school system wants to go along with this. Four acres for 200 students, he doesn't know if they have that or not. Seven acres for high school and 300 students, he doesn't know whether that is appropriate or not. He is not in the school business. They have some experts over there, some responsible people over there, that know their business; and they should be consulted and collaborated with and make their feelings known in respect to what this plan should be. And the City should not be submitting anything on their behalf without their consent.

Mayor Benton said just like everything else in this Comprehensive Plan, there is no reason why, within the next two years when they are implementing the rest of the Comp Plan Update, they couldn't update any kind of school siting as to what the School Board would like, right? He is not pointing fingers, but for some reason the Planning Department staff hasn't felt that in the last ten years it needed to be updated. So why all of a sudden the big deal? He can't hold people hostage, as much as he would like to control growth, he doesn't think this is the way to do it. This is a mistake the Planning staff has made. Some changes have now been made. Hopefully it will clear the air and this will not happen again.

Commissioner Becht said what he wants to make clear tonight is that he is trying to help this applicant keep its project going. They

have some problems within the City that he thinks they can... The issues that both Commissioner Coke and Commissioner Nelson have raised, he thinks those issues can be addressed in two weeks, and staff can come back. He will tell them tonight that if staff comes back and says this is a bad idea two weeks from now, if Mr. Ferguson is unable to get the letter from Mr. Harrell or from the School Board in two weeks, then he will be making a motion in two weeks to continue this again, because he has not fulfilled what he expects him to do. But he thinks it can be done in two weeks; and he thinks by setting it up for finality in two weeks, it will occur. He just wants to go on record as making his position clear.

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

Mayor Benton said hopefully they can get this cleared up in two weeks.

Ordinance No. K-356 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **2144 & 2152 SOUTH JENKINS ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2006; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Applicant: Group Three Development, LLC. Owned by: Rose Marie Holtkamp, Robert Baumker, and Andrew Baumker)

Mayor Benton declared a Public Hearing on Ordinance No. K-356 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-356 be passed on second and final reading.

Commissioner Becht said if he is reading the material that he has for this, and this is Ordinance No. K-356, the current County zoning for the property is AR-1.

Mr. Travis Gibbons, City Planner, said that is correct.

Commissioner Becht said his recollection for AR-1 is that is one unit to the acre.

Mr. Gibbons said he is correct. But the future land use through the County is RM, which is the Medium Density Residential.

Commissioner Becht said that is correct. But the zoning in the County is currently one unit to the acre; and the City is bringing it in as R-4?

Mr. Gibbons said correct, to match the future land use they are going to adopt. Commissioner Becht said he wants to match the zoning. So tell him how to match the zoning.

Mr. Gibbons said R-1. But that would be inconsistent with the future land use.

Commissioner Becht said it would be less intense than the County's future land use.

Mr. Gibbons said that would be correct.

Commissioner Coke said it was her understanding City zoning had to match the County zoning, City future land use had to match County future land use.

Commissioner Becht said not be more intense, is actually...

City Attorney Schwerer said that is right, either equal to or less intense as far as density or type of uses, commercial versus residential. They should bring it in under R-1 if that is the equivalent of the existing zoning and they should bring it in under the equivalent of the County future land use. They can deal with the matching the consistency between the zoning and the land use later on. Staff is trying to match the zoning to be consistent with the future land use, that is an admirable objective; however, that can be dealt with at a later date. If they bring this property in, they should bring it in the same.

Motion to Amend was made by Commissioner Coke, seconded by Commissioner Alexander, that Ordinance No. K-356 be amended by changing City zoning to R-1; and that Ordinance No. K-356, as amended, be passed on second and final reading.

Commissioner Becht asked is R-1 allowed under City RM?

Mr. Gibbons said it would allow for single family development, which would be permitted under RM, just at a lower intensity.

Commissioner Becht said so they are coming in as R-1 zoning and RM future land use designation.

Mr. Gibbons said correct. Then if the applicant wished, they could do a rezoning on the property at a later date.

Mr. Bill Blazak, Culpepper & Terpening, Inc., said this was approved previously by the Planning Board for R-4. If they change the R-4, how does that affect their client's ability on his density?

Mr. Gibbons said it is between four units for the R-1 and then ten units for the R-4, so they are looking at a difference of six units.

Mayor Benton said that is substantial.

Mr. Blazak said he would ask that this be continued so they can discuss that specifically with their client. They had two previous unanimous approvals, from Planning Board and the City Commission on the first reading. There has been no objections to this.

Commissioner Coke asked is this a voluntary annexation? Or is this one found to be contiguous and they have an annexation agreement?

Ms. Anne Satterlee, Assistant Administrator, said her understanding from the attached backup information that it was voluntary by the owners. It was not contractual with a utility agreement.

COMMISSIONER COKE WITHDREW HER MOTION. COMMISSIONER ALEXANDER WITHDREW HIS SECOND.

Commissioner Becht asked this is a voluntary annexation?

Mr. Blazak said this is certainly a voluntary annexation, yes.

Commissioner Becht said what the City Attorney has told the Commission is that they can't bring it in at a higher intensity than what the County allows.

Mr. Blazak said this is the second reading; and if that is the change, then they ask that it be continued to a date certain so their client can respond to that specifically.

Commissioner Becht asked how long does Mr. Blazak need?

Mr. Blazak asked when is the City's next available meeting?

City Clerk Steele said August 1st.

Mr. Blazak said that is fine.

Motion was made by Commissioner Becht, seconded by Commissioner Coke, to postpone action on Ordinance No. K-356 on second and final reading until the City Commission meeting on August 1, 2005.

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

Commissioner Becht said what he thought they asked for was a simple cheat sheet that showed them what the units per acre were in the County that is residential per zoning, per future land use designation, and the match-up with the City as they brought it in under **annexation**. If they will just do that simple cheat sheet, then they won't have this headache again. Is that something staff can do?

Mr. Travis Gibbons, City Planner, said he does have that information. He compiled that about three months ago and he did provide that, so they should have copies available for everybody.

City Manager Beach said he believes what Commissioner Becht is asking is that it be made part of the Agenda item and discussed with each annexation. Is that right?

Commissioner Becht said right, so that somebody is checking it.

Mr. Gibbons said staff can provide that. That is easy.

Commissioner Becht said when he does, when he checks it, he thinks they are going to find that they can't bring in AR-1 as R-4.

Ordinance No. K-357 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE SEVEN PARCELS LOCATED **EAST OF SOUTH 35TH STREET AND AT THE SOUTHERN TERMINUS OF PINEVIEW DRIVE AND AT THE EASTERN TERMINUS OF DOUGLAS AVENUE**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTIES AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2006; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTIES; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND

PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Applicant: Land Planning Systems, Inc. Owned by: Yale Developers, LLC; Arnold & Sheila Cohen; Georgia Wheeler; and Frederick Burtch)

Mayor Benton declared a Public Hearing on Ordinance No. K-357 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 Becht, that Ordinance No. K-357 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-357 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-358 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE 53.64 ACRES LOCATED ON THE **WEST SIDE OF SOUTH 25TH STREET, NORTH OF CANAL #101**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2006; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Tastespire Inc.)

Mayor Benton declared a Public Hearing on Ordinance No. K-358 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 Becht, that Ordinance No. K-358 be passed on second and final reading.

Commissioner Alexander said he has a question concerning land value and assessed and taxable value on this property. They have an exemption of \$936,000? That is agricultural. But bringing it into the City as agricultural or do they have future plans?

Mayor Benton said it won't be agricultural once it comes into the City because the City doesn't have an agricultural zoning, so they will be paying taxes.

Commissioner Becht said no. Zoning does not affect the agricultural exemption. If they have the agricultural exemption, if they are engaged in a good faith agricultural enterprise, they still get the agricultural exemption.

Mayor Benton said he didn't know they could have cows in the City limits.

Commissioner Becht said if they can have an agricultural enterprise, then they can get their exemption.

City Manager Beach asked that is determined through the County Property Appraiser's office, is that correct? The Property Appraiser makes the determination as to whether or not they are exempt.

Commissioner Becht said yes.

Mayor Benton asked wouldn't they have to ask for a special exception, because the City does not allow cows, if they look at the City ordinances. It is very specific cows are not allowed.

City Manager Beach said he doesn't know how that would be applied.

Commissioner Coke said there are roosters down on 2nd Street.

Commissioner Alexander said that is what he has a concern with. They are talking about 53 acres they are going to bring into the City and they are going to have an exemption?

Commissioner Becht said if they are using it for an agricultural purpose, yes.

Mr. Travis Gibbons, City Planner, said this is going to be a future residential development which would be coming across the Planning Board and the Commission in the next two or three months. It is also purely agricultural. There are no animals or cows.

Commissioner Alexander said he knows the area so he knows what it is.

Mr. Gibbons said it is purely future residential development.

