

MINUTES OF A REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, HELD IN THE CITY HALL COMMISSION CHAMBERS, 100 NORTH U.S. #1, FORT PIERCE, FLORIDA, AT 6:30 P.M. ON MONDAY, JULY 20, 2009.

Mayor Benton called the meeting to order.

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

The Pledge of Allegiance was recited.

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

The next item on the Agenda was Approval of the Minutes of the Regular Meeting on July 6, 2009.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve the Minutes of the Regular Meeting on July 6, 2009.

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

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

Letter from Linda Hudson, Downtown Farmers Market, commending Michelle Kubitschek (Community Center) and Dean Kubitschek (City Marina) for their excellent service.

Letter from Audrey Napp thanking John Wilkes, Director of Sunrise Theatre, for a wonderful event.

Mr. Buzz Smyth, 658 North 2nd Street, said he wants to talk about trash. He couldn't help but notice at the last City Commission meeting they were discussing a raise in the tipping fee. He thinks it was nearly 25% is what he heard.

Mayor Benton said 28% and that is St. Lucie County.

Mr. Smyth said as a business owner, he is doing everything he can to try to make it. He doesn't need to impress this on them because he thinks they get it, they understand it. He cannot absorb anything else. The trash business is something that is kind of unique. Once it gets under their skin a little bit, it sticks with them. In 1989 he went into the trash business, they were recycling. It was one of the worst recession periods he remembers other than today. He met quite a few people. He met Harold Hopkins at that time, Leo Cordaro, and people like that. They were recycling up to 82% of everything they brought in. The goal of the government was 32% at the time. He worked with people like Representative Ken Pruitt, Senator Doc Myers and then lawyer Cliff Barnes. They were doing a good job. The government stopped them from what they were doing, not because

they were doing a bad job, but because they didn't really know what to do with it. It was very early in the game, and the attitude of the government and everybody was not the same as it is today. Today the attitude has changed about going green and recycling. He chuckled when Commissioner Becht had asked Mr. Hopkins what to do about this, what could they do? Mr. Hopkins really didn't have an answer. He knows there are a lot of things they can do. And with the attitude of government and everybody about recycling and about reducing waste, there is a lot they can do. He doesn't want to complain without having some solutions. He wanted to bring to their attention they are in one of the best times they could ever be to implement some of the programs that can be done. For example, right now there is no commercial recycling or separation. Everything in a commercial dumpster goes right to the landfill, it goes right onto the hill. When they were doing 82% recycling, they were aggressive at finding uses and separation and consolidating the waste they had. It is unbelievable the amount of waste that is created right here in little old Fort Pierce. So the first thing they need to do is establish commercial separation and recycling. Right now there is none of that being done. Their cardboard goes straight into the dumpsters. That can be bailed and sold. Mr. Hopkins is a real good person incidently, he has known Mr. Hopkins for quite a few years. He mentioned that the transfer stations can be used to consolidate, reduce, and recycle. When they reduce that volume, it reduces that bill, it reduces the amount of trips they take. They can also create hundreds of jobs by being able to recycle, consolidate, and separate their trash. Trash is big business. Fort Pierce has the nicest trucks, they have good employees, they have facilities right here in Fort Pierce that are ideal for making these transfer stations. Between recycling and the savings they are going to save on the tipping fees, they would be able to possibly save and make millions of dollars, especially if they were aggressive in going into this. It is amazing how much waste is produced right here in little old Fort Pierce with the geographic area they work in. He would ask very strongly that they talk to Mr. Hopkins, get him to start some programs, and let's get some recycling and separation going. There is no reason they can't have two containers sitting side by side - one for cardboard and one for trash and rubbish. Right now even the limb trimmings and things like that go straight into the dumpster and are not separated. They really need help in this. They have a rare opportunity to implement some of these things. This is big business. He knows there is going to be some money available. Please try to do something with it.

Ms. Marcia Baker said she is a resident of Fort Pierce. She is very pleased to be following Mr. Smyth with a marvelous suggestion for income to the City. Her congratulations to Ms. Satterlee and Commissioners Alexander and Sessions for their hard work and efforts to have Sheraton Plaza given the opportunity at last to fully participate and be included into Fort Pierce. She hopes the annexation referendum succeeds and that the voting residents of Sheraton Plaza can finally have their voices heard. There is another area of property that needs to be annexed. Unlike Sheraton Plaza and other recent annexations, this area is composed of scattered lots within the existing City boundaries. She believes there are well over 100

parcels that are completely surrounded by City property but are still not on the City tax rolls. Some of these are even adjoining City lots, adjoin one City lot and one part County under one ownership. These properties have all the benefits of being within the City without any of the costs. And she doubts that the FPUA, with its own logistical problems, has been actually properly charging the surcharge to some of those developed properties in the same way they charge other County ratepayers. Many of these properties are within the boundaries of the existing and proposed FPRA zone. These property owners are getting the additional benefits from FPRA projects without having any of the increase in value of their properties accruing to the FPRA. This especially impacts the undeveloped lots that have not been annexed yet because they aren't hooked up to FPUA services. In at least one case on Avenue S within the current FPRA area there are two adjoining vacant undeveloped lots, each with a different owner. One is in the City and the other is not. If both of these properties are developed, the FPRA would only obtain the benefits of the tax increase from one, as the other would not be annexed until after the development was done. Another very large property within the same FPRA area is also not on the tax rolls and recently had its buildings demolished and is likely being readied for development. She doesn't know the full reason these lots have escaped being included on the City tax rolls or what legal process would be needed to rectify the problem. She does think it is an improper burden on the rest of the City and its taxpayers to have any property owners unfairly benefitting from the City's services and programs without them paying their fair share. If the FPUA has not been properly charging those scattered developed County lots the same surcharge as other County residents, this would be an additional unfair burden to all ratepayers. She thinks the hard times they are in now will continue for at least another two years. Although she disagrees with some of the recent cost-cutting steps the City has taken, she thinks it is important that they focus on increasing income to the City or making sure that everyone who is benefitting from being in the City is in fact paying their fair share cost of those benefits. Another thing is a look at the current proposed annexation should be taken to avoid those speculators and developers who have avoided paying their fair share by changing the taxable base of their property to an agricultural exemption as soon as they were annexed, thereby losing the tax benefit to the City of that annexation. Those County lots within the perimeters of the City should be factored into the infill strategies and redevelopment and annexed into the City as soon as possible.

Mr. Richard Sinnott, 1025 Jamaica Drive, said he is here to talk about the proposed red light system. He read under the rules of procedure here that there will be no separate discussion of these items unless a Commissioner so requests. What he would like to say will probably exceed the five minutes. He will be happy to begin; but if one of the Commissioners would say he could be allowed some discussion, it is on the Consent Agenda, he would be happy to do it then.

Mayor Benton said normally that is just between the Commissioners. Now would be the appropriate time. If he could

hold it as close to five minutes as he can...

Mr. Sinnott said the Reverend at his invocation here tonight prayed that the folks sitting as a Commission will be right and just in their actions. He is here to say that the proposed red light cameras as best as he understands them - Assistant Chief Nygaard has helped him understand them and he has been to the website of ATS and everything else - is not right and just. The results will not be right and just. The results will be unjust. Nobody in this room probably wakes up in the morning and says he is going to go out and run three or four red lights today. He doesn't think that happens. He knows he has never done it. Running the red light is an accident. ATS is going to say this is going to enhance safety by installing this system. There is no scientific proof that it will enhance safety. One of the biggest cities that has this and has had it for 10 years or more is Houston. So there is quite a bit of anecdotal evidence. One of the television stations in Houston actually did a little study of four or five different intersections and found that after a year of the operation of these red light cameras that in fact the number of accidents at those intersections did go down. But that is not a scientific thing, they don't know why it went down. Was the traffic lower? Those questions were never answered. Right here in Fort Pierce, Assistant Chief Nygaard tells him that they don't really know how many accidents a year happen at any given intersection because of red light running. The most common charge when something like that happens is failure to yield right-of-way or something like that. So they don't know how many red light runners cause how many accidents. So for ATS to say this is going to cut down on that is bogus, it is sophistry. They know right now that here in the City of Fort Pierce they have the technology to have all the lights at any given intersection be red for like five seconds. That eliminates a lot of the people where it is an accidental thing. They are thinking about something else or talking on their cell phone, look up and all of a sudden they realize, they go through and nothing happens. It happens so frequently according to Assistant Chief Nygaard that they are anticipating that at any given intersection they might get five or ten tickets a day out of that. The really unjust part of this comes from the fact that whatever price they come to on the ticket is going to be split approximately half and half with ATS. So this ordinance they are looking at is going to bring in some revenue for the City of Fort Pierce, but it is also going to go 50/50 or whatever the number works out to be to ATS. So ATS has nothing to lose and everything to gain by doing this. And the people who end up getting these non-tickets, these citations, whatever on earth they are going to be called, will be contributing not so much to the City of Fort Pierce coffers, but to the bottom line of ATS. So that is the wrong part of it. Also, what they see on the internet, all kinds of crazy things. It turns out that in Houston this has been going on for ten years. People can buy a spray to put on their license plate, and when the flash of the camera goes, they can't read it. So what is the deal? This seems to him to mock the law. There is no scientific proof at all that red light running will be decreased by this. If they are all really interested in safety, they can use the existing technology without enriching ATS. He has

nothing against ATS, they are just simply feeding at the public trough. But this is just wrong. For some people, that \$150 might be a week's pay, not for him. For what? That is the injustice. If they will all please listen to what the Reverend said, let their legislation be right and just. Don't let it be unjust and wrong. In five or ten years, hopefully people will look back at this Commission and say those guys did the right thing, they stood up and did not enrich ATS or any other company. He hopes they are not remembered as just one more Commission that passed one more stinking law that socks it to the man on the street. So it is their choice.

Mr. Marty Laven, 2400 South Ocean Drive, said he wanted to speak briefly about the waterway cleanup that the Marine Industries Association is having this Saturday all morning at several locations in Fort Pierce and St. Lucie County, particularly the Fort Pierce City Marina and Pelican Yacht Club and Harbortown. They are going to have a whole bunch of volunteers coming out that morning. For more information, go to tcwaterwaycleanup.com. He wanted to give a shout-out to Dean Kubitschek, who is holding the volunteer meeting as they speak with some early registrants. Also, they are very excited about diving on the inlet and cleaning it up. This is their second annual effort. There will be approximately 750 to 1,000 volunteers across 125 miles of coastline. They are very excited to have the support of the Florida Inland Navigation District and a host of others. It should be an exciting great opportunity for people to come out and do some boating, clean up the water. They are going to tag the stuff that they are going to get to in the years to come. They invite them all to join them. Again, that is tcwaterwaycleanup.com.

Mr. Laven said for the remainder of his three minutes, he would just like to take a moment if he could. He has a reputation in the Marine Industries Association as the Past President being a muckraker and he is also known around town as being a bit of a policy wonk. But he would like to temper his comments by making two statements regarding Agenda Item #16 (Resolution No. 09-37). He has had the privilege of working with Mr. Steve Weaver on the Land Development Regulation Committee that the Mayor had asked him to participate in. He thinks Mr. Weaver is a stellar gentleman and he thinks he has made a wonderful contribution to this community. He knows Mr. Weaver serves as an Alternate on the Planning Board. It is his hope that he will be appointed this evening for that position in the ten year tradition that this Commission has had of its transparency in choosing the Alternate for a standing and available position. He would hope that the City that is known as the Sunrise City, that they are also known as the Sunshine City; and that they deal in transparency and they don't put aside any of these matters. It was with some regret that he heard that possibly this item might be pulled from the Agenda this evening. They can tell from the tremor of his voice, he is a little nervous in speaking truth to power, but it would be a great travesty if this man was not given an opportunity to continue to serve this community as he has done.

City Clerk Steele said the City Attorney and the City Manager

have requested that Agenda Item #15 (Resolution No. 09-35) be moved forward at this point, if it is all right with the Commission. The Bond Counsel has a plane to catch. (The Commissioners agreed.)