Those voting in favor of the passage of Ordinance No. K-358 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-359 entitled, "AN ORDINANCE OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING CHAPTER 2 ADMINISTRATION, ARTICLE V, **TRAVEL EXPENSES**, SECTION 2-83, MAXIMUM RATES AND LIMITATIONS, RATES PER DIEM; AMENDING CHAPTER 2 ADMINISTRATION, ARTICLE V, TRAVEL EXPENSES, SECTION 2-83, MAXIMUM RATES AND LIMITATIONS, TRANSPORTATION; REPEALING ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH 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-359 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 Coke, that Ordinance No. K-359 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-359 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-360 entitled, "AN ORDINANCE **AMENDING THE 2003-2004 BUDGET** OF THE CITY OF FORT PIERCE, FLORIDA BY INSERTING THEREIN A SCHEDULE CONSISTING OF FOUR (4) PAGES ATTACHED HERETO AND DESIGNATED AS THE 2003-2004 FINAL BUDGET AMENDMENT. THE SAID SCHEDULE PROVIDES FOR THE INCREASES AND/OR DECREASES IN REVENUES AND APPROPRIATIONS IN THE GENERAL FUND; AND PROVIDING FOR AN EFFECTIVE DATE." was placed on second and final reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-360 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 Coke, that Ordinance No. K-360 be passed on second and final reading.

Commissioner Becht said under the General Fund expenditures, the Administrative has a bump of \$2.8 million. The explanation he got was due to hurricane expenses, mainly debris removal. He thought the City was getting reimbursed by FEMA for that. Is this yet to be reimbursed? What is the story on \$2.8 million of additional Administrative expenses?

Mr. George Bergalis, Director of Finance, said that is reflective of the amount of cost for debris removal they booked as September 30, 2004. Regardless of whether they are getting reimbursement for it, they had to book the expenditure. Any applicable revenue would have shown up or will show up on the other side of the ledger.

Commissioner Becht asked does it show up on the other side of the ledger?

Mr. Bergalis said some does and some doesn't because of the fact that they got a lot of the reimbursement after September 30, 2004.

Commissioner Becht asked when Mr. Bergalis said it is mainly debris removal, is that 50%, 80%, or 90% of the \$2.8 million?

Mr. Bergalis said it is 90% plus.

Those voting in favor of the passage of Ordinance No. K-360 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-361 entitled, "AN ORDINANCE AMENDING SECTION 13-24; PROVIDING THAT ELIGIBLE MEMBERS OF THE **RETIREMENT** SYSTEM MAY **PURCHASE CREDIT** AT FULL ACTUARIAL COST FOR MEMBERSHIP TIME OTHERWISE EXCLUDED BY ELECTION; DELETING REFERENCE TO "FORT PIERCE" AND "CONTROL" IN THE NAME OF FIRE DISTRICT; REPEALING ORDINANCES OR PARTS THEREOF IN CONFLICT; PROVIDING AN EFFECTIVE DATE AND FURTHER PROVIDING THAT AMENDMENT TO BE REPEALED WITHOUT FURTHER ACTION 90 DAYS AFTER EFFECTIVE DATE." was placed on second and final reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-361 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.

City Clerk Steele said this particular ordinance, at the last Commission meeting they requested the City Attorney to make a correction to Section 13-24(b), Paragraph 5, to correct the title, "The Director of the Code Enforcement and Building Department" to read, "The Director of Building & Community Response". So when they make their motion to pass this ordinance, pass it with the correction.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, that Section 13-24(b), Paragraph 5, of Ordinance No. K-361 be amended to change the title to The Director of Building and Community Response; and that Ordinance No. K-361, as

amended, be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-361, as amended, on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-362 entitled, "AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING SECTION 13-28; PROVIDING THAT MEMBER OF **RETIREMENT** SYSTEM MAY BE CREDITED WITH ONE ADDITIONAL YEAR OF **MILITARY TIME** IF SUCH YEAR PURCHASED AT FULL ACTUARIAL COST; REPEALING ORDINANCES OR PARTS THEREOF IN CONFLICT; 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-362 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 Alexander, seconded by Commissioner Becht, that Ordinance No. K-362 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-362 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-363 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 NOT 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-363 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-363 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-363 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-364 entitled, "AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING SECTION 13-42(c) OF THE CITY **RETIREMENT** SYSTEM BY CHANGING THE NORMAL RETIREMENT **ANNUITY FOR THE POLICE OFFICERS** 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-364 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-364 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-364 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

The next item on the Agenda was Public Hearing on Application for Subdivision Review - Final Plat for Osceola Estates II - submitted by Michael DiFrancesco to create 27 single family lots generally located along the existing Osceola Avenue between Oleander Avenue and the South 7th Street Canal; said property zoned R-2, Single Family Intermediate Density Zone.

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

Mayor Benton said hopefully they will get through this real quick. He knows Mr. DiFrancesco has been waiting a long time.

Mr. Michael DiFrancesco said it has been a while. With him tonight is his partner Tim Grimes.

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

Mayor Benton asked what were Staff and Planning Board recommendations?

Mr. Hector Arias, City Engineer, said this was on a previous Commission Agenda (June 6, 2005) where this issue was discussed about the abandonment of Osceola Avenue. It was agreed the final plat was to be approved in order for the abandonment to take place.

City Attorney Schwerer said they prepared the ordinance based upon the condition that the final plat would be filed and approved, and at that time the old road would disappear of record and the new road would appear based on the plat.

Mr. Arias said also there should be a stipulation that before the final plat is recorded, the developer is going to have to post a bond or a letter of credit for the infrastructure improvements according to Chapter 18.

Commissioner Alexander asked this right-of-way they are speaking of here is a road? It is going to go away?

City Attorney Schwerer said no. What he meant was they have an old platted roadway that the developer is wanting to move over or whatever and the developer is going to replace it with a new public

roadway to be platted. When he builds it is up to him. He doesn't know when the subdivision is going to be built. But it is a paper road on record right now and he is replacing it with another paper road, so he will have a public road in its place.

Commissioner Alexander asked the public road would have no maintenance on the City's behalf?

City Attorney Schwerer said the City won't agree to accept it until it is built to City specifications and the Engineering Department signs off. That is the typical process.

Mr. DiFrancesco said they are going to issue a letter of credit, because a bond is going to take about a month to get. He spoke to Mr. Arias and he said that the letter of credit would suffice.

City Attorney Schwerer said the subdivision regulations allow either/or.

Mr. Arias said that is right.

Commissioner Becht said he is going to have to abstain from this. He has already filed something of record. Does Mr. Schwerer have an agreement between the property owner and the City, a form document, or is he going to have to create something special?

City Attorney Schwerer said no. The ordinance itself, actually the next Agenda item, indicates that the effective time of the abandonment will occur concurrently with the plat being recorded. They don't need any agreement.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve the Final Plat for Osceola Estates II Subdivision submitted by Michael DiFrancesco to create 27 single family lots generally located along the existing Osceola Avenue between Oleander Avenue and the South 7th Street Canal.

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

Ordinance No. K-365 entitled, "AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, **ABANDONING** A PORTION OF CITY RIGHT-OF-WAY KNOWN AS **OSCEOLA AVENUE** WHICH RUNS EAST/WEST BETWEEN OLEANDER AVENUE AND 7TH STREET CANAL; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE." was placed on first reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-365 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.

Mayor Benton asked what was Staff and Planning Board recommendations?

Mr. Travis Gibbons, City Planner, said Staff and Planning Board recommend approval.

Motion was made by Commissioner Coke, seconded by Commissioner

Alexander, that Ordinance No. K-365 be passed on first reading.

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

The next item on the Agenda was Conditional Use & Site Plan submitted by Joseph Godfrey to construct an extension to an existing Private Dock at 1604 Seaway Drive; said property zoned C-5, Tourist Commercial Zone. (Public Hearing held on July 5, 2005; Motion to Postpone in order to allow applicants to appear at July 18th meeting to address Commission concerns.

Ms. Joy Summerlin Yancy, Summerlin's Seven Seas, said she is representing the Godfrey's, who are also here tonight.

Commissioner Coke said she had a couple of questions and she will just let everybody know she already spoke with Ms. Yancy. Her concern was that this was zoned C-5, Tourist Commercial; and she doesn't want to see all of a sudden a lot of commercial small marinas built up there. She needs to know if there is a way they could limit the number of boats. Her suggestion was to have the people rezone voluntarily to residential, but Ms. Yancy said she didn't feel that was acceptable to the applicant.

Ms. Yancy said she hasn't really mentioned that to the applicant as far as that would be something they would have to do, obviously. They are here tonight. As far as the boats go, the DEP (Florida Department of Environmental Protection) and the Army Corps of Engineers only allows them to have three mooring areas. That is what the applicant has at this time with the boat lifts. Obviously, they can't just moor their boat there on the inlet without having it secured some way. So they have a boat lift on the end and they have the small boat lift which has like a jon boat on it and they have a flats boat. So they are at their limit.

Commissioner Coke asked as part of their approval on this, they could condition it on a maximum number of three boats?

Ms. Yancy said yes, that is what she was talking about, the Army Corps already limits them to that. They might have a friend come over from the beach and park for the day, but it is not something they could have permanently out there. Secondly, they extended the dock mainly for the view purposes, not for the boating purposes, even though the shallow water is nearby.

Mr. Joseph Godfrey said he had applied for this permit in 2003 because of the depth. As far as changing the zoning, after the hurricanes he went to Mr. Gibbons and talked to him extensively because he wanted to rebuild his house. It was zoned commercial, so it was kind of a process. He doesn't know if they could just pick a center house out of five houses and change the zoning. He doesn't know how his neighbors would feel about that if he was the only guy that got it changed or whatever.

Commissioner Nelson said he talked with some of Mr. Godfrey's neighbors and they appear to be supportive of his effort here. Does he commit to the fact that he is going to use this as a private dock and it will not be any way made into a small marina?

Mr. Godfrey said it is his residence. He will not have people coming and going, it will not be commercial in any way for as long as he owns it.

Commissioner Nelson said his neighbors seem to support him and he seems to be an honorable person, so he is going to be supporting him too when the time comes.

Mayor Benton said he thinks that is all the information they were looking for.

Commissioner Nelson said subject to the conditions recommended by staff that it be used for private purposes only.

Commissioner Coke said absolutely, private use and three boats.

Motion was amended by Commissioner Coke, seconded by Commissioner Alexander, to approve the Conditional Use & Site Plan submitted by Joseph Godfrey to construct an extension to an existing Private Dock at 1604 Seaway Drive, with the conditions that the dock shall be for private use of the resident at 1604 Seaway Drive and a maximum of three boats.

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

Mayor Benton said all he can tell them is, if they have children and they wake up in the morning, they might have more than three boats. He did the other day. He couldn't believe it. He doesn't know where they all came from, but they were gone in a few hours. For a while it looked like a marina in his back yard.

The next item on the Agenda was Mr. Don Bergman, Peacock & Lewis, to give proposal for Construction Documents for remodeling the Second Floor of City Hall.

City Clerk Steele said this item has been pulled by staff.

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 05-32

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, PROVIDING NOTICE OF INTENT TO CONSIDER INCREASE IN **STORM WATER UTILITY FEE** TO FIFTY-FOUR DOLLARS AND NO/100 (\$54.00) PER ERU PER YEAR AND FURTHER PROVIDING SUCH INCREASE TO BE ADOPTED IN THE MANNER REQUIRED BY LAW; PROVIDING FOR AN EFFECTIVE DATE."

Motion was made by Commissioner Coke, seconded by Commissioner Becht, that Resolution No. 05-32 be adopted.

Those voting in favor of the adoption of Resolution No. 05-32 were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 05-34

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, APPROVING THE CITY OF FORT PIERCE'S **HURRICANE HOUSING RECOVERY PROGRAM** (HHRP) PLAN AS REQUIRED BY FLORIDA STATUTES; AND RULE CHAPTER 67ER05, FLORIDA ADMINISTRATIVE CODE; AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE ANY NECESSARY DOCUMENTS AND CERTIFICATIONS NEEDED BY THE STATE; AUTHORIZING THE SUBMISSION OF THE HURRICANE HOUSING RECOVERY PROGRAM PLAN FOR REVIEW AND APPROVAL BY THE FLORIDA HOUSING FINANCE CORPORATION; AND PROVIDING FOR AN EFFECTIVE DATE."

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, that Resolution No. 05-34 be adopted.

Those voting in favor of the adoption of Resolution No. 05-34 were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 05-35

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, (REPLACING RESOLUTION NO. 03-39 ADOPTED JULY 7, 2003); APPROVING THE CITY OF FORT PIERCE'S LOCAL **HOUSING ASSISTANCE PLAN** AS REQUIRED BY THE FLORIDA STATE HOUSING INITIATIVE PARTNERSHIP (SHIP) PROGRAM APPROVING A MAXIMUM AWARD SCHEDULE; AUTHORIZING THE NECESSARY CERTIFICATIONS BY THE MAYOR; AND AUTHORIZING SUBMISSION OF THE PLAN FOR THE REVIEW AND APPROVAL BY THE FLORIDA HOUSING FINANCE CORPORATION; AND PROVIDING FOR AN EFFECTIVE DATE."

Motion was made by Commissioner Coke, seconded by Commissioner Becht, that Resolution No. 05-35 be adopted.

Those voting in favor of the adoption of Resolution No. 05-35 were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

The next item on the Agenda was Consider **Interlocal Agreements** between the City and St. Lucie County for collection of: (a) Public Buildings Impact Fees; (b) Road Impact Fees; (c) Library Impact Fees; (d) Fire/EMS Impact Fees; and (e) Parks Impact Fees.

City Manager Beach said the City Attorney's office wrote a rather detailed evaluation of the various Interlocal Agreements and what the changes were that the County was proposing. The City essentially collects impact fees. The ones on the Agenda this evening are for buildings, roads, parks, libraries, and law enforcement. There is also the School and Fire District, but those are not in front of the Commission this evening. He understood these to be renewals of the existing agreements; but the City Attorney pointed out that if they are renewals, in the process of renewal, the County wants to change the termination provisions. Those termination provisions are a result apparently of the quandary that St. Lucie County got into as a result of Port St. Lucie's decision to rather quickly terminate their agreement to collect impact fees. There are some changes in the language. He doesn't believe those changes are detrimental to Fort Pierce nor

are those detrimental to the Interlocal Agreements. They talked about this just briefly at their workshop last week and he will try to be as brief as possible about this. Each of these Interlocal Agreements have different agreements in terms of what portion the City gets. On all of them the City gets a 4% administrative fee for collecting the fees. On road and parks they get different percentages. Road impact fees, the City gets about 20% of the funds generated. Parks impact fees, the City gets close to 50% of the funds generated by that impact fee. Library, law enforcement, and building are basically limited to the 4% administrative fees. Obviously, the City gets nothing on the School and Fire District impact fees. Staff has no objections to the renewal of these Interlocal Agreements and will be happy to answer any questions if they can.

Commissioner Coke said she thinks she can agree to the Library Interlocal Agreement and the Park Interlocal Agreement with not too much problem. Public buildings, she has a problem with the fact that they only have 12% left for the City, the final authority lies with the Board of County Commissioners to accept certain development offers, and that there is no right of the City to have any say-so on how the funds are to be spent or to be spent in the City. She has a problem with those three items there. Road impact fees, she has the same problem, that the City has to spend the funds the way the County tells them and that the County can accept the development offers, not the City. The Fire/EMS, she thinks she has a problem with a little bit of all of it because it seemed very one sided.

City Manager Beach said let him add just a little bit more information. The impact fees themselves are created by a rather exhaustive analysis and study conducted by the agency that is going to implement them. In this case it is St. Lucie County. St. Lucie County is the agency that by law can assess impact fees countywide and certainly inside the City. The City's only leverage with the County in negotiating these has to do with the collection side of it. Prior to a few years ago, the City only received the 4% administrative fee for collecting these for St. Lucie County. Again, the reason all of that authority and power is vested in the County, is they are the ones who have gone through the process to create impact fees. If they have been reading the newspaper, they have noticed that Port St. Lucie has now created their own impact fees. Fort Pierce has the ability to do that as well. They simply have to go through the study and the mechanics. Those of them who were here for the creation of the Stormwater Utility, it is a study very similar to that in terms of its depth and volume of information that has to be generated to prove that they are actually experiencing these kinds of costs associated with new development.

Commissioner Coke said the point she guesses she was trying to make is that certainly if Port St. Lucie is ceasing and desisting collecting these fees by the County, that would not be her intent, because the City needs have to have a good working relationship with the County. However, they have a memo from Mr. Schwerer who points out many shortcomings in each of these Interlocal Agreements and they pay him pretty good money. She thinks to just carte blanche ignore it and say the County is great, let us do it their way, is wrong. They have a memo from the City Engineer and they pay him pretty good money to assess all of these type of things and he has several problems with executing these agreements as is. She thinks prior to moving forward on these, the issues need to be

addressed.

Mayor Benton said his opinion, if they change any language to deal with public buildings, he thinks they will kiss goodbye the court system staying here and the Clerk of the Court building being built here. It will just open the door for everything to move to the south County.

Commissioner Coke said that is not necessarily saying they have to; but she thinks they ought to at least consider something that says the City doesn't have any right to have a say-so on how the money is spent. The money is being collected on things being built here.

Mayor Benton said he thinks the County has listened, in his opinion, when it came to the court system. They had their fight and the County listened. He can't say they might have that language there, but he can say they have listened. Whether the City needs to create their own impact fees... But being Fort Pierce is almost developed except for the new areas, impact fees can only be used for new construction, not for maintenance.

City Manager Beach said the fees are to accommodate growth. The buildings portion of this, as an example, these are not for public buildings, these are for County buildings. So for the City to get a percentage of that wouldn't be appropriate.

Commissioner Coke said she is not saying necessarily that they need to get a percentage, but for the City not to have any say or input, or to be at least invited to participate on how the funding is spent, if the funding is being collected here.

City Manager Beach asked do they want to provide some direction? He has read the City Attorney's comments. He has read the City Engineer's comments. He doesn't see any of them as being of a level of consequence that would have City staff sitting down negotiating with the County staff for however long it would take to deal with some of those issues. He doesn't know, unless they as a Commission want that input, if they want to have a say in how the County spends their building money.

Commissioner Coke said she doesn't personally, but she thinks staff should at least be invited to participate. She thinks the prime example of things like that is the South Beach Boardwalk Park. They got it back from the County and two or three days later somebody fell through it. The County was maintaining the Amphitheater and the City got that back; and it was a lot of money the City had to spend just to bring it up to the point where they could use it. She thinks those are valid reasons why the City ought to at least be consulted on how this money is being spent. That is her opinion.

Commissioner Nelson said he doesn't foster a confrontational attitude with the relationship with the County. He feels that perhaps some of the percentages over and above the administrative fees are heavily weighed toward the County. And the fact that the final approval authority at the County offers him some concern as well. He thinks there should be room for more compromise to make this more attractive to the City. He would solicit staff go back to the County and ask how can they make this more attractive and more amendable to the City rather than foster on a confrontational attitude. He doesn't like the idea that the Mayor puts forth that they might lose a key building in the City. He thinks what is good

for Fort Pierce has to be a tendency to be good for the County; and he would hope they are working toward the goodness of the City as they are hopefully working toward the goodness of the County, because they are serving all the people of this County. His bottom line is, let staff continue to work on this and see what good compromise they can get out of this rather than go through the confrontational mode.