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 09-35

"A RESOLUTION OF THE CITY OF FORT PIERCE, FLORIDA, AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$8,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF CITY OF FORT PIERCE, FLORIDA, CAPITAL IMPROVEMENT REVENUE REFUNDING BONDS, SERIES 2009, TO REFUND ALL OF THE CITY'S OUTSTANDING CAPITAL IMPROVEMENT REVENUE BONDS, SERIES 1998, AND ALL OR A PORTION OF THE CITY'S OUTSTANDING CAPITAL IMPROVEMENT REVENUE BONDS, SERIES 2001; COVENANTING TO BUDGET AND APPROPRIATE CERTAIN LEGALLY AVAILABLE NON-AD VALOREM FUNDS TO PAY DEBT SERVICE ON THE BONDS; DELEGATING OTHER DETAILS AND MATTERS IN CONNECTION WITH THE ISSUANCE OF THE BONDS AND THE REFUNDING OF THE BONDS TO BE REFUNDED TO THE CITY MANAGER, WITHIN THE LIMITATIONS AND RESTRICTIONS STATED HEREIN; AUTHORIZING A BOOK-ENTRY REGISTRATION SYSTEM FOR THE BONDS; AUTHORIZING THE NEGOTIATED SALE AND AWARD BY THE MAYOR OF THE BONDS TO RBC CAPITAL MARKETS, WITHIN THE LIMITATIONS AND RESTRICTIONS STATED HEREIN; APPROVING THE FORM OF AND AUTHORIZING THE MAYOR TO EXECUTE AND DELIVER A BOND PURCHASE AGREEMENT; APPROVING THE FORM OF AND DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT AND OFFICIAL STATEMENT AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE OFFICIAL STATEMENT; PROVIDING FOR THE APPLICATION OF THE PROCEEDS OF THE BONDS; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF ESCROW DEPOSIT AGREEMENT AND APPOINTING AN ESCROW AGENT; COVENANTING TO PROVIDE CONTINUING DISCLOSURE IN CONNECTION WITH THE BONDS IN ACCORDANCE WITH SECURITIES AND EXCHANGE COMMISSION RULE 15c2-12; DESIGNATING THE BONDS AS "BANK QUALIFIED"; AUTHORIZING THE NEGOTIATION AND ACCEPTANCE OF A COMMITMENT FOR A BOND INSURANCE POLICY AND SURETY BOND SUBJECT TO THE PROVISIONS HEREOF; PROVIDING FOR THE RIGHTS OF THE HOLDERS OF SUCH BONDS; MAKING OTHER COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE."

Mayor Benton said for the record, this does not extend the term in the bond. But by refunding, it will save the City \$221,477.

Commissioner Becht said first he would like to thank Staff for getting this together so they had some information to review. Sorry for the confusion at their last meeting (July 6, 2009). As he is looking at this, he wants to make sure he has it right. In terms of cash flow, the City saves \$221,477 as proposed here. But that is cash flow over 12 years?

Mr. Wesley Bradish, RBC Capital Markets, said that is correct, through the final term of the existing bonds.

Commissioner Becht asked so if somebody was qualified to do a reduction to present value, it wouldn't be \$221,477 the City is saving in terms of today's dollars, it is something less than

that?

Mr. Bradish said the analysis he is looking at does produce approximately \$221,000 in net present value savings in today's dollars.

Commissioner Becht asked can Mr. Bradish explain the last payment to him? It looks like he is borrowing money today and putting it in escrow for the last payment.

Mr. Bradish said that is correct. It is a Reserve Fund. All Revenue Bond issues sold are required by the market to have a Reserve Fund. Technically up until about the last year they could purchase - and there still may be an opportunity to purchase - an insurance policy for that Reserve Fund. A lot of the City's issues up to this point had a policy in place for that Reserve Fund. But given the state of the bond insurance market, there is only really one active bond insurer left, whereas two years ago there were about five or six of them. A lot of them have been downgraded. There is only one left and their capacity for providing the insurance...

Commissioner Becht said he will accept his word that this is the way it has to be done. But it seems to him that this borrowing is of necessity \$650,000 more than what they currently owe.

Mr. Bradish said that is correct. But again, they can use the money as escrowed and it will be used to make a last debt service payment, so it is basically netted out. It is borrowed, but it will be going directly to make the last payment of the issue once the issue is resolved. They do not have that currently.

Commissioner Becht said he understands. Mr. Bradish clarified that there really is a \$221,477 savings with all the hoopla they are going to have to go through.

Mr. Bradish said he just wants to reiterate, that was just kind of a base case structure. There is no structure, with what they are contemplating and what is in front of them tonight, that has to be settled upon. The way the Resolution is currently worded is that there has to be a minimum \$200,000 in savings over the next three years to address cash flow and budget relief, and then at minimum a positive present value savings.

Commissioner Becht said he thinks Mr. Bradish has done what they talked about at the Budget Workshop (May 28, 2009).

Mr. Bradish said yes, that is when they introduced the concept.

Commissioner Becht said he just wants to make sure everybody else understands what he is saying. Because for three years they are going to pay less than... As this is structured, which arguably is the minimum amount of money they could save, because they could save more than this depending on what the market is when they get the bonds to market. But the way this is structured, they are going to save a significant amount of money in the next three years. That is a good thing. What is going

to be interesting is that for the six years following that, they pay more than what they would pay if they left things alone. So he just wants to make sure everybody understood that four years from now don't be complaining to Staff that the payment went up \$140,000 over what it would be if they didn't do anything today. He is not saying this is a bad deal. But there are Commissions that will come after him and he is solving his short-term problem by dumping a problem on the Commissions from year 2004 through year 2010 and helping out the Commission in 2021 a great deal because they are paying the payment in 2021.

Mr. Bradish said that is an excellent point. He will reiterate that the issue can be structured to where there is no increase after the third year.

Commissioner Becht said he gives them that option, he set a flat rate.

Mr. Bradish said yes, they can take a lower amount of savings in the next three years just at minimum to give them \$200,000 in savings for the first three years.

Commissioner Becht said all he wanted is to see what they were doing so he can comprehend what they are doing. The Commissioners who are going to be sitting here from 2013 to 2018 are probably cursing them. Those who are here in 2021 are saying it was really nice of them to pay that payment for them. The next three years are probably the years where they definitely need relief. So he is not saying this is a bad deal, he just wanted to understand what the deal was. He thanks Mr. Bradish for giving him enough information where he could understand it.

Mayor Benton said if the housing gets worse after the next three years, this country is in real bad shape.

Commissioner Alexander said the Resolution says up to \$8 million. The Staff's cover sheet and recommendation is \$6.545 million. With that savings of \$221,000 over the term of this, why would it be up to \$8 million? Does that mean they can go up to \$8 million and that is still going to give them the \$200,447 in savings?

Mr. Bradish said that was just a "not to exceed" number. The actual refunding number is going to be closer to \$6.5 million. Typically when these resolutions are drafted, there is some padding incorporated in case the principal has to be increased to cover things like original issue discount, which is something the market may require to sell the bonds among other things. Again, that is an amount that cannot be exceeded. The amount that will actually be sold and what they plan on selling is closer to \$6.5 million. The \$8 million is just a number to provide some flexibility.

Commissioner Alexander asked so he doesn't have to come back to the Commission?

Mr. Bradish said exactly.

Commissioner Alexander asked but they still get that \$200,000-plus savings on the \$6.5 million?

Mr. Bradish said absolutely.

Commissioner Alexander asked if they have to go up to the \$8 million, will that still give them \$200,000-plus?

Mr. Bradish said yes, because then they would be refunding more bonds. The way that the Resolution is currently crafted is that it allows for a portion or all of the 2001 Capital Improvement Revenue Bonds to be refunded. In the analysis they are looking at, only a portion is being refunded. If it makes sense to refund additional maturities of those 2001 Bonds, then they would have that ability with that Resolution. Currently with what they are looking at, it does not make sense in the market. So they are going to sell the issue in the best structure to get the most savings and meet the City's goals in the next three years, however much savings the City determines it wants to take for the next three years. Again, the structure that is part of their package is not at all a final structure, it is just one alternative. The final structure can be determined all the way up to the date they price the bonds. If they don't want any incremental increase after the third year, that can easily be structured. If they want it to be more or less savings in the first three years, that is up to Mr. Recor and Ms. Johnson to determine and to make their recommendations to RBC. All along they have to keep in mind that they have to have a positive present value savings over the life of the issue and realize at least \$200,000 in savings for the next three years, or they can't sell any bonds.

Commissioner Coke said she is glad to hear that they don't necessarily have to decide on the parameters of this this evening. She has some concerns. She knows they have severe financial problems this year and next year and the year after that. But it appears to her that they are going to realize more in savings in the next three years than their total savings over the course of this bond. So it would appear then that they are deferring principal payment for an extended period of time. So she is not quite sure. She knows they all would love to have \$150,000 a year for the next three years less in headache trying to find a balance. But she thinks their problem is so large - not that every penny doesn't count - but she doesn't know that is going to make the difference. She has major concerns with structuring this so they are deferring principal payments out four years from now. Because if things don't turn around four years from now and all of a sudden their rate goes up, they are going to have a bigger problem than they have today. Her preference would be, she would rather realize the smaller \$45,000 a year savings over the life of the bond because it gives them an equal amount of savings, but they are not mortgaging into the future principal payments they should be making today.

Mr. Bradish said absolutely. What he wants to reiterate is that if they want this structure to where there is no debt service

increase after three years, they can reduce the amount of savings they take the first three years to say \$67,000 per year for the first three years to get them to that \$200,000 number. The debt service then would not go up after the third year and they would still be paying less than what they are currently paying and it wouldn't increase their future debt burden. That is definitely an alternative.

Commissioner Coke said she is sure nobody here is ready to make a decision on that this evening. She just wanted to point out that they need to be very careful of extending principal debt that they had already made a commitment to make payments on to make a very little easement on the burden they are feeling today. If they tell her they could save \$3.6 million by putting a payment off for a year, she would be right there with them. But they are not going to resolve their problems by putting off the principal. With that in mind, she thinks they need to consider carefully the obligation that they made previously about making principal payments. If the fact is now that they can't afford to make them or it is a better move financially to refinance to save money, she still doesn't think it is fiscally sound to extend principal payments, but she is just one vote here.

Mr. Bradish said again, that definitely can be determined at a later date up until they sell the bonds, how they want to structure that savings.

Commissioner Coke said she knows \$100,000 could be gone in ten minutes up here.

Mayor Benton said he doesn't need that savings over the next three years. He is just looking to reduce the number overall and not extend the term, that is what he would prefer to see. He doesn't think they have to make that decision tonight.

Commissioner Becht said that is what he wants to clarify. Resolution No. 09-35 says not exceeding \$8 million. The cover memorandum from Ms. Johnson to Mr. Recor (dated July 16, 2009) says "Resolution Authorizing the Issuance of \$6.545 million in Capital Improvement Refunding Bonds". As Ms. Johnson and Mr. Recor were looking at this, were they talking about the \$8 million resolution or were they talking about one he is not seeing tonight?

Ms. Gloria Johnson, Director of Finance, said it is the \$8 million Resolution. It is just that they cannot exceed the \$8 million.

Commissioner Becht asked all her numbers and her recommendation is based on up to \$8 million?

Ms. Johnson said no, \$6.545 million.

Commissioner Becht asked does her recommendation change if it goes up to \$8 million?

Ms. Johnson said she doesn't think it will. If it did, they

would probably be getting some extra money and it is not refunding any more. It depends on how it is structured.

Mr. Bradish said again, that flexibility is if they wanted to refund some additional bonds in the next three years of the 2001 Series. They would have that ability to generate more cash flow savings in the next three years. But be mindful that at minimum they have to have a positive present value level of savings overall. At minimum that is what they would have to have. And at minimum they would have to have \$200,000 in savings for the next three years.

Commissioner Becht asked they are not increasing the borrowing limit? They are not going to come back and say they have to have a resolution increasing the borrowing limit on the City of Fort Pierce? He wants that on the record.

Ms. Johnson said no.

Commissioner Becht said based on what Staff has told them and the material they received, he would move for approval.

Motion was made by Commissioner Becht, seconded by Commissioner Coke, that Resolution No. 09-35 be adopted.

Commissioner Coke asked when they talk about the difference between the \$6.545 million and the \$8 million, they are talking then if Staff were to decide to refinance one of their existing bonds, other than what they have already done, and it was covered under that dollar amount, that could be done without it coming back to this Commission?

Mr. Bradish said it would only relate to the 2001 Bonds. The only bonds they are contemplating refinancing are all the 1998 Bonds and then all or a portion of the 2001 Bonds.

Commissioner Coke asked it would all come back in front of this Commission before it was done, correct? Or by approving the \$8 million figure, it is it going to allow somebody to go ahead and refinance that and accept the terms, whether it is extending the principal payment out several years or whatever else, without this Commission knowing about it or being actively involved in it?

Mr. Bradish said there is no way they can extend the term. The resolution specifies that they cannot extend the term.

Commissioner Coke said let her try to ask the question differently. They just now discussed whether or not they wanted to have a big savings for the first three years and then have a higher payment for the remainder of this loan. Her question is, if they go with the higher dollar amount in the Resolution, does that then enable someone else other than this Commission to decide they are going to reissue part of the 2001 Bonds - not that they are going to extend the life or anything else - but they are going to defer the principal payment for three or four years? Which might not be the will of this Commission to visit that debt on future Commissions.

Mr. Bradish said it would be up to the \$8 million.

Commissioner Coke asked so the answer is yes?

Mr. Bradish said this Resolution is giving City Staff the ability to issue up to \$8 million in refinancing bonds. If they were to go above \$8 million, they would definitely have to come back to the Commission.

Commissioner Becht said Mr. Bradish is not getting the gist of her question. Her question is, in order for the bonds to get validated, he has to come back to this Commission to get the actual bonds validated? The concern they have is that if they pass this Resolution, Staff could decide the terms and not bring it back to the Commission.

Mr. Mike Williams, Akerman Senterfitt, said the only limitations in this Resolution are in Section 25 and the \$8 million...

Commissioner Becht said he is not answering the question. Can Staff do this without bringing it back to the Commission?

Mr. Williams said the bonds can be priced and the Mayor can sign the Bond Purchase Agreement without it coming back to the Commission.

Mayor Benton said if the Mayor signs it. If it changes, the Mayor cannot sign it and then it would come back in front of this Commission.

Commissioner Alexander said the Mayor can sign for up to \$8 million, so it doesn't have to come back to the Commission.

Commissioner Coke said she would feel more comfortable if they amended the Resolution to have this \$6.545 figure in there. Unless there is some specific bonds that Staff is looking at refinancing and they are ready to discuss the terms they are proposing, she just doesn't feel she would be doing her job by saying to go ahead and do what they want with another \$1.5 million worth of debt.

Mr. Bradish said if that is their feeling, they can definitely reduce the amount. Again, the reason why they picked a higher number is so Staff has the flexibility to enter the market at an optimal time without having to come back to the Commission, while keeping mindful of all the parameters stated in this Resolution. Staff cannot in any context extend the term of the debt, they cannot defer the principal or refund bonds to where it would result in any kind of present value loss over the life of the refunding issue. This Resolution specifically prohibits that. The higher number is typically done because it allows for a little bit of flexibility in case market conditions warrant that they would refund additional bonds.

Commissioner Coke said she is not saying she wouldn't be open to refinancing additional bonds. Her concern is, here they talked about a cumulative savings of \$221,477 with an annual savings this year of \$145,275, \$152,398 and \$173,197, which means to her

they are deferring principal payment out past the three years so they can actually get \$473,000 worth of savings in the first three years, that then will be eaten up with the inflated or higher payments they will be making in the future. She for one does not agree with deferring principal payments they have obligated themselves to. So her concern in giving them an \$8 million figure to work with is, although she and the Mayor have said they don't want to defer the principal and would rather have a smaller savings annually rather than visit the principal payment on future Commissions, obviously that is not what Staff felt. So her concern would be if they give them another \$1.5 million capability, it could be financed with the big savings in the next three years and the principal payment visited on future Commissions.

City Attorney Schwerer asked can the Commission come to a consensus and simply amend the Resolution by a motion, which he will give them the wording for? They need to just simply tell their financial advisor and bond counsel what they want to do. Do they want the largest savings in the first three years? Or do they want level savings across the term of the bond? It is that simple. They just need to come to that decision and tell them.

Mr. Bradish said yes, that is exactly it. All of their communication has been with Staff at this point and their understanding was...

City Attorney Schwerer said simply give Staff direction and tell them what to do and it will be done.

Mayor Benton said he thinks three of them have said they don't want that total number to exceed that \$6.545 million.

Commissioner Coke said she doesn't have a problem with it going to the \$8 million so long as they have the understanding... She doesn't feel comfortable extending principal payments out. She would like to have a level savings, whatever bonds they are going to refinance, throughout the course of the life of those bonds. So they are not going to have huge savings this year, next year, and the year after. It will be a consistent payment throughout the life of the bond.

Commissioner Becht said Mr. Bradish is looking for direction from the Commission. He came and gave them four or five different options at the Budget Workshop. He thinks they have boiled it down to two right now. The way he would like it to be, he would rather see a level term benefit so he doesn't punish Commissions that come after him. But that is not what they told Mr. Bradish at the Budget Workshop. He wants everybody to know Mr. Bradish has done his job with the direction he got from Staff. But he would prefer to have a level benefit. He thinks they now have three who have expressed that consensus. The dollar amount bothers him because he thinks this Commission should make the decision on how much they are going to refinance, not Staff. With every other bond he has worked on, their financial advisor or bond counsel has come to the Commission with the actual bond instrument and said they

need to approve this bond instrument. That is his recollection of how it has been done. With this particular scenario, it scared him when they said no, they don't have to bring the bond instrument back to the Commission, that the Mayor can sign it as long as Staff agrees that this is the way it is supposed to be. He wants it to be the way the Commission wants it to be. And the Commission will have been left out of the loop on \$1.5 million of bonds because they don't have any say-so, because it is whatever Staff and Mr. Bradish agree on.

Mr. Bradish said Commissioner Becht is correct with the exception of the last issue they did, which he believes they did in the same fashion with a parameters resolution like this one. Is that correct? They just one resolution last year?

Mr. Williams said he thinks they have done a combination. This is what they call a parameters resolution. If the Commission adopts this and they meet the provisions of Section 25, the Mayor can sign and it wouldn't come back to the Commission.

Commissioner Becht said he is uncomfortable with that. Mr. Williams said they have done a lot in the past where RBC has priced the bonds for them and usually that same night they come back to the Commission and say here is the deal for them to approve.

Mr. Bradish said they can definitely structure it that way if that is their feeling.

Commissioner Becht said he wants to save as much money as they can. He doesn't want this to come across that he doesn't trust Staff. The point is, he thinks this Commission should make the decision, not Staff. This is a money decision.

Mayor Benton said he thinks what it comes down to is the \$6.5 million they can live with. But \$1.5 million more isn't that what they are buying into tonight, especially if he has to sign it.

Mr. Bradish asked can they just lower the not to exceed amount?

Mr. Williams said the \$8 million he thinks they all agree is a lot of cushion. He thinks Mr. Bradish made one point which maybe needs a little bit of clarification, just to maybe give them a little bit of flexibility in the marketplace. Mr. Bradish used the term "original issue discount bonds", which means the investor is buying at less than par. The interest rate is higher, but there is more savings to the City. They might want to give themselves a little bit of flexibility over the \$6.545 million, maybe go to \$6.7 million or \$6.8 million in case the market...

Mayor Benton said he could live with that.

Mr. Bradish said any issue they have ever presented has had that flexibility, because at this point they don't know what the final issuance costs are, they don't know how they will market the bonds with an OID which would increase the par amount but

will result in a lower interest rate, or a premium which would decrease the par amount and would result in a higher interest rate. But they are going to market the bonds to get the lowest possible interest cost to the City, that is the goal. So whatever structure that takes, whether it is OID or premium, will be determined on the day of bond pricing. They can't at this point say what it is. So it always makes sense to have some flexibility. The reason why there was a higher number in the resolution was if market conditions improve enough to refund additional bonds, just the 2001 Series, additional maturities. All they are talking about is the 1998's and 2001's, they are not talking about any other debt that the City has outstanding - just to make that clear. It would just be additional maturities in 2001 if market conditions were appropriate. If they want it to be exactly as the analysis that Ms. Johnson had worked up for them in her cover memo, they can reduce that. He would recommend a number of not to exceed \$6.8 million, which would just give them \$200,000 of flexibility versus the \$1.2 million. That is ultimately up to the Commission.

Commissioner Alexander asked if they save \$15,000 annually, where does that savings go? Does it go to the General Fund?

Mayor Benton said right. So they can amend the Resolution from \$8 million to \$6.8 million. Would the motion maker feel more comfortable with \$6.8 million?

Commissioner Becht said he does, but he doesn't know if this has been properly advertised and if the Resolution is going to require some major re-work.

City Clerk Steele said they don't advertise resolutions.

Mayor Benton said this is not a Public Hearing.

City Attorney Schwerer said they can make that amendment to the Resolution because they are decreasing the amount.

Motion was amended by Commissioner Becht, seconded by Commissioner Coke, that Resolution No. 09-35 be amended to reduce the issuance amount down to \$6.8 million, and also that the savings will be allocated as equal as possible over the remaining term of the Bonds that are redeemed; and that Resolution No. 09-35, as amended, be adopted.

Commissioner Sessions asked how is that going to impact what they initially requested, that the greatest savings be within the three year period of time? Is that going to impact that? Because that is what he is interested in. They have some issues here. He wants some impact as quick as possible with the greatest amount.

Mr. Bradish said that is why the language in here right now was structured to provide that flexibility for City Staff to say they want to take more savings up front or less savings up front. The way it is now, they can achieve \$200,000 in gross savings for the next three years, deferring principal minimally. When he says minimally, \$5,000 to \$10,000 per year.

Commissioner Becht said he understands. With all due respect to Commissioner Sessions, they are changing it so the benefit is not achieved in the next three years, it is spread equally over the remaining terms until 2021 or whatever it is.

Commissioner Sessions said he understood, it is disbursed throughout the duration of the Bond. But from his standpoint, he was looking for the greatest impact within the shortest duration of time in light of the recession they are in.

Mr. Williams said Mr. Bradish's numbers show over \$400,000 in aggregate savings over the next three years. That is obviously based on the market today and they all know that can change. The Resolution is much more conservative, it is only \$200,000. If they stick with the \$200,000 and add a provision that says that in no other year shall debt service increase, are they going to be able to price the bonds...?

Mr. Bradish said absolutely. That is what he was trying to address to Commissioner Becht was that all they would have to realize in the next three years... He doesn't want to say all. But the way the language in the Resolution states now is \$200,000 total, which is approximately \$67,000 per year. So they could structure that after their three years, if that is the Commission's will, there is no increase in debt service versus what they are currently paying and still have a positive present value savings. It would just be a much smaller number. It would be \$200,000 versus the \$400,000.

Commissioner Becht said so it is front-loaded on benefit, but it is not punitive on the back end. Right now it is punitive on the back end.

Mr. Bradish said right. They would minimize that.

Commissioner Becht said so he would amend his motion so they save as much as they can save, \$200,000 in the first three years, provided the payments don't go up in the rest of the term.

Motion was amended by Commissioner Becht, seconded by Commissioner Coke, that Resolution No. 09-35 be amended to reduce the issuance amount from \$8 million to \$6.8 million, and also that they save \$200,000 in the first three years, providing that the payments don't go up in the rest of the term; and that Resolution No. 09-35, as amended, be adopted.

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

The next item on the Agenda was Public Hearing on Applications for Conditional Use & Site Plan Review submitted by Lawnwood Commons Real Estate LLC, for expansion of the existing Lynmoore ACLF at 1550 North Lawnwood Circle; said property zoned R-4, Medium Density Residential Zone.

Mr. Duane Yazzie, Development Review Planner, said in accordance

with Section 22-58 and 22-76 of the City Code, the applicant is requesting review of the Site Plan and Conditional Use of an existing ACLF expansion. The property is located at 1550 North Lawnwood Circle and encompasses 4.163 acres. The zoning for the property is R-4, Medium Density Residential, and to the east, west, and northwest. To the northeast is R-3, Single Family Moderate Density. To the south is PUD (Planned Unit Development) zoning. This slide demonstrates the current configuration of the existing ACLF parking and its boundaries. The specifics of the expansion include a 18,142 square foot memory care facility, a 8,725 square foot assisted living wing, and 740 square feet for the dining room expansion. The new expansion will mimic the existing features of the ACLF. The Fort Pierce Utilities Authority has reviewed this and request that a 15-foot easement along the area to the northwest be dedicated to FPUA. As required, 125 notifications were mailed. 25 were received - 28 approved and 1 opposed. As all affected Departments have reviewed the submittals and approved the proposed Site Plan and Conditional Use based on it meeting the requirements of the City Code, and as the Site Plan and Conditional Use meets the requirements of the City Code, Staff recommends approval of the Site Plan and Conditional Use with the following condition: Dedicate and record the 15 feet of utility easement located on the northwest side of the property prior to issuance of a Certificate of Occupancy.

Commissioner Alexander asked why are they asking for 15 feet?

Mr. Yazzie said that was the Utilities Authority's request. There are existing utilities underground right now and that is what they needed for access.

Commissioner Alexander asked they need 15 feet? Are they running parallel with Lawnwood Circle with that one section? Is that running east and west?

Mr. Yazzie said this is running east and west, North Lawnwood Circle.

Commissioner Alexander asked there is no street in the back section?

Mr. Yazzie said South 17th Street is here.

Commissioner Alexander asked does that have anything to do with expanding the road?

Mr. Yazzie said the T-turnaround was a request from the Fire Department. They currently have access, that configuration right now. But the Fire Department asked for an expansion of that area for turnaround.

Commissioner Alexander asked is the area going to be expanded or is it just going to be for underground?

Mr. Yazzie said this South 17th Street area will be as it is on the Site Plan.

Commissioner Sessions asked did he get the Fire District's approval? He read the Planning Board made mention of it, but he didn't see anything in the memorandum.

Mr. Yazzie said he did receive approval from the Fire District.

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.

Motion was made by Commissioner Sessions, seconded by Commissioner Alexander, to approve the Conditional Use & Site Plan submitted by Lawnwood Commons Real Estate LLC for expansion of the existing Lynmoore ACLF at 1550 North Lawnwood Circle with the following condition: Dedicate and record a 15-foot utility easement located on the northwest side of the property prior to issuance of a Certificate of Occupancy.

Commissioner Becht said he wants to disclose he has met with the applicant.

Mayor Benton said he wants to disclose that he has been through this facility twice. It is probably one of the finest facilities in St. Lucie County. They are very lucky to have a facility like that for seniors.

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

The next item on the Agenda was Public Hearing on Application for **Conditional Use** submitted by the Fort Pierce Redevelopment Agency for property owned by Stan Oginz LLC, to allow a future one-acre expansion of **South Jetty Park** onto the eastern half of property located at 1920 Seaway Drive; said property zoned C-5, Tourist Commercial Zone.