Motion was made by Commissioner Nelson, seconded by Commissioner Coke, to direct staff to continue working on these Impact Fees Interlocal Agreements and see what they can do to come up with a better compromise based on the findings submitted by the City Engineer, City Manager, and City Attorney.

Commissioner Becht said as he understand this, all the agreements allow for termination upon 120 days notice.

City Attorney Schwerer said that is correct, for any reason.

Commissioner Becht said he has heard general discussion tonight about the Commissioners don't like some of the things that have been brought to their attention that Mr. Schwerer has pointed out. But he doesn't hear clear direction back to staff on what it is they are perhaps specifically looking for. He doesn't have a problem with anything that is in any of the Interlocal Agreements they have here. He thinks they can go back after they have adopted it, negotiate it, and cancel it if they want to cancel it. That may be a way of handling it in good faith. Or if they want to send staff back, he is just not sure that they have given staff specific direction on what it is they are looking for.

City Manager Beach said if they don't accept these the way they are presented, what he intends to do is give them back to Mr. Schwerer and have him get everything in there that he suggested, as well as give them back to Mr. Arias and Mr. Arias will do that.

Commissioner Coke said she doesn't think that is what they asked for. She thinks what they were looking to do was just have some more input with the County. If the County is collecting this money and developing projects within the City, they should get a report on them and have input.

City Manager Beach said what he said was what he was going to do with these, if the Commission doesn't approve them. They will work through that. There are five Interlocal Agreements that took him six months to get in front of the Commission.

Mayor Benton said Mr. Schwerer doesn't have enough on his plate right now. He is asking for more?

City Attorney Schwerer said no, he is not. He wants to clarify something here. His job as their legal counsel is to review and analyze agreements and to point out to the Commission certain things that are in them or certain things that are not in them. Please do not take his memorandum as being a recommendation that the Commissioners take any action. He wants them to be fully aware of what it provides in those agreements before they vote. Let him try to mirror what Mr. Beach just said. Before he undertakes any job of trying to redraft these, he does need to know very specifically. The termination clause provides that if the City is unhappy with anything at any time, they can cancel these agreements within 120 days for any reason. What he was pointing out here, he

thinks probably with some repetition, is that the final authority lies with the Board of County Commissioners to accept certain developer offers. That is their standard Paragraph 6 in every one of these agreements. The Fire District, of course, has some of that same language. Paragraph 6 says, "The Board of County Commissioners shall have final authority pursuant to Section 1-19-07 of the St. Lucie County Public Buildings Impact Fee Ordinance as to whether to accept an offer by a developer to construct part of a public building improvement project in lieu of payment of all or part of the public building impact fee." They have adopted an ordinance that declares that they are the sole and final arbiters.

If this Commission wants some say-so in that, he will have to know. But essentially what that does is, if the developer wants to build in lieu of paying fees, a portion of a building, and the County deems that to be more beneficial, the County has the final say. If the City says no, they want the money and it is part of an agreement where the City gets a cut of the money back - some of these the City doesn't get anything, some of them they do - that is where that becomes material. The other thing he was pointing out here is that it does not appear that the City has any right to say how the funds are spent in some of these, and that is true. The County has the right to dictate where they are going to put these buildings and what they are going to do. If the City doesn't like what the County is doing, they can fall back on this termination provision and can cancel these agreements and not collect the fees.

That doesn't mean the County can't impose their fees, they can impose their fees countywide.

Commissioner Becht said he thinks the County would take them seriously now if they said they were going to cancel it.

Commissioner Coke said she is not looking to cancel and she is not looking to dictate to the County. Her concern is, if they pass this as is, nobody is ever going to come along in six months, they are never going to look and say, they are having a problem with how this Interlocal Agreement is working and maybe they should cancel it, because it is going to be passed, it is going to be swept under the carpet, and it is going to go its merry way. The only thing, she thinks the City should have a staff member that is kept up to date on how these funds are being spent; and if there is something they should have some input on or be knowledgeable about in an early stage, then it should be brought to the Commission, because they have to have meetings with staff on how they are going to spend this. The only thing she thinks is, if they are collecting the monies for developments within the City, they should be getting a report on how it is; so if it is not something the City is happy with, they could at least let them know. She is not going to cut off collecting their impact fees, she would not look to do that. But she thinks they ought to be more aware of what is going on and how those monies are being spent.

City Attorney Schwerer said just give him specific direction if they can, if they want any of these changed, because he will write that up as they tell him and send it back to the County, if in fact they are going to make any changes to any of these.

Mayor Benton said they have the motion. But the City Attorney is asking specifically what language they want changed. Is this something she would prefer to meet with him privately to discuss?

City Attorney Schwerer said give him some direction on what they want. Do they want a representative of City staff to be notified

when the County is going to accept a developer offer to build instead of pay money? Do they want a decision-making authority in that respect? Do they want to be consulted and have the Commission decide that? Those are issues they really should think about. He really can't negotiate those changes unless he has some consensus from three of the Commissioners as to what it is they want him to do.

Mayor Benton said maybe what they were looking to get is possibly some input from the County on how the money is going to be spent and the City is allowed to respond to that. Would that be okay to add that type of language? All they are looking for is language that says the City would have the ability to respond to those expenditures.

City Manager Beach said he believes the City gets annual reports from the County on the use of these resources. He should say, he believes they are supposed to. He couldn't tell them specifically that they do. Does Mr. Arias know if they get any reports on the use of the impact fees? The reason he is saying that he believes they get those reports is, those have been the source of some controversy in the past. The reports would be submitted saying they were spending monies in some place the City disagreed with. But he doesn't recall that coming up for some time.

Commissioner Coke said that is just it. Mr. Beach is saying that quite often those reports are controversial, so now Mr. Arias is saying they don't get them any more.

Mayor Benton said but what the City is asking is that they get a copy of the expenditures and asking that the City can respond to that and if the County would accept the City's response.

City Attorney Schwerer said he can handle that in drafting simply by saying that the County shall provide the City with an itemized detailed report of proposed expenditures on a quarterly basis and the City's comments in response to those reports shall be considered by the County Commission at a meeting, not that the City can dictate to them, but shall be considered. He can do that.

Mayor Benton asked is that what they are looking for? Does everyone agree to that?

Commissioner Nelson asked is the 4% administrative fee locked in concrete statutorily or any other way?

City Attorney Schwerer said no, he doesn't believe so. But the City can only charge what it reasonably costs the. They have some numbers from staff that suggest that it is going to be costing the City more. The statute requires them to have only such administrative costs retained that are reasonable and compensate them for staff time. They can't keep any overage, for instance, and put it in the General fund.

Mayor Benton asked do they have a recommendation from staff what they would like to see that number be?

Commissioner Nelson said he would like to see whether or not it is universally used throughout the State at least for administrative purposes. He doesn't have a real heart problem with it. But his objective is to try to get as much monies back to the City and get as many things done within the City as they possibly can. When they are talking about 40%, or 50%, or sometimes 60% of collected

fees go to the County, along with knowing what they are doing within the City and the collection of the administrative fees, he would like to have some benefits to the City.

Commissioner Becht asked does staff have narrow enough direction to know what the Commission is looking for them to do?

City Attorney Schwerer said he has one item here. He will take care of that.

Commissioner Becht said when Mr. Schwerer brings it back to the Commission, because it is obvious now he is going to bring it back to them, could he give them some dollar figures on what they are talking about? Because if they are talking about \$100, they really are spending a whole lot of time on it. If they are talking about \$1 million dollars, then maybe they do need to worry about a percentage point here and there.

City Attorney Schwerer asked is he talking about the administrative fee or is he talking about...?

Commissioner Becht said the impact fees for each of the five Interlocal Agreements, if they could have some kind of rough idea of the dollars they are talking about.

Commissioner Nelson said they can use the stormwater impact fees as an example. How much are they talking about - \$8 million?

City Manager Beach said what he has here is three years of fees in each category. They are collecting, if they exclude the schools, what appears to be about \$1 million a year. When they throw the schools in there, it is an additional \$2 million a year. At least in the last fiscal year, they collected about \$1 million on all of the categories with the exception of schools, and it was about \$2 million in the schools.

Mayor Benton said they sure don't want to take any money from the schools.

City Manager Beach said they also pay a 4% administrative fee.

Commissioner Coke said they haven't built any schools in Fort Pierce.

Mayor Benton said they have rebuilt some schools in Fort Pierce at the City's request and they have a little more work to do.

Commissioner Nelson asked based on the motion on the floor, can the City Attorney and City Manager work something out and come back with this?

City Attorney Schwerer said he can do that.

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 Becht discussion on proposed change to the Zoning Code that would prohibit additional used car vehicle dealers in the City.