Mr. David Carlin, Assistant Director of Planning, said the applicant is requesting a Conditional Use approval to allow the construction of a public beach park improvement in the C-5 Zoning District. The property that will be utilized for future expansion is zoned C-5. The Fort Pierce Redevelopment Agency is currently in the process of closing on this particular property to facilitate future expansion of Jetty Park and that hopefully will be done within the next several days. They did mail out notifications to 52 surrounding property owners. As of today, 7 responses were received - 6 approved and 1 opposed. At their meeting in July, the Planning Board voted unanimously to recommend approval of the Conditional Use. In addition, all affected Departments have reviewed and approved the Conditional Use. Staff is recommending approval of the Conditional Use.

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.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve the Conditional Use submitted the Fort Pierce Redevelopment Agency for property owned by Stan Oginz LLC, to allow for a future one-acre expansion of South Jetty Park onto the eastern half of property located at 1920 Seaway Drive.

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

Ordinance No. L-84 entitled, "AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA, AMENDING AND RESTATING CHAPTER 13, **POLICE OFFICERS RETIREMENT TRUST FUND**; AMENDING SECTION 13-161 ENTITLED "DEFINITIONS" TO AMEND THE DEFINITION OF "AVERAGE SALARY" AND "CREDITED SERVICE"; AMENDING SECTION 13-166 ENTITLED "RETIREMENT" TO PROVIDE FOR BENEFITS FOR MEMBERS SERVING IN INTERVENING ACTIVE DUTY MILITARY SERVICE AND TO TRACK THE LANGUAGE OF THE ESTABLISHING FLORIDA STATUTES FOR PROCESSING OF DISABILITY RETIREMENTS; AMENDING SECTION 13-170 ENTITLED "FORFEITURES" TO ADD A NEW SPECIFIED OFFENSE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR APPLICABILITY AND AN EFFECTIVE DATE." was placed on second reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. L-84 in session and asked if anyone in the audience wished to be heard.

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

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, that Ordinance No. L-84 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. L-84 on second and final reading were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

Ordinance No. L-86 entitled, "AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, AMENDING THE FOLLOWING CHAPTERS TO REMOVE ASSOCIATED **DEVELOPMENT FEES** FROM THE CITY CODE WITH AUTHORITY BEING CONFERRED BY CITY COMMISSION TO PROVIDE THEREAFTER BY RESOLUTION: CHAPTER 3, ALCOHOLIC BEVERAGES, SECTION 3-9(9), FEES FOR PLANNING BOARD AND CITY COMMISSION; AMENDING ARTICLE II, ISSUANCE OF PERMIT OF CHAPTER 11.5, ADULT ENTERTAINMENT, SECTION 11.5-21(c), APPLICATION FEE; AMENDING CHAPTER 15, SIGNS, SECTION 15-9(d), FEE SCHEDULE; AMENDING CHAPTER 18, SUBDIVISIONS, SECTION 18-14, FILING FEES; AMENDING ARTICLE X, ADMINISTRATIVE PROVISIONS OF CHAPTER 22, ZONING, SECTION 22-142, FILING FEES; AMENDING ARTICLE XII, LANDSCAPING AND TREES OF CHAPTER 22, ZONING, SECTIONS 22-179(1), LANDSCAPE PERMIT, 22-179(2), TREE REMOVAL PERMIT, 22-179(3), LAND CLEARING PERMIT; AMENDING ARTICLE XII, GENERAL PROVISIONS OF CHAPTER 22, ZONING, SECTION 22-194(d)(5), TREE MITIGATION AMOUNT; AMENDING ARTICLE XIII, NEWSRACKS ON PUBLIC RIGHTS-OF-WAY OF CHAPTER 22, ZONING, SECTION 22-207, FEES; AMENDING ARTICLE

XV, SIDEWALK CAFES AND SUPPLEMENTARY SIDEWALK REGULATIONS, CHAPTER 22, ZONING, SECTION 22-303(b), PERMIT FEE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE." was placed on second and final reading and read by title only.

Mr. David Carlin, Assistant Director of Planning, said this is the second reading. At the last Commission meeting, there was a request to modify some of the fees. He has made those recommended changes and the necessary modifications to the Resolution which will be before them tonight. So if they have any questions or comments, or they would like to have any other changes included on Exhibit A that will identify the new schedule, he will be glad to answer any questions they may have.

Commissioner Becht asked this schedule of fees has been put out to what organizations?

Mr. Carlin said St. Lucie County Chamber of Commerce, Treasure Coast Builders Association, and St. Lucie Association of Realtors. It was sent out several weeks ago.

Commissioner Becht asked was there any feedback from any of them?

Mr. Carlin said no.

Mayor Benton declared a Public Hearing on Ordinance No. L-86 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. L-86 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. L-86 on second and final reading were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 09-33

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, ESTABLISHING **FILING FEES** FOR ALCOHOLIC BEVERAGES, ADULT ENTERTAINMENT, SIGNS, SUBDIVISIONS, DEVELOPMENT APPLICATIONS, LANDSCAPING & TREE PERMITS, NEWSRACKS, AND SIDEWALK CAFES; PROVIDING FOR AN EFFECTIVE DATE."

Mr. David Carlin, Assistant Director of Planning, said this Resolution is attached as part of the previous Agenda Item. It will now adopt the new schedule of fees.

Motion was made by Commissioner Sessions, seconded by Commissioner Coke, that Resolution No. 09-33 be adopted.

Those voting in favor of the adoption of Resolution No. 09-33

were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

The next item on the Agenda was Public Hearing on designation of Nexus Park as a **Brownfield Area**.

Ms. Christa Razem, Grants Administrator, said they are here for a Brownfield designation at Nexus Park, which is what they all knew as the Florida Furniture Mart or Outlet Mall. The property off I-95 and Okeechobee Road. Actually it is located on Peters Road, which goes back to the Florida Furniture site with a little retention pond right in front and around to the go-cart track behind that to the north. She received an application for a brownfield designation for Nexus Park in June. Staff had a Public Hearing at the site on July 10th. They are having the second Public Hearing tonight. They are asking the Commission to consider this request for a brownfield designation at this site. She knows all of the Commissioners have seen a Brownfield designation or two; however, there may be some folks in the audience who haven't heard of a Brownfield before. A Brownfield Site means real property, the expansion, redevelopment, a reuse of which may be complicated by actual or perceived environmental contamination. In a Brownfield Area, which is what they are looking at tonight, it means a contiguous area of one or more brownfield sites, some of which may not be contaminated and which has been designated by a local government by resolution. So the request tonight is to do a Brownfield Area for the Nexus Park project, which is essentially a three-phase project. Brownfields are essentially a redevelopment tool. They have already used them for economic development, for community development. They may see some more requests come in for residential projects. They can use them for residential projects. They even have a little open space project they are considering getting into. What they really try to do is use them to remove the stigma of properties that sit vacant, properties where no one really knows what is going on with them but no one wants to touch them either. That is what they are trying to do is to encourage redevelopment of these types of properties. The Nexus Park designation actually is more of a three-phase project. They had actually received the request to even designate the northern parcel. However, they can only designate Brownfield spots that are inside the City limits, so they weren't able to proceed with that, they are going to have to go with the southern portion of that project for now. The first question almost always is, what is up with that site on an environmental basis? The short answer is, it doesn't necessarily have to be anything there. It could be an actual concern or the perception of a concern. What they have there is a question mark. There is a Phase I environmental site assessment that was done at the go-cart track that recommends they continue with some actual testing there, based on some fill dirt that was placed. They don't know the source of the fill dirt. They are recommending to go ahead and do a Phase II. The letter from the International Recreational Go-Kart Association says based on the types of equipment that was used, the types of things that were going on during the time frame when it was a functioning go-cart site, if they do some testing around the track area, they may very well find some contamination there.

Going through the State Brownfield Program will allow this owner to get partial reimbursement for future testing and any required environmental cleanup as it comes up. There is a full development plan, it has been in front of the City Commission as of last February. Phase I is already over 60% pre-leased. Their first major tenant has already been to the Economic Development Council, has already been through St. Lucie County and been approved. They are bringing 200 jobs. It is up at the State of Florida right now. So these are hard numbers. They have to generate a minimum of five. They already know they are generating more than 200. On top of that one company that has already been through the process with the Economic Development Council, there are another four companies where the owner has received letters of intent. Those are being presented to Economic Development Council now. In the end they think with just that first phase, they are looking at over 500 jobs. So when they go into the Brownfields Program, they look at the elimination of blight. They want to improve their economic stability. They want to create new jobs. They are increasing their tax base. They are taking vacant or under-used parcels and turning them into productive parcels that will continue to generate more income and more revenue in the future, and it doesn't cost them anything to do it. So that is where they are headed with their Brownfield designation for Nexus Park.

Commissioner Becht said job well done. On this property map, there appears to be two different parcels. Can she explain to him what would happen if the parcel to the north fell into a different property owner's hands and that property owner did not want his property designated Brownfield? Could he opt out of the Brownfield designation?

Ms. Razem said in this case, the owner of the property has requested this designation.

Commissioner Becht said the current owner.

Ms. Razem said if a new owner was to come forward and say the guy who owned it before asked for it, but now they don't think that is appropriate for the site any more, then they can do a de-designation resolution.

Commissioner Becht asked how long would that take?

Ms. Razem said they would just come to the City Commission in the same way.

Commissioner Becht asked 30 days?

Ms. Razem said less probably.

Commissioner Alexander said he has to divulge that he did speak to the developer of not only that site but the old Furniture Mart. He doesn't know the gentleman. He met with him. He is just glad he will bring in these amount of jobs to the City of Fort Pierce. He expressed to him that he hopes he didn't have any ill feelings about him calling Code Enforcement on that former owner, but he would do it again in a heartbeat. He just

wants to appreciate him for cleaning up that area. It was an eyesore. He really wants to thank him again for his efforts in the City of Fort Pierce.

Mayor Benton said for the record, he has met with Mr. Zuker on this, who is the owner of the property.

Commissioner Sessions said he did too.

Commissioner Coke said she will chime in on that one.

Commissioner Becht said he didn't.

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

Mr. Harry Zuker, 22 West Harbour Isle Drive, said he is here to answer any questions about the project. In summary, they have a vacant parcel of 152,000 square feet. They have been working diligently for two years, going across the United States talking with optical firms to lure them into this area. They have companies moving from Europe, New York, Texas, and California. They are real excited. They see great growth, not just in that first space, but expanding out beyond that.

Commissioner Becht said they are all excited too, but he has to put the hard question to him. When will there be a pay check generated from somebody working on that property?

Mr. Zuker said they will hear tonight from one of the financing tools they are using, Capital Trust Agency, that receives tax credits from the government.

Commissioner Becht asked is it going to be January 2010 or February 2010?

Mr. Zuker said he is targeting opening businesses in December 2009. He is targeting construction prior.

Commissioner Becht said that would be a wonderful Christmas.

Commissioner Sessions asked this designation, how is that financially enhance him to bring all that into fruition?

Mr. Zuker said it makes them into what is called a highly distressed census tract, which then opens up funding for them - loans that are going to be coming from the stimulus package being under tax credits from Federal and from the State of Florida. That will hopefully open up the floodgates that will help lenders put the whole package together for them. In this economic time, it is very tough to get financing. It doesn't matter if he is 60% or 100% leased, banks are not healthy. This seems to be the best tool out there right now.

Mayor Benton said they are looking forward to those jobs.

Mr. Richard Sneed said he represents Florida Furniture Mart LLC. He is an attorney. Mr. Brad Lail, one of the officers of the company, has flown down from North Carolina tonight and is in

the audience should they have questions of him. His client holds a first mortgage of \$2 million on one of the parcels and a second mortgage of that same amount securing a single note on the larger of the three tracts. Let him preface his remarks that he understands that they are politicians and they have the best thoughts and hopes for the welfare of their city at the forefront. And he loves what Fort Pierce looks like now, it is a delight to sit down at the café and have a cup of coffee in the morning and look around at all the interesting buildings that have been put up and the removal of an old electrical plant that is finally coming down. He will make his remarks about this project on behalf of his client. Brownfield designation and the administration of that type of process is a matter of law in their State. Florida Statute 376.80, specifically Subsection 5 of that Statute, provides that the person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the Brownfield Site. They are called upon to provide a benefit to these gentlemen that they are asking the Commission to grant to them. They are representing things to the Commission based on their word, primarily as developers. They own in various LLC's fee simple title to the properties that involve his client that they hold mortgages on. But for the remainder of the properties, they just simply hold options on the properties they are trying to acquire. The track record of these gentlemen with them is not exactly been stellar. He points out that it really hasn't been stellar as to this community either. City Commissioner Alexander touched on it. He suggests to Commissioner Alexander that the property has not been cleaned up. If Code Enforcement went out there today, they would write a few tickets. The property they bought from his client, they approached them and purchased the property from them, they did not have it for sale. They allowed it to go dark. The tenant leases that were in place were assigned to them. They allowed the property to go vacant, to go dark. If they look at the tax roll, the three parcels of property they hold mortgages on - I.D. #2324-244-0003-000/2 is past due 2008 ad valorem taxes; Parcel I.D. #2324-244-0001-000/8...

Commissioner Alexander asked can Staff pull those parcels up that he is speaking about?

Ms. Razem said she is happy to show a map.

Commissioner Alexander asked are they included in this map here?

Ms. Razem said some of them. She believes the parcel Mr. Sneed is referring to is the northern go-cart track where there is a direct connection between the Brownfield designation and the parcels he is listing.

Commissioner Alexander said he is saying there are three of them.

Ms. Razem said yes, but she doesn't think all three of them are involved in the Brownfield designation.

Commissioner Alexander asked are they only going to speak about the ones the Commission is concerned about tonight, right?

Mr. Sneed said he is referring to the ones they have an interest in and those are contiguous to this Brownfield. These are obligations of the people who are before the Commission asking for this benefit to be granted to them.

Commissioner Alexander said he understands that, but he just understood those other properties are not in the City of Fort Pierce. Right?

Mr. Sneed said no, they are. The two he just read are. They haven't paid their taxes on that property.

Commissioner Sessions asked for point of clarification, the area Mr. Sneed is specifically speaking of is within the Brownfield designated area that is at issue here this evening?

Mr. Sneed said yes. One of the parcels they hold a lien on is contiguous to and north of the last rectangular parcel. There is another parcel they have a lien on immediately to the north of that. The two parcels he read to them, they have not paid taxes on and those are inclusive of this Brownfield designation. They also have options on the property that is not within the City that they are seeking a similar classification on in the future that they have not paid taxes on. As to the large parcel, there is a sliver of land that is split by Peters Road that they drive around to go up to the restaurant. Then there is the largest tract which used to occupy the Furniture Mart. Mr. Zuker and Mr. Lande were obligated to pay his client \$2 million in March of last year on a note that was secured by a second mortgage on that property. That note has been in default for over a year now. There is over \$400,000 in interest that has accrued, not including legal fees and court costs, on that obligation. Mr. Zuker and Mr. Lande signed personal guarantees to his client. They have had to sue Mr. Zuker and Mr. Lande in circuit court in this County to force them to give them the financial statements they were obligated to give them in writing. They gave them their word. They signed a piece of paper and said they would provide them with financial statements on an annual basis. They have not done that. They have sued them in Circuit Court to force that issue. For the record the Case No. for those cases are: 56-2008CA 008613, 56-2008CA 008611, and 56-2008CA 008612.

Commissioner Sessions said bottom line, he is just trying to find out where Mr. Sneed is going with this and maybe cut down some time. What is his client's position with regard to the designation and how it is going to impact him, and why is it that he is or is not for this designation?

Mr. Sneed said pardon the expression, but this designation of Brownfield as it applies to this particular application is a lot of smoke and mirrors. For example, there is no environmental issue other than some fuzzy words on a very late Phase I environmental audit that was just produced. When his clients purchased the Furniture Mart property, they had a Phase I done

on it. It was clean. When Mr. Zuker and Mr. Lande bought the property from them, they had a Phase I done that was updated. It was clean. This latest one as to what they call the old go-cart track is fuzzy. It says they had go-carts there and they may have stored gas there, so they could perhaps have some issues. It is a designation that will impact on their ownership if they acquire these properties back. He realizes Commissioner Becht has asked the question and he has also asked the question of Ms. Razem, who he met with at one of the meetings - could they opt out of this if they get the property back? They are saying they could opt out, just come back and opt out of it. The designation is going to cause them harm. Number one, this is not a severely blighted area in Fort Pierce. And number two, they don't have an environmental issue. So in their opinion, it is a lot of smoke and mirrors. Where is the assurance to this Commission that these people have the financial ability to perform? Their track record with them is not exactly stellar. They owe taxes to this community. They owe them a lot of money because they defaulted on notes. They are going to call upon them to sign on the dotted line and agree to what the Statute calls a Rehabilitation Agreement and a Redevelopment Agreement. Their track record with them is they don't exactly comply with what they sign.

Commissioner Coke asked is it her understanding they are in the process of foreclosing on these properties?

Mr. Sneed said yes.

Commissioner Coke said she knows when they did the first Brownfield down at Coral Square they worked very diligently and those people had a financial package set up. Because that was one of the good things, they had this money so they could get matching money. She knows they have had discussions in the past about people applying not for Brownfield, but for other things when taxes weren't paid. She would have worked under the assumption - and somebody please correct her if she is wrong - that there should be absolute ownership of these properties, taxes should be current. And she would assume that they are equally diligent here as they have been with previous Brownfields in assuring that the people do have the financial wherewithal to apply for these matching funds.

Ms. Razem said yes. And there is someone who is ready to speak after Mr. Sneed who is going to detail exactly how that financing is going to be accomplished and there is a letter in their package talking about how that financing is going to be accomplished.

Commissioner Coke said then her biggest concern is going to be, she is not quite sure if the property is in foreclosure, how they can move forward.

Ms. Razem said Staff became aware of this situation last week about the actual foreclosure. Staff was not aware of that situation until Mr. Sneed showed up at the first Public Hearing. They began wondering why is an attorney showing up at their Public Hearing. What they look at when they look at the

Brownfield designation - and in the end they decided to go ahead and present it to the City Commission because of this - is they have to provide reasonable assurance that they can do the redevelopment plan they propose to do. They do have financial assurance that they can do what they are proposing to do, because they have the guy who is providing that financing here to speak to how he is going to do it. Yes, there is that issue of the foreclosure, but that is not necessarily stopping the plan. In fact, if the plan moves forward, it could very well clear up all of these concerns because they will be able to do their project and then it could stop all of these other issues.

Commissioner Coke said because they have learned their lesson the hard way before, and she assumes they all learned their lesson, that some place along the line - rather than somebody just saying yes, they have the money, they can build this huge project - that they have done their due diligence and verified all of this.

Ms. Razem said they do know these guys do own the property. She believes that what the attorney is referring to is an option they have on the northern section which is not under the Brownfield designation.

Mr. Sneed said it goes back to ones word for it to receive a benefit. They have already apparently not disclosed to City Staff who has been working diligently on this that these foreclosures exist. It is another reason to look hard and long at this application. They are being asked to grant a benefit to people who are not paying their taxes, who are not just being up front in disclosing to Staff their financial situation and, in their opinion, won't.

City Attorney Schwerer said Resolution No. 09-40 that is before the Commission has three properties legally described by Parcel I.D. number. Has Mr. Sneed seen that? He said this company may or may not own all the property they are seeking designation for. Do they not own those that are in resolution?

Mr. Sneed said she already covered that. They own property that was discussed at the Public Hearing that was conducted by the City out on the property. They own property to the north of the rectangle...

City Attorney Schwerer asked was he saying that the legal ownership of the parcels in the Resolution was at issue? Is that an issue?

Mr. Sneed said they own the properties that are outlined in red on the location map (Exhibit A).

City Attorney Schwerer asked is there any question in his mind legally that should his client acquire ownership by foreclosure or deed in lieu or any other method, that he would have the legal ability to have the property de-designated? Is he questioning that?

Mr. Sneed said that has been represented to him by Staff.

City Attorney Schwerer said he doesn't want Staff to make that representation to him, that is why he wants the record clear. He wants to understand from Mr. Sneed's position as a lawyer admitted to practice and he does real estate, is there a legal question in his mind as to whether or not his client could obtain de-designation under the statutes and the case laws that exist today?

Mr. Sneed said since it hasn't been answered in his mind and he found no law or regulation on it, yes it still remains a question in his mind. He has only been told that by Staff.

City Attorney Schwerer said he just wants to make it clear, Staff doesn't make representations of law. He wants the Commission to understand they are not making that representation.

Mr. Sneed said Mr. Schwerer can call it what he likes, but that is what he was told. He thinks it has been told to some of the Commissioners as well.

Mayor Benton said with all these attorneys here, he thinks one of them would know an answer to that. There are five attorneys here.

Mr. Sneed said it is so expansive nowadays that...

City Attorney Schwerer said it is not very clear.

Mr. Jeff Auslander said he is here to represent the Capital Trust Agency of Gulf Breeze, Florida. Some time ago some of the Commissioners met with him in conjunction with Coral Square Shops. He worked with Christa Razem to win this HUD award for the BEDI (Brownfields Economic Development Initiative) Grant and worked with the City to accomplish that and he has some background in brownfields. But today he is here on behalf of the Capital Trust Agency which is a conduit bond issuer based in Gulf Breeze, Florida. They were fortunate enough to obtain statewide award of \$75 million in New Market Tax Credits from the Stimulus Bill from the Treasury Department on May 27th. The Florida Nexus Park has been a project they have focused on as a priority for Florida and for St. Lucie County because of the jobs it is going to bring here. Short of a business dispute which may be going on between these parties, he has to tell them he is here tonight to confirm the fact that they need a Brownfield designation. Their credits are under contract with Treasury, they call it an Allocation Agreement. 75% of their credits have to be earmarked for areas of high distress. The only way they can focus on Florida Nexus Park in Fort Pierce for this project and any others is with two qualifiers that give them that high distress. One is a result of Tropical Storm Fay a year ago in August, which FEMA declared as a Disaster Area. That is one. But it is a lesser one. They need two. The second one is the Brownfields designation. Without it, they cannot go forward with their bond issues with the USDA guarantee and the critical gap that has to be filled which comes from these New Market Tax Credits. They have sub-allocated up to \$12

million of these credits. Without the designation, it is not going to happen. He is here to tell them that tonight. Ms. Razem has known him for some time and he has had some involvement here in other Brownfield activities, as he mentioned. But this is why he has sought this designation. He told the developers he has no other way to do it. Under the circumstances, they looked at other alternatives. The Brownfield is an absolute necessity. He is the guy who is pushing the envelope. If there is an issuance, it is with him, because he understood the critical nature of what they were trying to accomplish. There are a lot of jobs at stake and a lot of economic activity and a lot of focus on what they are trying to do.

Commissioner Coke asked are these funds definitely going to be committed to this project if they receive the Brownfield designation?

Mr. Auslander said absolutely.

Commissioner Coke said she has called him several times over the years and sent him people. Everybody has always remarked on how very helpful he has been with them.

Mr. Auslander said he has tried to be and do his best.

Commissioner Becht said Mr. Auslander said the funds will be committed. Are there any other contingencies other than the Brownfield designation to the funds being committed?

Mr. Auslander said these are tax credits. The \$12 million worth will be used to write down the costs so the project is viable and feasible. There is only so much market rate debt that it can carry. That is the purpose of the New Market Tax Credits. That is why the Treasury awarded them \$75 million for statewide use.

Commissioner Becht asked he has \$12 million worth of tax credits that he is going to convey to the owners of the property?

Mr. Auslander said it goes into the transaction, it is infused into the bonds, and they will write down a series of bonds.

Commissioner Becht said he doesn't want to call Mr. Sneed back up here, but he doesn't think he is going to take his tax credits and give them to his client and pay off the mortgages that apparently encumber the property. So somewhere there has to be cash generated in order to pay off the encumbrances on the property, both the first and the second.

Mr. Auslander said he is going to be, as he understands it, satisfied in the transaction they are structuring.

Commissioner Becht said but Mr. Auslander is not the money man, he is the tax credit man.

Mr. Auslander said no, he is. They are a conduit bond issuer. They are issuing bonds for the first mortgage debt. And they

are also providing the tax credits into a second mortgage effectively, it is a second subordinate bond that will be funded as well.

Commissioner Becht asked is there a commitment letter for this financing floating out there that has as its only condition the Brownfield designation?

Mr. Auslander said no. He gave them a letter that he thinks was circulated...

Commissioner Becht asked is there any commitment letter floating out there?

Mr. Auslander said there is a letter that lays it all out and structures it.

Commissioner Becht said no, a letter from him or his company to Mr. Zuker and/or his company and partners which says if he does A, B, and C, Mr. Auslander will loan him or find him the bond financing and these are the terms and these are the dollar amounts.

Mr Auslander said that would be an inducement resolution that their Board would be prepared to issue once they get through this step.

Commissioner Becht asked but there is no such inducement resolution existing today?

Mr. Auslander said no.

Commissioner Becht said when the inducement resolution is issued - he doesn't want to put words in his mouth - but his assumption is that it will not have as its only condition the Brownfield designation. Because if it had, he would have assumed the resolution would have issued already.

Mr. Auslander said he thinks he is mixing and matching here. The tax credits are one element. There are a number of elements. A bond issue with a USDA guarantee is another, which they started that process now. So it is a combination of State of Florida Tax Credits which they have in process, the New Market Tax Credits which his agency has awarded, and there is the USDA Guaranteed Bond Issue which is a first mortgage revenue bond that is in process.

Commissioner Becht said that is like three or four things he has to actually get a commitment for them and then he has to get them funded.

Mr. Auslander said they are processing those. They will be funded. They are USDA guaranteed with Triple-A rating, it is not going to be a problem. If a business dispute is going to interfere with the designation of a Brownfield Site, then yes, they all have a problem.

Commissioner Becht said it is not going to interfere with...