Commissioner Becht said he had occasion to be talking to Mr. Alcorn

who mentioned that he came from a community that adopted an ordinance that reduced the vast number of used car dealerships that this community seems to be experiencing. He sees Mr. Dickens is in the audience. He has provided him a copy of the ordinance to make sure it didn't affect to what he perceives to be a legitimate used car operation. The goal here is to try to get some of the aesthetically less pleasing operations more restricted and prohibit them from being more numerous than they already are. As he reads the ordinance, he is concerned that this application would eliminate any more used car operations completely. As he had talked to Mr. Alcorn about it, he thought it would limit... The application of this he thinks is to prohibit any more used car operations. What he thought it was going to do was prohibit getting more used car operations unless they have a service department. He puts it forth for discussion tonight; and they can bring it back on a night when it is not so late and they are not so tired. The goal here is, as they are all talking about, raising the bar so the community looks nicer. He thinks this warrants further discussion.

Mayor Benton said just like the changes to the sign ordinance recently, maybe what they need to do is send this information to the Chamber of Commerce and get some input from them; and then at an earlier hour, discuss it in detail after getting their response.

Commissioner Becht said that needs to be a consensus before they do that.

Mr. John Alcorn, Director of Building & Community Response, said he talked with City Attorney Schwerer and he had some excellent ideas on this in how they may draft something that would affect even the existing ones so they would come into compliance of something that would be more attractive by a certain date, like a two year date, similar to what they have done with the signs. It may be appropriate if they would like to send it to the planning staff and let them work out something, go through the Planning Board, and have them bring it back to the Commission. Rather than the Commission trying to draft something, let planning staff draft something. Mr. Schwerer did have some wonderful ideas.

Commissioner Alexander said one thing he would like to see with the existing used cars, there are some of these lots that have some cars that can't be driven off the car lot. He just wants to know how are they going to address that concern? Because they are just using it for a storage area. He knows they had one individual over on Delaware Avenue, they made them leave the premises because of the condition of the building. The cars too were an eyesore. He thinks a lot of the eyesore, they are speaking about these used car lots. He sees some of these where they have cars stored on top of each other; not literally, but the fact that they could not get in or out if they wanted to.

Commissioner Coke said she would share everybody's opinion that they need to raise the bar and things need to be cleaned up. She read this ordinance and she had some concerns because she kind of felt they don't want to pass something so restrictive that they are eliminating free enterprise and the right of someone who wants to open a used car dealership to do so. She doesn't think that is proper for them to do. She does however think it would be proper for them to pass an ordinance requiring certain landscaping, beautification, no more than "x" number of cars per square feet, cars all have to be in running operative order. Whatever those

ordinances are or the set of criteria are to raise the bar to have things look nice and be legitimate businesses. Her concern is though, she doesn't want to consider passing something that is going to limit free enterprise and somebody's right to open a business.

Mayor Benton said by no means. He is not saying tonight whether he would support it. He knows there are a couple of dealerships that are a problem, that have four or five cars, maybe they go to auction and they might be open just a few hours a week on Friday afternoon when people get paid and they are looking for the \$50.00 down and \$50.00 a week for the rest of their life. But they have some real quality used car lots. One example is the one right here at the foot of the Citrus Avenue overpass, which is one of the nicest looking businesses in town. So he definitely doesn't want to restrict the good businesses or hurt them in any way. But there are some people who just use that as a front.

Commissioner Alexander said he remembers reading somewhere that some of these businesses are operating without a license.

Commissioner Becht said they should not be operating without a license.

Commissioner Alexander asked does Commissioner Becht have something on that? He can't remember where he saw that.

City Clerk Steele said in the newspaper.

Commissioner Becht said there is a different problem than just the aesthetics here to address. That is the buy here, pay here. That is where they really don't give a damn whether people can afford the car and they know they are going to repo it in two weeks. He doesn't know how they, as a City Commission, can address that. But he thinks if they focus on the aesthetics of the operation, they can make it more difficult for those types of businesses to operate here in Fort Pierce. Mr. Dickens is here. He has waited all night. He doesn't know if he has anything to say or if they all want to hear him.

Mayor Benton said if they would like, they will give him the floor.

Mr. John Dickens, President of Select Autos, Inc., 414 South U.S. #1, said his wife is not going to believe he was here until 10:30 tonight. He might have to get a note from Commissioner Becht. This is a very important subject to him because the language would be so difficult to ever really implement and enforce. He doesn't know how they would ever do it. There are some bad used car lots in Fort Pierce, but there are two quality operators here tonight. He knows he is by far the premier used car facility anywhere within 50 miles that he knows of - he includes Indian River County and Stuart. The Commissioners all know how he operates. At his place there is no trash. The cars aren't dirty. There has never been a complaint. He has never been in court. He has been in business he thinks longer than anybody else in this town now. He has been in business in Fort Pierce for 30 years. He has been in that location for 20 years. He has 13 employees that average over \$20 an hour. These are high paying jobs, not fly-by-night jobs. They service every car. They guarantee every car. Somebody buys a car from him, he does not have to take it somewhere else to get it serviced.

They do everything except paint work, that is the only thing they don't provide. He has employees who are with him as long as 25

years, several of them in the 15 year and 20 year range.

Commissioner Becht asked would Mr. Dickens tell the Commission how they might achieve what they are trying to achieve?

Mr. Dickens said when he built that place, he thought about it for a long time when he built it, so he designed it with a lot of prior thought in how he was going to build it. The beautification things that he has done weren't even requirements, those were already things he had planned on doing. He maintains the shrubbery and the lighting. If they go to his place at night, it is just like day time. He doesn't let lights burn out. It is a safe place. He has no crime there. He hasn't lost a car in 15 years because of the way they run the place. But implementing this, he just can't imagine how they could do it. It is so complicated, he doesn't know how they could do it. It would take much better minds than his to figure that out. He knows enforcing all the codes would be a big start. There are so many people in town who have a fictitious dealers license, all they do is have an address and some junk car sitting there; and they use that to facilitate wholesaling and to go back and forth to the auction and buy cars and retail them out of the paper or whatever they do. There are several places in town that are not legitimately in the car business. How they do that, he really doesn't know. It is going to take a better mind than his to figure that out. He knows the facilities he has built and how he maintains them. He knows the history of the business. He is right downtown, it has been like that since he owned it. He is the first successful person at that location since Herb Feibelman in 1958.

Commissioner Becht said Joyce Motors.

Mr. Dickens said Joyce Motors, that is right. He is the first successful person at that location. That location, he really hates to get into all this because he realizes how long he can talk about it, but he doesn't even plan on ever selling that place. They all know Bruce Abernathy. It is already in a trust.

Mayor Benton said maybe it is something they look at that they can address with requiring so many square feet. The ones he is talking about have only a few cars. He has seen some with ten cars. Maybe there is a requirement that they would have to have a show room. Mr. Dickens said service is a big thing. If they can require service, and he doesn't think that pertains to everybody, but service would eliminate a lot of people because not very many places can provide service because it takes quite a facility to do that. There are some good guys in town. Jack Hubert is here. They have never had a complaint on him. He is in business as long as him almost. Mr. Hubert doesn't have a service department but he has people who service his cars. He guarantees his cars too. He does run a legitimate quality operation. He registers more cars than anybody in St. Lucie County. Mr. Hubert is second to him. The reason they don't have a lot of people here tonight is because so many of these kinds of operations aren't property owners. These are people who are leasing or renting properties and they have no incentive to maintain or beautify the lot because they are renters.

City Attorney Schwerer said the City really needs to take a look at the proliferation that these business are having. There are 100 and something in the City.

Mr. Dickens said it is hard for him to believe it.

City Attorney Schwerer said that is what is reported. From a car dealer's standpoint, how would a distance limitation between businesses, like they do for bars or other types of businesses, affect him? It has been said that new car dealers should be close together so people have one place to shop. But if these can locate anywhere like a C-3 zone, what would be his response as a business owner to be told, he really can't locate within 1,000 feet or 1,500 feet from another dealer. What would Mr. Dicken's response be?

Mr. Dickens said he would like for there to be no dealers within 50 miles of his business.

City Attorney Schwerer said he understands. But he is asking, looking at it from a dealer's standpoint, if they are going to locate, is that an issue?

Mr. Dickens said he doesn't know. He is sure there could be some zoning and things. He would like that. But he doesn't know that there are that many used car facilities that are within 1,000 feet of each other, as he is thinking about it.

Commissioner Alexander asked is there a lemon law for used cars?

Mr. Dickens said no, there actually isn't. There is a perception that there is a lemon law, but it is just not true.

Commissioner Alexander said his concern there is, once they drive it off that lot...

Mr. Dickens said he will tell them what he would think would be good way to eliminate some of these problems, is to make all dealers guarantee their cars within reason.

Mayor Benton asked does he have a warranty with his?

Mr. Dickens said he has a warranty with all his cars.

Commissioner Alexander said the City law doesn't do that.

Mr. Dickens said no, it really doesn't regulate that; but there could be some kind of City ordinance regulating possibly...

Commissioner Alexander said Code Enforcement could handle a lot of that problem because if there is not a lemon law for used cars then it is, Buyer Beware. Again, they have vehicles that are parked on these lots that haven't been used or cranked up.

Mr. Dickens said he could think of a half a dozen himself that are fraudulent locations that people just have their license hanging on the wall for other reasons.

Mayor Benton asked is there enough interest from the Commission to ask staff to possibly look into something that could...

Commissioner Coke said they ought to kick it over to the Chamber of Commerce and get their opinion too.

Mr. Dickens said he would be happy to talk to anybody in private if they ever want to call his office. He can think of a half a dozen guys here in town who are clean legitimate operators and he thinks their input would probably be helpful to the Commission in coming up with some ideas. But on a long term basis, and it is the last

thing he is going to say, to restrict what he can do with this property for the next 60 years or 80 years, and that is what he is looking at, would be very costly to his family.