They have their squabble - it could be real, it could be imaginary. But Mr. Zuker is telling him that he is going to have jobs in Fort Pierce in December. He doesn't know the gentleman, they did not have the pleasure of meeting before tonight. But the Commission has a pretty bad history of people coming before them and saying they are going to do this, that, or the other, and they don't deliver. So what he is asking, is Mr. Auslander vouching that Mr. Zuker is going to be able to have jobs in Fort Pierce by December?

Mr. Auslander said he believes he can do it, with his help and other people who are helping him. This is a rather complex but straightforward transaction.

Commissioner Becht said any financing is complex today. But Mr. Auslander is not in partners with Mr. Zuker, his is a separate company that is trying to place money in the State. Is that correct?

Mr. Auslander said that is correct.

Mr. Richard McClure, 2449 Peters Road, said he represents RV Developments. They own the 90 acres that are contiguous with this property referenced, approximately nine separate parcels one-half a mile from I-95. He just wants for the record that they are in support of this project and for the Brownfield designation.

Commissioner Becht asked Mr. McClure doesn't have any options on his property, does he?

Mr. McClure said no.

Commissioner Becht asked there are no negotiations or financial arrangements between his group and them?

Mr. McClure said there have been. There is not anything current right now. But they are very open to what they want to do. They believe in the project and they believe it will bring jobs into the area. If they go into another phase two or three years down the road, then they will be there to participate in that.

Mr. Marty Laven, 2400 South Ocean Drive, said he serves on the organizing committee of a new entity in town known as the Environmental Sustainability Alliance of the Research Coast (ESARC). This is a coalition of public, private, and academic organizations with a mission to provide education, support, and expertise to all sectors of their community in pursuit of environmentally sustainable policies and practices for the Research Coast. This group came to this marketplace from an entity known as the P2 Coalition out of counties to the south. It represents a number of environmental engineers, academics, and the like. Although he is neither an environmental engineer, nor an academic, nor an attorney, he would simply like to point out to everybody that it is wonderful to have this taking place at IRSC on this Thursday between 3:30 p.m. to 5:00 p.m. It will be hosted by Mr. Jose Farinos, who is the Dean of Advanced Technology. He understands that the Dean is working with this

applicant to devise a program of work skill-sets for the prospective employees of this establishment. He also has the pleasure of working with the Dean on a number of other issues. He thinks this would be in the feather of the cap of this Research Coast. And simply as a citizen in the marketplace, he would encourage them to consider this designation. In addition, he should disclose that as a licensed real estate broker in the State of Florida, he is very knowledgeable about the new instruments of tax credits. He says new instruments because in most of the academic arenas of real estate, the discussion about new financing is almost exclusively that of tax credits. Among them they include, but are not limited to, the following: ED-5 Regional Tax Credits is a rather complex instrument that involves international visas, investments, and investments in this country; in addition, there are renewable Energy Tax credits; and of course, the New Market Tax Credits that have been referenced this evening. This is a very exciting time for this community and he would encourage them to embrace this project and these resources, and the academic community support, as well as these new financial instruments. This is an opportunity for them to think outside the box. He would also like to add that he thinks this would be an exemplar to the community as they try to bring forward other initiatives, including their own Treasure Coast Education, Research, & Development Authority (TCERDA).

Mr. Zuker said he just wanted to clarify the parcels and the activity as far as the financial goes, because that seems to be a question they all want to get answered. Taxes are current on the southernmost parcel. That is approximately 1.6 acres. The center parcel is the Florida Furniture Mart parcel. That is 18.6 acres. On that parcel they currently pay approximately \$1 million a year in carry costs. That includes approximately \$250,000 in real estate taxes that are paid to date, that includes approximately \$200,000 in insurance paid to date, and it includes carry costs. They have a \$9 million bank loan. They purchased that property for \$12.5 million, public record. So they have \$3.5 million equity into that property. The \$9 million loan is current with Century Bank out of Sarasota, Florida. Then the northern parcel is the go-cart track parcel that Florida Furniture Mart LLC has a loan on. That is the one they owe the taxes on. They paid \$2,650,000 for the property, \$650,000 cash. The Florida Furniture Mart took back a \$2 million mortgage. The idea is for them to refinance the entire project and pay Mr. Lail or pay the Florida Furniture Mart people. Unfortunately, his loan was for a one-year term. When they ran into the economic conditions they are in now with the banking industry, they went and approached banks and tried to get loans to pay him off. There are no banks he knows of in St. Lucie County or probably in Florida that are lending on vacant land. No matter how much equity is put in, banks put no value and they just don't want to touch it. So they were not successful in refinancing. If they refinanced with a bank, they wouldn't see the gentleman here. As a matter of fact, he really questions why he is here, because he should want to see them be successful in their refinance, pay him off, and head back to North Carolina. But obviously they can always undo a Brownfield, that is a possibility. So he doesn't see how they

could stop a Brownfield because a mortgage holder doesn't agree with it. They have the ownership of those three parcels and the parcel just to the north of that third one they just discussed, the rectangle area.

Commissioner Becht asked is this designation a two-part process, or do they do it tonight and they are done? Does it require a second hearing?

Ms. Razem said this would be their second of the two required Public Hearings. So when they close this Public Hearing, then they would ask that the Resolution be considered. So when they are done with this Public Hearing, it is requested that the Commission make a decision as far as approving or disapproving the Resolution.

Commissioner Becht said he is concerned that the question is lingering about what the de-certification process is. Does he have any experience with that?

Mr. Zuker said the State of Florida has a brochure. Does Ms. Razem have that brochure from the State? It was called Brownfields 101 and it did talk about how they can always opt out of the program. That is from memory. As he read it, they can opt out of the Brownfields designation program.

Commissioner Becht asked if they get a consensus tonight that the Brownfield designation might be granted in two weeks, what harm falls if it takes two weeks to get formal action?

Mr. Zuker said it just slows down the financing.

Commissioner Becht said this is not the only condition he has for financing. He probably has hundreds of conditions of financing and due diligence that he has to go through - title work, surveys, additional Phase I's, etc. What is bothering him is that first off they are getting in the middle of his squabble with his lender. He doesn't like that. And he doesn't like the fact that he didn't tell Ms. Razem that this is in foreclosure. He thinks that was relevant pertinent information that he should have shared with her. But that being said, the possibility that he could do what he is saying he can do, that possibility makes him want to help him. At the same time, he doesn't want to do harm to his lender if that can be avoided. He was going to ask that they wait two weeks and Mr. Zuker bring them the information that says this can be de-certified. Because he is forced to question whether Mr. Sneed is properly motivated to find the ability to de-certify if his client doesn't want it to be designated in the first place. So if Mr. Zuker brought him the authority that they can get it de-certified after the Commission designates it as a Brownfield, that would make him more comfortable, because then he knows he has done no harm to them, and he thinks he has done minimal harm to Mr. Zuker by making him wait two weeks.

Mr. Zuker said bear in mind that the only issue Mr. Sneed has is that he has not been paid off on his \$2 million loan that has expired. They were current with payments up until expiration.

Commissioner Becht said they have a second issue tonight. The second issue tonight is that if he gets the property back through foreclosure, he thinks - and he disagrees with him personally - that the Brownfield designation devalues his client's property. He happens to disagree with that position. He thought that if they had a two-week time period for him to bring in legal authority that this is how they get de-certified, there is no issue that they can be de-certified later, then he loses his argument that bothers him. They all can have their squabble over payment. He is painfully aware of the difficulties of getting refinanced, so he is sensitive to that too. He doesn't want to come across wrong with Mr. Zuker. He wants to believe what he is telling him, he wants to believe that he can have people working there before Christmas of this year. But he doesn't want to be naive. So he needs to take all of this with a grain of salt. And he can do less harm to Mr. Sneed's client by Mr. Zuker coming in and certifying they can get it de-certified. And if he is only delayed two weeks, there are tons of due diligence that his banker/finance fellow has to do. He is not sure what the harm is for two weeks.

Mr. Zuker said he believes Mr. Sneed told them that he does believe they can get the Brownfield designation...

Commissioner Becht said Mr. Sneed will speak for himself, he assures him.

Mr. Zuker said he thinks Mr. Sneed said that up here.

Mr. Auslander said he left it out and should have said something. This is a critical point in time. There are over \$600 million worth of requests for these tax credits. They received \$75 million. They are statewide. They are the only applicant in all the State that was funded, period. Nobody has ever had these credits based here in Florida. So for him to hold open a reservation or something given their circumstances statewide, it is just not going to happen. They have to know that this is a Brownfields designated site. They scheduled themselves for this purpose, moving forward with a critical list of accomplishments. So he has to tell them that this will be a problem, even two weeks. What does he do with all the other people who are flooding them with requests with their compelling stories? He is being pulled in 25 directions.

Commissioner Becht said he hears him.

Commissioner Alexander said he wanted to understand who is the owner of record. Is the owner also the one who is putting in the request tonight? Did he not hear for the record their staff say that they can have it de-designated?

Ms. Razem said for the record, the company Crossroads Plaza does own these parcels in fee simple title, yes. Her information from the State when she discovered the issue - the squabble, as they are calling it - she did contact the State and their information to her was they can have it de-designated. That is the information she received from the State on a phone call.

She can go back and see if she can get something in writing, if that is what the Commissioners are asking. But that was what the State's staff represented to her when she presented this issue.

City Attorney Schwerer said he would be very much more comfortable if they don't rely on phone calls from the State. They don't know who they are talking to.

Commissioner Alexander said he is sure she got a name of who she talked to. He is not questioning that. The question is, can they have it...

City Attorney Schwerer said he can't tell them that as he sits here tonight. He has looked at the Statute now three times.

Commissioner Alexander asked why hasn't he? He knew this was coming before them tonight, so why haven't they done their due diligence?

City Attorney Schwerer said he doesn't know whether it is the due diligence of the City Attorney's office to determine the private party rights when they have mortgages. He wants to stress that. That question was never posed to his office. It has been raised as an objection. Nothing in this Statute is showing him... He has it on line right now. It says if a property owner within the area proposed for designation by the local government requests in writing to have his or her property removed from the proposed designation, the local government shall grant the request. That is the only language he is finding on a LexisNexis search right now. But that says, proposed. So once they designate, it is not telling him that the subsequent owner of the property can then have it de-designated. This is very simple. The owner is before them asking for the designation. He can get an opinion letter of his attorney written within two weeks and sent to this Commission. The opinion letter would state the statutory authority for it and the legal authority for it. And that may solve some of the issues and the objections that are before them. Also, one of the things he talked with Staff about here is the fact that there are no plans for rehabilitation of the Brownfield Site itself. The go-cart track is not even in for rehabilitation, reconstruction, or environmental mitigation. It is being put aside for Phase II. In the public, health, safety, and welfare provisions of the Statute, he thinks the Commission should ask that if this property is designated, that the owner enter into some rehabilitation agreement or some agreement to perform additional testing on the go-cart track to confirm the existence of what level of contamination may or may not be there; and if contamination is found, enter into such cleanup activities as the Statute requires. Not place it on the back burner and just develop the front site and leave the contaminated site there. That is something the Commission can ask for under the Statute before they designate, because it is shown in the plans for Phase II. That is his recommendation. They don't have to follow it, but that would be his recommendation because that is the whole purpose of the Statute is to get the Brownfield Site cleaned up. That is what they are doing down at Coral Square.

Commissioner Alexander said that is what his concern is, the residents are objecting to that property. The health and welfare of those residents is his main concern. So they have the legal butt heads against the wall? He is not butting his.

Mayor Benton asked how many jobs did Mr. Zuker create at the old Orange Blossom Mall with the redevelopment of that?

Mr. Zuker said he would say about 1,000 jobs, until Carnival pulled out about 200 people. But between Policy Studies, Oxford Management, Nations Health, about 1,000.

Mayor Benton said unlike a lot of people who have come in front of the Commission, Mr. Zuker has a track record. He has done a lot to bring jobs here. He has known Mr. Zuker for about three years. He knows he has worked very diligently with the Economic Development Council. This project, he has heard it is supported by the Economic Development Council after talking with Mr. Pelton. But this gives that site an opportunity. If the Furniture Mart would have kept this property and Mr. Zuker hadn't picked it up, chances are it would be in pretty bad shape out there right now, because he doesn't think anything would have filled it up and they would have been dealing with a real code enforcement problem, as the Orange Blossom Mall was before it was redeveloped. So at least somebody has gotten very creative. And as the City of Fort Pierce, when Mr. Sneed thanked them for what they have done, had they not gotten very creative with their Redevelopment Agency, they couldn't have turned this community around. But here is an opportunity, at a time when there is not a lot of opportunity out there, to possibly create 200 jobs. If it doesn't work out, which he wants to think positive that it will, they can always come back and decommission this site. It surprises him that attorneys bring it up, but they don't have an answer tonight. But he doesn't want to hold it up, because he knows Mr. Zuker has been working on this for a long time. He just wanted to make it clear to everyone here that Mr. Zuker has a pretty darn good track record in the jobs he has created and the way he has turned some properties around in this community.

Commissioner Coke said although she can understand Staff's reluctance in wanting to research it - it seems to her that in government they spend more time researching than they do actually doing things - she is willing to move forward. She will agree with the City Attorney to the extent that at some juncture in time they need to have a stipulation that Mr. Zuker will move forward with the future environmental studies and the cleanup of the go-cart property. However, she thinks if he has a limited time frame to apply for this funding... She and Mr. Zuker have spoken about it many times. She thinks it is a great opportunity for the City. She thinks it is a wonderful opportunity to bring jobs here. Mr. Zuker has pretty well been vetted in this community through the Economic Development Council and his past performance here. So she has no problem whatsoever in supporting this resolution. She thinks if there had been a problem or a deterrent to it beforehand, then Staff should have worked it out between Mr. Zuker and Mr. Sneed

long before it came to this Commission. But if she is being told that the timing of this is instrumental to him receiving that financing, she is not going to hold it up. She would however request when they get to the point where they are moving forward on this resolution, that they do stipulate that he will move forward with the cleanup of that area.

Mr. Sneed said he will just put one thing on the record for the benefit of Commissioner Coke. As far as all candor is concerned and the representations of these people and their word, he knew absolutely nothing of this project until he read it in the paper. In fact a local politician on another board called him because he knew his association with the property and the former property owners. He asked did he see what was in the paper about a Public Hearing? That was their first indication of any of this. There has been absolutely no disclosure to them.

Commissioner Coke said she would apologize, but she will say it has been over seven or eight months ago that these gentlemen came in front of this Commission previously and discussed all this.

Mr. Sneed said the same kind of candor that went to City Staff that said there was no foreclosure, the same kind of candor about payment of taxes. There is a lack of candor. They knew nothing about this. If they were sincere about it in dealing with them, which they call a business dispute... This dispute is not over somebody owing them \$2 million on a piece of paper that they haven't paid, that is not a dispute, that is just not living up to what they said they were doing. What they are required to do by law is to determine that they have the financial wherewithal to perform and they have to rely on their word. He remembers the flag waving in this community about jobs, about a certain cement silo that is a God awful sight down the road. They waved the flags and said jobs by December or whatever. They got no jobs. He will be glad to see them in December, as will Commissioner Becht; but he doubts it very seriously.

Mayor Benton asked wouldn't there have been a sign placed on the site acknowledging the Public Hearing?

Ms. Razem said yes. Public notices did go out. That is how he heard of the Brownfield designation was through the public notice. And yes, signs are placed on the property. Also as a point of clarification, they did disclose on their Brownfield application - which is in the Agenda packet - that there was a small amount of unpaid taxes. Staff was aware of that, so that was disclosed. They just did not volunteer that there were lawsuits going on. She discovered that when she was asking herself, why are attorneys so interested in this process? So it is not a matter of lying. They did not tell her they were being sued, but they did disclose that they had not paid their taxes on the go-cart property.

Mayor Benton said Mr. Zuker disclosed that to him at their last meeting. God knows how many properties in St. Lucie County that didn't pay their taxes the last year or two.

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

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 09-40

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, DESIGNATING AS A **BROWNFIELD AREA** WITHIN THE CITY LIMITS OF THE CITY OF FORT PIERCE, FOR THE PURPOSE OF ENVIRONMENTAL REHABILITATION AND ECONOMIC DEVELOPMENT, THREE PARCELS LOCATED AT 2550 AND 2705 PETERS ROAD; PROVIDING FOR AN EFFECTIVE DATE."

Commissioner Sessions said he is probably one of the more conservative ones up here with these designations. When Mr. Sneed was up talking, he somewhat sounded like himself in terms of trying to look out for what was in the best interest of the City at large. He has had problems with a designation when it has been a large mass of land that has been proposed. As they all know, about eight months ago Ms. Razem and he go back and forth with this. But it appears to him that in this particular case it is a smaller area, a benefit in light of the applicant's history. It appears he is going to bring something forward to the City that they desperately need at this time. While they are going back and forth, and he may have an objective in acquiring the Brownfield, and of course the mortgage holder has an objective in trying to protect his interest, bottom line as Commissioner Alexander pointed out, they need to protect the citizens in terms of cleaning up the area. If that is in fact what will come of all of this in this particular small area, then he thinks they ought to move forward and designate it. In light of the fact from what he is being told, he can always come back at a later time and de-designate his particular spot of land. He is going to make a motion to adopt the Resolution.

Commissioner Coke asked would that motion include the previously discussed stipulation that he proceed with the environmental study and eventual clean-up of that property, and that the taxes become current on it?

Commissioner Sessions said yes.

Motion was made by Commissioner Sessions, seconded by Commissioner Coke, that Resolution No. 09-40 be adopted with the stipulation that the applicant proceed with an environmental study and clean-up of the go-cart tract property and property taxes become current on it.

Those voting in favor of the adoption of Resolution No. 09-40, with stipulations, were: Commissioners Alexander, Coke, Sessions, and Benton. Those opposed: Commissioner Becht.

The next item on the Agenda was Presentation by DiBartolomeo, McBee, Hartley, & Barnes, P.A., on City's **Comprehensive Annual Financial Report** (CAFR) for Fiscal Year Ended September 30,

2008.

Mr. Mark Barnes said he is with DiBartolomeo, McBee, Hartley, & Barnes, and he is here this evening to present the CAFR. He is not going to spend a whole lot of time on it, as he met with the Commissioners and he is here more for questions, but he will go through a couple of things in the CAFR and a couple of things in the Financial Analysis handout provided to them, just kind of summarizing some of the information. In the CAFR under Auditor's Reports, they provided a clean opinion, it was an unqualified opinion. They also provide a couple of other opinions in their report. They provided an opinion on Internal Control over Financial Reporting and on Compliance (Page 182). They prepared a Report on Compliance with Requirements Applicable to Each Major Federal Awards Program (Page 185). They are required to have a federal single audit as well as a state single audit for the federal assistance and state assistance they receive. They also prepared a Management Letter (Page 191), which is required by the Auditor General of the State of Florida. He and Mr. DiBartolomeo provided kind of a basic overview (Financial Analysis - September 30, 2008), the handout he has given them tonight, which he will go through. The Balance Sheet in there, they highlighted a couple of increases and decreases, the main fluctuations from 2007 to 2008. Their restricted cash went down by \$21 million. Those were bond funds they spent on various projects in the City. Fixed assets went up by \$16 million with the parking garage and some land purchases. Current liabilities went down by \$8 million, that was paying down some debt, but also there were a number of large payables in regards to those projects. Revenues for the City decreased by \$2 million from the prior year, so they had a decrease in their revenues. The main decrease was in the FPRA, about \$1 million. There were some miscellaneous revenues that decreased as well. Expenditures decreased by \$28 million. Because in 2007 they spent a significant amount of money in capital improvements, there was \$38 million spent on capital projects, as opposed to \$12 million in 2008. There was just a lot more going on in 2007 with the capital projects. So the expenditures went down significantly. Going through the Enterprise Funds, Solid Waste had a net income of \$1.1 million. Cash flows generated by that was \$1.4 million. That allowed them then to transfer \$500,000 to the General Fund. So they wound up with about \$900,000 left over in the Solid Waste Fund last year. The Stormwater Fund had net income of \$5.7 million, but a significant portion of that revenue was grant money. The actual operating income of the Stormwater Fund was \$798,000. With that they paid down debt. Their net cash flows from the Stormwater Fund was \$174,000. So they were left with about \$174,000 of excess cash. The Golf Course fund had net income of \$34,000. There was some grant dollars in there, that is what created net income. The actual cash flows from the Golf Course Fund was about \$3,000, so it was pretty close to break even. A lot of the improvements were done with a bond issue that was through the General Fund.

Commissioner Coke asked didn't they discuss last year putting proportionate amounts of the debt into this fund or any fund? If they owed a certain amount of the debt, that it should be

reflected in their balance sheet?

Mr. Barnes said it is a liability of the City, not a liability of the Golf Course. The debt service last year was \$207,000, so they would not have been able to pay it.

Commissioner Becht said he agrees with Commissioner Coke that they had asked that be in there a couple of times so that it accurately reflects what the carrying costs for the Golf Course are. He appreciates that it couldn't carry the debt and that the City pays the debt. But he also feels, as he thinks many of them do, that it is appropriate to show the subsidy from the City, because there is a subsidy for an Enterprise Fund and that is what it is. They have a transfer for the Sunrise Theatre. He doesn't know why, other than what Mr. Barnes told him earlier today - he doesn't know if he verified it after he left - that the \$3.1 million bond was primarily if not exclusively for the Golf Course.

Mr. Barnes said that is correct. The debt service is about \$200,000 a year.

Commissioner Becht said like Commissioner Coke, he doesn't understand why they would not allocate that to the Golf Course and then reflect a transfer. Mr. Barnes is the accountant and he doesn't mean to insult him. But to him it is more accurate to reflect that there is a transfer to cover that debt service and it is not being reflected now.

Mr. Barnes said he is really looking at the debt service payment as opposed to having the debt on the balance sheet of the Golf Course, in the CAFR, the actual financial.

Commissioner Becht said what he is looking at is the Golf Course Fund summary, which he doesn't think is technically part of the CAFR. But when he gave him this, it accurately tells him the performance of the Golf Course because it allocates the appropriate debt. As he mentioned to Mr. Barnes today, one of the reasons he wanted it in there is, before somebody puts another \$3.5 million or \$4 million in here for a clubhouse, he wants it to show the pre-existing \$3.1 million that went into the beautiful redesign, which he would vote for again... He is not sure he voted for that, he thinks that predates him; but he would vote for it again, because he thinks it was well worth the effort. Mr. Barnes got his point?

Mr. Barnes said yes.

Commissioner Coke said also she knows this handout is just a summary. But in the CAFR on Page 51 under Liabilities, they are not showing that bond under the Golf Course there either.

Mr. Barnes said that is correct.

Commissioner Coke said they talked about it this year, last year, and the year before. Can someone tell her how does she need to phrase the question - because she knows she is not asking properly - so the next time she is looking at this, if

there is a debt incurred or a bond issuance incurred with an Enterprise Fund, it will show underneath that Enterprise Fund as a liability?

Mr. Barnes said he understands the question. But they would have to refinance the debt in the Golf Course.

Commissioner Becht asked can they just do a footnote on it? Put it in the Golf Course Fund with a footnote that says this is the debt of the entire City, not just for the Golf Course. Can't he do it with a footnote?

Mr. Barnes said they could make it a little more... The only reference is on Page 89. It says the proceeds of the \$3.1 million Capital Improvements Revenue Bonds (Series 2004) were used to reconstruct and improve the City-owned golf course. That is it.

Commissioner Coke said let's work with small numbers. If they borrowed \$100 and \$50 of it went to the Golf Course, why can't they show that the General Fund owes \$50 and the Golf Course owes \$50? It is a 50/50 split. She is sure there is a more complicated ratio to go with that; but they are the accountants, they are the math guys, and they understand those things. But somebody ought to be able to say x-percentage of this debt belongs to the Golf Course; and based on that premise, then the same percentage of the interest payable belongs to the Golf Course on an annual basis.

Commissioner Becht said the City owes it. Why can't they have an internal notation here that the Golf Course owes it to the City? Is that appropriate accounting?

Mr. Barnes asked do they want the Golf Course to pay back the General Fund?

Commissioner Coke said she wants an accurate P&L (Profit and Loss) statement for the Golf Course which would include the debt being retired. If the Golf Course can't pay it, the City is certainly not going to close it down, beat them up, or send past due notices. However, it is very deceptive looking at this to not show that debt or the retirement of part of that debt and the interest that goes along with it.

Ms. Gloria Johnson, Director of Finance, said if this is what they want to do, they would probably have to structure a loan with the same principal and interest payments that the debt is, saying that the Golf Course would have to pay General Fund this amount of money. But in essence at the end they will be transferring that same amount of money back to the Golf Course. But they would have to structure a loan.

Commissioner Coke said however, it would give them a much more accurate portrayal. They want a little bit of transparency. She is not complaining about the Golf Course, but when she is looking at this she is saying the Golf Course is ahead of the game with \$2,957 net cash flow. But she knows in her heart it is not because there was debt retired and interest and principal

paid.

Mr. Barnes said which they benefitted from, absolutely. They could structure a loan between the General Fund and the Golf Course, and make an annual... If the Golf Course could pay it, wonderful. If they didn't have the ability, then they could transfer the money.

Commissioner Becht said or forgive it.

Commissioner Sessions asked isn't that the whole purpose of having an enterprise designation, so they wouldn't have to do that? How does that impact if they do that? How would that impact the enterprise designation and what would that do?

Mr. Barnes said it wouldn't have any effect. The whole reason that it was originally a General Fund debt is because the Golf Course had just been purchased. The Golf Course didn't have the ability to borrow, or it would have been an enterprise debt on the Golf Course books. So that is what created this. Yes, they could do a loan, put the loan on the books; and then basically they would be forgiving the annual debt service.

Commissioner Becht said which all of them are willing to do. He thinks it more accurately reflects what is really happening there.

Mr. Barnes said yes, that is fine. They can do that.