Commissioner Becht said that is not what they are looking to do. Actually in the end, if they accomplish what he thinks they want to accomplish, the City is going to help Mr. Dickens.

Mr. Dickens said it would be helpful to him, because less competition, the better for him. He likes to see people have to spend the kind of money he does. Nobody here would ever guess what his overhead is a month. He could let them all take a guess. He guarantees them, nobody would come up with a figure within half. His overhead is \$55,000 a month. That is his overhead. Gerry DiBartolomeo is his CPA and he would tell them that. When he tells them he does everything right, everything is done perfectly. So to penalize him in any kind of way for all these fly-by-night guys...

Mayor Benton said that would not be their intention. And any changes that would be made, there would be public hearings on it. By no means do they want to hurt legitimate businesses in Fort Pierce.

Mr. Dicks said if he can ever help, he would be happy to talk to anybody.

Mayor Benton said he will be calling on him. Normally they sit down with the Chamber of Commerce and get input. If told to leave it alone, they will be leaving it alone.

Mr. Dickens said he doesn't think they should leave it alone, but he thinks there is some dangerous language there.

Mayor Benton said tonight they just approved hiring additional code enforcement people and vehicles, which will help. Because a lot of the ones he sees are the ones who have no landscaping or don't take care of their landscaping, so the City can go after them. Maybe they can have an ordinance that says once they have become a repeat offender, the City takes their license.

Mr. Dickens said he welcomes code enforcement, because it would help him, not hurt him. It complies with his whole philosophy behind his business. The stigma of being a used car dealer has changed a little bit. There are some nuts around, but they don't last very long. If they are not legitimate and they don't do things right, he guarantees there are plenty of agencies that will get them sooner or later. It will catch up with anybody who doesn't do things right.

Mayor Benton said maybe that is the answer they will get from their staff.

The next item on the Agenda was Letter from Commissioner Alexander to Sheriff Ken Mascara, concerning sponsorship of youth to visit Busch Gardens in Tampa on July 30, 2005.

Commissioner Alexander said he thinks there was a mis-communication as to why this is on the Agenda, but he doesn't mind putting it in the presence of the Commission what his intentions are. It has always been for the concerns of the kids in this community. It all relates back to the hurricane. Again, their kids were not able to attend these functions because they had to go to school an extra

week. So his intention was just to let them know what his concerns are.

Mayor Benton asked has the Sheriff responded yet?

Commissioner Alexander said no.

Mayor Benton said he hopes the response will be very positive.

The next item on the Agenda was Appointment or reappointment to the St. Lucie County Expressway & Bridge Authority.

City Clerk Steele asked the St. Lucie County Expressway & Bridge Authority, she heard today it had been dis-banded?

Mayor Benton said it has never met that he can remember.

Commissioner Becht said that means Mayor Benton and Commissioner Alexander have more time to serve on other Committees.

The next item on the Agenda was City Engineer to discuss Asphalt Overlay Plan.

Mr. Hector Arias, City Engineer, said each one of the Commissioners received this evening a summary of all the streets that need to be resurfaced in the City by sections. They have a map that shows all the streets to be resurfaced in red. Then they have his memorandum (dated July 18, 2005). He thinks the Commissioners should take this with them and maybe staff should meet with all of them separately and then they might have some ideas and maybe they know another road that he doesn't know. The bottom line is, according to the latest inspections, they are going to need \$8.8 million to resurface the roads in the City. This is a monumental funding task and he thinks he should talk to all of them.

Commissioner Coke said she was very concerned about this at their workshop last week. In her mind, before it becomes a \$20 million project, they need to take whatever steps to move forward to budget part of it annually out of the CRA and part of it annually out of the City budget. Because if they don't start working on some of these roads now, they are just going to get worse and worse.

Mr. Arias said then it is going to cost twice as much. He will meet with each one of them and explain to them the program and get their ideas and see how they can tackle this situation.

Commissioner Coke said she appreciates this quick response.

Commissioner Alexander said his little two cents on this. They have a lot of City employees, whether it be from Solid Waste to the City Manager, who ride up and down these roads. He thinks they should be proactive - any time they see potholes in the City of Fort Pierce, they need to be concerned about it. It should be a citywide effort. Some of these problems should have been addressed two or three years ago. He thinks they need to make an effort to make some of this happen because some of those roads out there are ridiculous. Someone could injure themselves and tear their car up.

There is always passing the buck. He has seen this several times where they pass the buck for whose responsibility it is.

Mayor Benton asked are they going to talk about this one on one with the Engineering Department staff?

Mr. Arias said yes, they will.

Mayor Benton said there has been a request from Mr. Bergalis to set up a **Budget Workshop** either the week of July 15th or August 1st. He will not be here next week with the exception of Friday, when he will be back probably around lunch time.

City Manager Beach said August 1st is a regular Commission meeting. Is that correct?

City Clerk Steele said yes.

City Manager Beach asked can this be an agenda item on the Commission Agenda on August 1st?

Mr. George Bergalis, Director of Finance, said it can be. It is up to the Commission.

Commissioner Coke asked can they have a preliminary budget? Because she thinks that is going to be instrumental in making any kind of decisions.

Mr. Bergalis said he has a document just about ready to release. Once the Commission gives him a date, they will get that out in plenty of time before the meeting.

City Manager Beach asked everybody is okay with August 1st?

Mayor Benton asked is that going to be during the Commission meeting?

City Manager Beach said yes. It would be an Agenda item. Actually this is a formality that they have to go through each year. They can devote whatever time they want to devote to it.

Commissioner Coke asked don't they normally have their budget workshop first and then they vote on this? If they are looking to vote on this and then have the budget workshop, they are backwards.

City Manager Beach said this is a little bit different this year.

Mr. Bergalis said usually the first workshop they have on the budget, the reason why they do that and set that is to present them with a proposed budget; and at that meeting they have to go ahead, and he encourages the Commission to preform these acts that are necessary for the TRIM regulations - which is announcing the proposed millage rate, announcing the rolled-back rate, and setting the date, time, and place for the first public hearing.

Mayor Benton asked that has to be done by when?

Mr. Bergalis said they need to get that back to Jeff Furst no later than August 5th.

Mayor Benton asked what they need to do is have a workshop sometime for the budget during the first week of August?

Commissioner Coke said last year they didn't end up approving any of the budget until after the hurricane.

Mayor Benton said no, that is when they had the public hearings.

Mr. Bergalis said this is not the public hearing by any means.

Mayor Benton said this is the information for Mr. Furst so they can take the next steps.

Mr. Bergalis said they already tentatively at the workshop last week pretty much decided what they think they want the proposed millage rate to be for next year. That is one of the three items that could be out of the way. They know what the rolled-back rate is, that is a given. The date, time, and place for the first public hearing, he will give the Commission that date and the time and they just need to announce it.

Commissioner Coke said her concern is, if they announce a millage roll back of, for example, three-quarters of a point, and there is no way to balance the budget at that, where does that leave them?

Mr. Bergalis said the rolled-back rate never changes. That is a given based upon definite numbers already in place. It is the proposed millage rate that they can alter.

Mayor Benton said it appears that staff has heard that was their intention. So if they don't have a problem with it, they must have a balanced budget.

Mr. Bergalis said the budget is being presented at what millage rate they all tentatively agreed upon last week.

Mayor Benton said that makes life even easier then. They have a balanced budget with a reduction in the millage rate of .75 mills.

City Manager Beach said just in case someone gets confused, what staff has said to the Commission and what staff continues to say to the Commission, if they set that rate at a certain rate, that is a target that they shoot for. But at the same time, they will get budget requests in here that may exceed that substantially. When that happens, first of all he and Mr. Bergalis will go through it and try to get it down as far as they can. If they get it as far as they are comfortable with, that is when they come to the Commission to start making choices about how they get the budget to comply with what their anticipated revenue is.

Mr. Bergalis said they will have a balanced budget.

Mayor Benton asked once they give Mr. Furst this information, the City can lower it, but they cannot raise it, right?

City Manager Beach said that is correct.

Mr. Bergalis said no. At the first public hearing, they can increase it, provided the City notifies every tax payer in the City by first class mail. They don't want to do that. He needs a date.

Mayor Benton asked do they want that brought to them on August 1st or do they want a budget workshop?

Commissioner Coke said she thinks they need a workshop.

Commissioner Nelson said he thinks August 1st is good enough for him. This month has really been killing him.

Mayor Benton said they just had two days of workshops.

Commissioner Alexander said Commissioner Becht has said he is going to make the motion to lower it, so they are going to follow suit, right?

Mayor Benton said bring it back on August 1st and balance that budget with three-quarters of a mill down.

Mr. Bergalis said this will be at the regular meeting on August 1st.

Mayor Benton said as soon as he can get proposed budget to the Commission, please.

Mr. Bergalis said they will have it.

Ms. Portia George, 707 North 19th Street, said she just wanted to address a concern with weatherization. They were approved for that several months ago and she has called several times over the last couple of months and she still hasn't gotten any results as to weatherization. She also went out and received estimates for some things she needed to have done and she turned those estimates in. Now they are telling her she needs to have contractors to bid on the job. Her concern would be, if she needs windows, she would want a window repair person to replace her windows. If she needed anything specific, she would want the person that specializes in that area to do that job. She keeps calling and she keeps getting the same answers, but she is not getting any results. She thinks that is the major concern.

Mayor Benton asked has she talked to Jon Ward?

Ms. George said no.

Mayor Benton asked is Mr. Ward in charge of the weatherization through the CRA?

Mr. Jon Ward, Director of Fort Pierce Redevelopment Agency, said he thinks the **Weatherization Program** is a grant program of the CRA; however, he thinks it is being evaluated by the Community Services Department.

Ms. Dorina Jenkins, Assistant Director of Community Services, said on the weatherization program, they were informed by Ms. Satterlee to follow the same guidelines as their Housing Assistance programs. Therefore, they are required to bid all projects out.

Commissioner Alexander said he had a few calls concerning that. He looked at some of the criteria for that. It is a stumbling block with it now. He thinks he spoke to Ms. Jenkins about that. It was something about going out and getting...

Ms. Jenkins said they have to get an Energy Survey.

Commissioner Alexander said the people are going to have to pay for that. He knows maybe this is the wrong venue, but they need to have some direction on this.

Commissioner Coke said she thought the U.A. was going to give free energy surveys after their stuff last year.

Commissioner Alexander said he thought that too. But believe him,

it has been a stumbling block, not only for that particular weatherization.

Commissioner Coke asked is the Utilities Authority not giving free energy surveys?

Ms. Jenkins said no. They are just cutting the cost.

Commissioner Coke said that is diametrically opposed to what they all agreed that they were going to do.

Commissioner Alexander said they need to not only do that, they need to have some other concerns about those grants they passed out. Mayor Benton has inquired a couple of times about the basketball thing. The summer is almost over. Do they look at the County with these swimming pools? They are going to open up when school is back in session. That doesn't make sense.

City Manager Beach said let staff give them a status report on where they are with this weatherization program, who has applied, what the status is.

Ms. Anne Satterlee, Assistant Administrator, said they have.

Commissioner Alexander said he is not liking what he sees and this is why he is bringing it back today, because he got that.

Commissioner Coke said she would agree with Commissioner Alexander. She thought they had awarded those weatherization grants.

City Manager Beach said all of the grants the CRA Board awarded, they awarded with the conditions that they meet certain criteria. What is going on right now is, whoever is administering the grants is making sure that everybody meets that criteria and that everybody submits the paperwork that is necessary for disposing of public funds.

Mayor Benton asked some were rentals, if he recalls?

Ms. Jenkins said no.

City Manager Beach said it is not as uncomplicated as they would like for it to be when they are dispersing public funds.

Commissioner Alexander said they are making a mountain out of a molehill. When they put in those stipulations that they have to have these surveys, he thought they were speaking about the survey they said they would use the tax base.

City Manager Beach said there may be a reason for it. He doesn't know what it is.

Commissioner Alexander said that is what he is telling him. It is not his reason.

Mayor Benton asked can Ms. Jenkins and Mr. Ward sit down and maybe in the next few days or week they can give them some information?

Commissioner Nelson asked why don't they just have the City Manager give them a report back?

Mayor Benton said because Mr. Ward is in charge of the CRA. Maybe between the two of them, they can figure out what they can do.

City Manager Beach said here is the deal. He believes they have it figured out. But he doesn't believe the CRA Board likes the solution, they don't like the answer, they don't like the way it is being administered. That is the problem, he thinks.

Commissioner Alexander said it is not that.

Commissioner Coke said she doesn't think anybody is saying that. She thinks their concern is, and it has happened before, and this is why they try to work things out. Their concern is that if these are the parameters under which they thought this program was being administered, if the parameters are different from what they thought, or if they have increased somewhat and maybe very legitimately, but they were not informed of it, then that is where their concern lies. Because when they have people who come and say they have done everything they thought they were supposed to do, she needs to be able to give them an answer. If now all of a sudden... She never heard anything that they had to go out to bid. They can't expect people in the private sector to know all that.

Mayor Benton said he received some information that explains several properties that did not fit the guidelines - either they didn't supply enough information, or in one case it was a rental property, they didn't own the property. He knows he received something explaining why some of them didn't fit the criteria.

Commissioner Nelson said he received nothing.

Commissioner Coke said she received nothing.

Commissioner Nelson said he would like to have the City Manager give them a report back on the status of that.

Mayor Benton said if he can find that document he has sitting on his desk with many others.

Commissioner Alexander said his concern is that they made the decision, how long ago? These decisions were made in March. For them to give him that excuse, they have this door closed in their face, is just B.S. That is the bottom line. They have emergency funds out there. He doesn't mean any harm to Commissioner Coke, but did Big Brothers and Big Sisters get their funds?

Commissioner Coke said she doesn't know.

Mayor Benton said they are moving in. They must have.

Commissioner Coke said not necessarily.

Commissioner Alexander said he assures them their thought and train of mind was thinking they were going to get it. But it hasn't happened. He can assure them of that. None of it has. That is where he is at with that. It is two or three months.

Mayor Benton said they have made some changes with the CRA. Maybe at the next CRA meeting they could have some information on this. Like he said, he got some input on it, it is sitting on his desk. Maybe if Mr. Ward could sit down with Ms. Jenkins and give them an update and status report.

Mr. Ward said he thinks it would be fair to say that the grant program has not moved as expeditiously in any area that the CRA Board would like for it to, but it is a complicated process. He will look at it and they will have a meeting. Their CRA meeting is a week from this Wednesday and he is sure this will be a topic of discussion and he will be ready to talk about it.

Mayor Benton said he feels very confident that with new leadership in the CRA, a lot of things are going to get somewhere. Give Mr. Ward some time.

Mr. Ward said it will be a focus.

Mayor Benton asked is that acceptable with everybody that they get some input? He has high confidence in Mr. Ward. Mr. Ward will get back with Ms. George after they find out what the issues are.

Mr. Rick Reed said to comment further on the weatherization issue, as they all know he was very active with regards to the Utilities Authority problem. At their last Concerned Citizens meeting two weeks ago, there was a young couple who came to their meeting. He had just returned the week before from Iraq, active duty. His wife and children had moved back to Minnesota while he was on active duty. Their home was destroyed over on the beach. It had damage. He had contacted Mr. Beach's office. He asked to speak to the City Manager about finding out about funds and it was explained. This gentleman ended up in their meeting and wanted them to help him. They just explained that they were a civic organization that met in City Hall. He and his wife explained who they were and that they had just come from the City Manager's office asking for help and that he had just returned the week before from Iraq. He doesn't know, this is second hand information, but that he had asked to meet with Mr. Beach and Ms. Robinson had advised him that Mr. Beach doesn't meet any more with the public.

Mayor Benton said he would make a recommendation, because this is getting second hand information. Just tell this person to put a formal letter in to the City.

Mr. Reed said the sad part about it was, commenting on what they were all talking about earlier, they then went and introduced him to Mr. Ward. Because the problem was, he didn't meet the deadline. Because, even like the Big Brothers and Big Sisters, there is a procedure for an emergency.

Mayor Benton said if it happened from the hurricane, there are all kinds of initiatives out there throughout the County. What he needs to do is put a formal letter in to the City and they can get him in the right direction. Either he should have dealt with FEMA.

Mr. Reed said he wasn't here.

Mayor Benton said the point is, it happened from the hurricane.

Mr. Reed asked how does he deal with FEMA when he is in Iraq serving the Country?

Mayor Benton said he has a wife and kids. And the point is...

Mr. Reed said she was in Minnesota.

Mayor Benton said listen, there are exceptions to every rule. They will go to bat for the guy. But they can't hear it from Mr. Reed. He doesn't even have a name. He has to have a formal letter.

Mr. Reed said Mr. Ward does and he took care of it.

Mayor Benton said that is great. But Mr. Reed is trying to imply that there was no help from the City Manager's office.

Mr. Reed said his point is exactly what they all are talking about, Commissioner Coke and Commissioner Alexander, the poor man got the run around. As far as the weatherization that the people and the Board were promised, they are not getting it.

Mayor Benton said they will find out the status of it at the next CRA meeting. But this person needs to come forward with a letter or come see him. Through Mr. Reed is not going to do him any good. His suggestion to Mr. Reed is to tell him to write a letter to the Mayor or come see the Mayor. And they will see what they can do to get him in the right direction.

Mr. Reed said so people in hardship, especially someone actively serving the Country and just came back, is supposed to come right in and write a letter, instead of coming down and asking the leaders of the community...

Mayor Benton said the gentleman asked Mr. Reed, not him.

Mr. Reed said he was sent down from the third floor down to their meeting.

Mayor Benton said he is on the third floor too.

Mr. Reed said he wasn't there. He guesses he was out mowing grass.

Mr. Christopher Dzadorsky, President of Hibiscus Park Crime Watch & Homeowners Association, said he just wanted to confirm that the Commission approved the new City **Code Enforcement** officers earlier in the first part of the meeting.

Mayor Benton said yes.

Mr. Dzadorsky said the homeowners in Hibiscus Park have asked him to come before the Commission tonight and ask for increased patrols by Code Enforcement. Initially, their agenda for 2005 was just for crime watch and safety issues and that type of thing. But they have had a substantial increase in code enforcement violations. They just had a recent drive-by shooting on Texas Court and it was gang related, so that is something they are very concerned about. So that is why he has come before the Commission this evening, to ask for increased improvement of code enforcement. That is an issue there, they also have issues on Beach Court, and a number of places. He just sent some letters and e-mails regarding their specific issues. That is the first thing. The next thing was, Mr. Arias is not here, but he has suggested that there was some money to be used for paving roads. Of course, they have actively asked Mr. Beach for some assistance in capital improvements in Hibiscus Park. But in the meantime they have some roads that have not been addressed, to the best knowledge he has, in 15 to 20 years. So if that be the case and if there was money available, the residents of Hibiscus Park have asked him to see if Hibiscus Park could be considered for some of those pavings.

Mayor Benton said he is sure when they look at the list they have been given earlier tonight, he knows they can sit down with him and they can go over it and see if there is any for Hibiscus Park.

Commissioner Becht said at the workshop last week, Staff came up with a concept which they are trying to build on, where they would go into a community like his community, identify it by boundaries where there is some kind of hopefully existing community; or if not, a blighted area that is defined by streets. And they would come in with the full resources of the City. They would come in not only with Code Enforcement, but they would come in with Public Works. They would do some paving. They would come in with a couple of dumpsters and the people would empty their houses of junk. This is a Task Force that they need the citizen's feedback on. Because Mr. Dzadorsky is active in his neighborhood, it sounds to him like he might be the one to ask for the City to come in with this Task Force. It is new territory, so they are trying to build as they go. The concept is, not to take the whole City, but take an area and see what they can do with both code enforcement - which is somewhat punitive - but with CRA, paving, and dumpsters, to yank the community up and help them help themselves. If Mr. Dzadorsky could work with staff on the concept, maybe they could make it a reality.

Mr. Dzadorsky said he will make himself available every day of the week, for the next two years if necessary, to make that happen. The community in which he lives, these people are very active. They want to see change. They have been very patient waiting for capital improvements for the neighborhood. They are ready to move. He average 45 to 50 members per meeting and they meet every single month. They even met this past Saturday with a hurricane looming and they still had 29 people show up. So these people are very active. They are ready to go. He will be available any time, any place, any where. He has even expressed to Mr. Beach that they are even ready to do an MSBU type program to get services, if necessary.

Commissioner Becht asked who should he meet with to follow up? Should he meet with Mr. Recor or Mr. Beach?

City Manager Beach said actually Anne Satterlee has been heading up the activity that they are involved in with Hibiscus Park. They are actually doing a complete survey of the needs of the area related to streets, lighting, and housing. They are inventorying all of the houses in the area to determine what the conditions are, ownership, and so on. This started several months ago at their request. They came in stating they had in their discussions that they were willing to go forward with some type of special assessment, if necessary, to do some of the improvements to the neighborhood. This is south of Georgia Avenue and is outside of the CRA District; so they don't have an allocated source of money to do this type of work. But what Staff is doing right now is inventorying and defining what those public improvement needs are and they will sit down with that association at that time. Like he said, Anne Satterlee has been heading that up.

Commissioner Alexander said he wishes they had more citizens like Mr. Dzadorsky. They would keep all of Fort Pierce beautiful. But his concern is, he heard earlier tonight that even with the CRA and CRA monies, it would enable the City to free up other monies. He

just thinks they need to put in more effort.

Mayor Benton said that is why he asked for the Community Development Block Grant money; because in the past it has been spent in certain areas of Fort Pierce, but now those areas are within the CRA boundaries. Hopefully, that can free up money that can be spent. He has specifically said south of Georgia Avenue. It is time that those neighborhoods south of Georgia Avenue got some attention. They are on the verge, so it is very important that they put some effort in those areas.

Mr. Dzdorsky said he would thank them to do that. Again, these residents are actually willing to be assessed and to go forward. They made contacts with State representatives. They are asking for State monies. Any way they can support the City to help them. They are actively lobbying State members. They sent letters to Governor Bush just to let him know they are out here. When the time comes, anything they can do. They have 290 homes with folks who are ready to write a letter on behalf of the Commission and Fort Pierce to any representative. Especially after last Saturday's meeting, when one resident came to him crying. She has two very small children and just bought the house on Texas Court. When the drive-by shooting happened, she was devastated. The woman just across the street sold her house because of the drive-by shooting. The code enforcement issue is a huge issue for them right now. They need to get that stopped, because this area is not known for it's crime. They have some bad apples and that bush is starting to...

Mayor Benton said the newest resident of his neighborhood is the Deputy City Manager.

Mr. Dzdorsky said that is one of the good apples.

Mayor Benton said he is sure his neighborhood is going to get some attention because of their organization and also with the support of Mr. Recor. Their goals are to straighten that neighborhood out.

Mr. Dzdorsky said he appreciates that and he wants to thank the entire Commission and Mayor Benton for sure. He is available. If Commissioner Becht would like him to be available at any time, he can be available at his discretion.

Commissioner Becht said he would like to meet with him because he might be able to spearhead this, give it a name, give it some emphasis.

Ms. Marjorie Harrell said her concern was for the Lincoln Park community and **Code Enforcement** with more inspections and more clean up effort. The African America Revitalization Association that was formed in June, one of their first projects will be called the Lincoln Park Revitalization project; and that will be an all out effort to clean up the neighborhoods street by street involving Mr. Ellis program and whatever agencies the City has. Right now one of their main concerns is at the corner or end of Avenue D where it intersects with Angle Road.

Mayor Benton said the recycling folks.

Ms. Harrell said yes. The storms are coming, they have been lucky so far; but He is not going to keep sending those over to Texas.

Mayor Benton said he would make a request there, because the City

has already written the County letters. If she would write to Joseph Smith on the County Commission, because that is his district. The City has already sent many letters to the County with their concerns on both sides of the street there. There are two recycling areas. It is a mess and it is a potential hazard.

Ms. Harrell asked so that is in the County?

Mayor Benton said yes.

Commissioner Alexander said anything past the Housing Authority.

Ms. Harrell said it is past the Housing Authority. So she will take care of that when they come back from Hawaii. They didn't invite her and they probably won't bring her anything back either. She just wants the Commissioners to know they are beginning to take a look at their community. They did take a tour today looking at the community and the needs. She met with Mr. Beach, he gave her a lot of information, and Ms. Satterlee has given her information. She understands Mr. Beach has two assistants now and she will be calling them and getting help from them. She knows what his aim was, to free him up for other things. She just would like to thank Mr. Beach.

Ms. Marjorie Harrell said she would like to take a minute, and she will put it in writing and send it to the Commission for the next meeting, but she would like to commend Dorina Jenkins who is the **Community Services** Assistant Director. She took over Patti Tobin's job along with her own job during the interim while they were getting a replacement for Ms. Tobin. She looked at the agenda tonight and she listened, and all the projects Ms. Jenkins worked on, the Commission had no problem with. That spoke highly of her abilities.

Commissioner Nelson said one item he wanted to mention, the fact that **Lake Okeechobee** over here and the reservoir is getting extremely high. It is causing the Legislature and the South Florida Water Management District to get ready to press the panic button. They are having a meeting down in Stuart tomorrow from 1:00 to 5:00 p.m. They have to figure out a way to release some of that water. And of course, it is coming into the river over here and Fort Pierce should be concerned. The Commission is invited to be there to give their environmental input in. Did any of them get notification of that? There is a big meeting down there tomorrow.

Mayor Benton asked does he think the SFWMD will listen to them? They have two choices. If they don't let the water out, the dike might break. It is a disaster.

Commissioner Nelson said the thing is, the Legislature called a special meeting down there and they are inviting the Commissioners to come down to talk with the Martin County folks and the South Florida Water Management District. Some of them should be there.

Commissioner Coke said they must have only invited Commissioner Nelson, because she did not get her invitation. So she will nominate Commissioner Nelson to go and represent the City.

Commissioner Nelson said the **Legislative Delegation** is coming to Fort Pierce on July 20th. How do they stand on that?

City Manager Beach said they are ready.

(Commissioner Nelson left the meeting at 10:55)

Commissioner Alexander said he thought they were supposed to contact the County and the Fire District and so on.

City Manager Beach said this has been organized by a staff member of the Florida League of Cities. His understanding is they are inviting Legislators and their aides. He has not heard discussion about inviting the Fire District or the County Commission, although it wouldn't be a bad idea if they did come.

Commissioner Alexander said he thought it was a request by the Commission.

City Manager Beach said he does not recall that.

Commissioner Alexander said he has one grave concern about **10th Street Park**, those restrooms. Is there any way they could put any type of lighting in that area that would discourage what is going on over there now?

Mr. Gary Ferch, Director of Public Works, said he believes they are addressing that. He was off last week, but he talked to his Deputy Director of Public Works. He believes that request has been put to the Fort Pierce Utilities Authority already. He will check, but he is almost sure it is in the works.

Mr. David Recor, Deputy City Manager, asked is Mr. Ferch referring to some of the suggestions the Chief had made as a follow-up from Mr. Hood?

Mr. Ferch said correct.

City Manager Beach said he has copied Commissioner Alexander on that information.

Mayor Benton said he wanted to thank Dorina Jenkins and Marjorie Harrell and Jon Ward. They took a trip the other day to see what the **World Changers** have done in the City. They did a marvelous job painting and helping people. It was a very hot week for some of those kids and staff members. They went late in the afternoon at about 4:00 p.m. He would like for Mr. Ward to put together a thank-you for those people.

There being no further business, Mayor Benton declared the meeting adjourned at 11:00 p.m.

ADJOURNMENT

ATTEST:

CITY CLERK

MAYOR COMMISSIONER