Commissioner Becht said it is not that they can do it. His statement to Mr. Barnes is, from his perspective that more accurately reflects what is happening with the Golf Course. But for some accounting reason, for three years they have been asking for this to be done, Mr. Barnes or Ms. Johnson or somebody has resisted that. He doesn't want to jump to the assumption, but that leads him to believe they intentionally didn't put it in there because they didn't think it accurately reflected the situation with the Golf Course.

Ms. Johnson said the way it is presented in the CAFR is how it is actually reflected. It is actually a contribution from the General Fund and that is the way it should be on the books. But if they want it to be set up as a loan, they can do that. But the way it is presented in the financials is the correct presentation. The way the loan is structured in their financials is the correct way to report it, because General Fund is the one that is financing the debt.

Commissioner Coke said now she gets what Ms. Johnson said, actually it is a loan that the General Fund took out.

Ms. Johnson said correct.

Commissioner Coke said but her point is, were it not for the fact that the Golf Course had no credit, it would never have been taken out as a loan by the City, it would have been taken out as a loan by the Golf Course.

Ms. Johnson said right. What she is saying is, they can correct it, but they would have to do it by bringing forth a loan. General Fund would have to make it as a loan to the Golf Course instead of a contribution. Right now it is a contribution.

Mayor Benton asked can Staff can come back with that loan prepared at one of their next Commission meetings? They have been debating this several different times over the years. If that is the way they want it to be...

Mr. Barnes said from his side, he works with what is there. The way it is now is the proper presentation. If the City does a loan between the General Fund and the Golf Course, then they will change the presentation to reflect that. And it will be reflected in their monthly financial as well.

Commissioner Becht said if there is a negative to doing that, point it out to them.

Mr. Barnes said not that he is aware.

Commissioner Alexander said they are saying there is no negative to doing it, but he is reading loss, loss, loss. When they first purchased that Golf Course, they did put themselves on a time line where that Golf Course will turn itself around. Does anybody recall what they said it would take?

Mayor Benton said he doesn't remember that. He remembers it breaking even they were hoping. But with the economy, he can't say they can get more people and charge more to play golf. But he knows at one point when things were good they were talking about facilities there that could accommodate more and make more for the City. But out of all their Enterprise Funds, this is probably one of their biggest assets. By redesigning that course, if they ever decided they had to sell it, it would be worth a lot of money, a lot more than they paid to have it redesigned, that is for sure. It is one of their bigger assets. It is not costing them \$1 million a year like the Sunrise Theatre.

City Manager Recor said the Mayor is correct, it is one of their biggest assets. But right now, probably at best it is a break even operation for them. They all know with the current economic climate that the additional resources are not there and will not likely be there for a few years. Just to give them some comparison, last year was a record year in terms of number of rounds. They are a bit off in their revenues by \$200,000 through the current fiscal year. But until they are at a point where they are ready to make that next step to make further investment, it is going to be at best a break-even operation for them. They can't count on that as turning a sizable profit because the number of rounds have already been maximized. That is just the way it is.

Mr. Barnes said the next page in the summary is the Marina Fund. The City Marina is showing negative cash flow of about \$265,000. They have a net income for the year of \$1.8 million, but they are still receiving Federal Grants. That will probably be

another year or so with the Federal Grants for the Marina. It has an operating loss of \$413,000 and depreciation is \$429,000, so they are right around a break-even before their debt service. Then they are paying \$270,000 in debt service with interest and principal, so that is creating negative cash flow from the operating side of that.

Commissioner Sessions asked the only thing that is keeping them above the water in the Marina are the grant dollars in essence?

Mr. Barnes said yes.

Mayor Benton said that is until they rebuild the Marina. That is one of their biggest things in front of the Governor will be this is the reduction since the hurricanes in revenue. They need to get that making money and helping the community out with economic development.

Mr. Barnes said he believes before the hurricanes there were profits, so they are going to have a pretty good argument there. On Page 8 of the summary is the Sunrise Theatre. It had a \$1.4 million loss for the year. It is \$562,000 of depreciation, so they are at a negative cash flow of \$939,000.

Commissioner Sessions asked it did make money, there was an increase in cash flow, right?

Commissioner Becht said it lost less money.

Mr. Barnes said there was a subsidy, the FPRA subsidized \$1 million. Last year it was \$1.4 million. So it has gone down.

Commissioner Alexander asked is he the only one thinking that the Sunrise Theatre was subsidized for less than \$1 million?

Mr. Barnes said he thinks that is the plan for this year.

Commissioner Alexander said he remembers seeing every year \$700,000 or \$800,000. Where is he missing something?

Mr. Barnes said he thinks that is this year. Don't forget, they are looking at September 30, 2008 tonight.

Commissioner Alexander asked they subsidized the Sunrise Theatre for how much last year?

Commissioner Coke said \$1.2 million.

Commissioner Alexander said 2007, \$1.5 million. And 2008 is...?

Mr. Barnes said just over \$1 million.

Mayor Benton said he thought it started at \$750,000.

Mr. Barnes said he thinks \$750,000 was in the original budget.

Commissioner Sessions said he is looking at 2007 versus 2008. He sees an increase. Mr. Barnes is saying there was no cash

flow increase in revenue. He is confused.

Mr. Barnes said no, there was a \$700,000 increase in revenue. So that reduced the subsidy, reduced the loss.

Commissioner Sessions asked there was an increase in ticket sales and they made money, right?

Mr. Barnes said absolutely. Actually, there was more revenue.

Commissioner Becht said somewhere between 2007, 2008, and 2009, they also changed the accounting, where the cash receipts that would have come in, let's say in August... The previous way, they used all those receipts in that fiscal year, which doesn't accurately reflect what is happening at the Theatre, because the ticket sales in August actually should go into the following year's fiscal revenues.

Mr. Barnes said correct, that was done internally. In the financials they would always make that adjustment on September 30th, go back and make that adjustment. They would look at the revenue received in the summer for shows in the fall and they would pull that revenue off the P&L. And if there were deposits given, because sometimes they pay performers a deposit three or four months in advance, they would remove those deposits from the income statement as well.

Commissioner Coke said it was not always being done that way.

Mr. Barnes said not on the monthly financials. They would just do it in the CAFR at the end of the year. He thinks internally they are doing it.

Ms. Johnson said she thinks what happened with those deposits, they are supposed to be cash on hand, but they were actually using it for operating purposes, not actually restricting it. So what they did at the end of last year 2008, they actually transferred the money for the deferred revenue so that the cash would actually reflect what they should have on hand.

Mr. Barnes said available cash.

Commissioner Coke said in the CAFR, Page 110, Post-Employment Health Care Benefits. She is reading that they are charged by the insurance company a blended rate based on experience. Then it says that the City of Fort Pierce annually subsidizes the cost of retirees health insurance coverage. Is she to assume that means that rather than the consultants that their insurance company hires to consult with them, giving them a breakdown of individuals and what the cost of their health insurance is...? Because their policy is that retirees are eligible to participate in the health insurance plan, but they have to pay for it. When she is reading this - and somebody correct her if she is wrong - there is a net obligation at the end of the year of the City for \$338,099 that they subsidize retirees health plans, rather than their consultants giving them true and accurate information so that the retirees would be paying for their health care?

Mr. Barnes said it is actually \$215,668. Then they have \$122,431 which is the unfunded actuarial accrued liability, so it comes up to \$338,099.

Commissioner Coke said \$215,000 is much better than \$338,000. But when she looks at the figure right next to that, is she reading that the Fort Pierce Utilities Authority is subsidizing their retirees health insurance coverage to the tune of \$2,025,000 a year?

Mr. Barnes said that is correct.

Commissioner Coke said she is going to need somebody to explain to her why. She can't worry about what the U.A. does, if they have an extra \$2 million, that is their business. Right now tonight she is going to worry about the City. Can somebody explain to her why they do not have accurate figures from the health insurance company to be charged to the retirees? They are talking \$215,000 here that the City is spending. That is a lot of Police Officers, that is a lot of Public Works people, that is a lot of everybody.

Mr. Barnes said he guesses the way the City is handling it is, he would say the most common way insurance is handled, they are charged a blended rate. Blue Cross/Blue Shield would be fine with it. If they want their rates to be by age of employees, they will give them all the different rates and he believes they can pay those different rates. They provide them with a blended rate. Yes, they can give them the information on what the rate would be for retirees. He hates to say it, but he thinks it always has been a blended rate. He is not saying they can't change that.

Commissioner Coke asked does anybody else up here think just because it has always been, when they are facing economic times like this and they are talking almost \$125,000 a year, that they shouldn't at least look at it?

Commissioner Becht said he and Mr. Barnes talked about this today. As he recalls, they are paying pursuant to the Blue Cross/Blue Shield plan roughly \$571 per person covered by that plan.

Ms. Johnson asked per individual? Yes, that is close.

Commissioner Becht said that is in the ballpark. That number is inclusive of all current employees and all retirees. Is that correct?

Ms. Johnson said that is correct.

Commissioner Becht asked when they get the \$215,668 from the actuary - which he understands is the reason why they had the delay in getting the CAFR in the first place - that is \$215,668 the City is paying? Is that the City's share? Because what bothers him about the number is it could be the City's share or

it could be the City's share and the current employee's share. If it is just the City's share, then with the existing current employees paying a higher rate than they should be paying because they pay... No, the City pays all of the employee's coverage, it is the dependent coverage that... So it would be just the...?

Ms. Johnson said the retiree pays the entire premium, but that premium is the same as a regular employee. If a retiree has a family, he would pay the same as an active employee would pay, the same amount.

Commissioner Becht said he doesn't want to repeat Commissioner Coke's comment, but he thinks a decision has been made - maybe they are all okay with it, maybe they are not all okay with it - that the City will subsidize the health insurance of their retirees and that current cost is about \$215,668 per year. Maybe that is the thing to do or maybe it isn't the thing to do, but they are doing it.

Commissioner Coke said her concern with it is not that the City is doing it or not doing it. Her concern with it is, that is not what the policy is. She sits on the Retirement Board and Commissioner Sessions sits on there. The policy is that the retirees can participate in the plan, but they are responsible for paying for it. So her level of concern becomes, somebody should have said to the City that they have no idea what it costs, they are just going to charge them an average, and the City picks up the rest. Or they should have, because it is a simple thing for insurance companies to print out a printout of this age group, that age group, and the other age group... Her concern is that the Commission set a policy that the retirees are going to pay for their health insurance, but somehow or other they lost track of it and it is costing the taxpayers an additional \$215,668 a year.

City Manager Recor said he doesn't think anyone lost track of it. He thinks the reason for the difference is because of the blended rate, as Mr. Barnes was attempting to explain.

Commissioner Coke said she understands that. But her point is, the policy was made and it is on the books that retirees are supposed to pay for their health insurance. Somebody needed to say they need a figure other than a blended rate for retirees, because it is costing the City \$215,668.

Mayor Benton asked when it comes to Police Officers, isn't this something that was negotiated many years ago for retirees? They can't take something away. He imagines they have retirees who are going to get their health insurance funded to a certain amount because it was negotiated many years ago. Is he right? He knows the Fire District...

City Attorney Schwerer said he is not sure he understands the question.

Mayor Benton said when it comes to negotiating contracts with the Police Department, over the years he has heard from retired

Police Officers complaining that their rates have gone up. It was his understanding the City was paying for some of the Police Officer retirees, their health insurance, to a point.

City Attorney Schwerer said he would not have that information.

Ms. Johnson said no, the Retirement Board does not pay. The Fire Department did at one time pay their retirees insurance, just the individual member. They may still do it, she doesn't know. But the City never has.

Mr. Barnes said the insurance company comes to the table and says this is the rate, they don't come to the table and say this is the blended rate. From that standpoint, the retirees are paying the rate, they are paying their health insurance. The Commission certainly can change that because they can get different...

Commissioner Coke said she has another job and Blue Cross/Blue Shield comes and says all of her employees from 15 to 21, this is their rate for a single family, etc. - 21 through 25, 25 through 35, and the rate goes on and on. They give her a breakdown by employees.

Mr. Barnes said they may very well have done that, he doesn't know. And then they blend it and they wind up with a rate.

Commissioner Coke said she is not looking to argue with Mr. Barnes.

Commissioner Becht said all of this comes to light, if he is not mistaken, because of different accounting rules they now have to comply with. They have to figure out what this number is. Is the Commission of a mindset to change what they have been doing and shift \$215,000 worth of premiums onto their retirees? He has to tell them, he is a little uncomfortable with that.

Commissioner Coke said she doesn't that it is something they should do. But she does believe at bare minimum, it is something they all need to be aware of, because the policy as stated is that the retirees will pay for their health insurance. It doesn't say the City will subsidize it to the tune of \$225,000. She doesn't know the exact impact it will have on retirees. One thing they have to keep in mind too is, they have recently come up with several people as they are retiring rather than naming their spouse, which is a traditional beneficiary, they have had people name their grandchildren that are 12 years old. So then although the retirement benefit is figured out actuarially... And they have heard all those stories, not that any of them she thinks ever really believed it. But they have a whole different set of what is going on over there. The other side of the coin is, they have 40,000 residents they need to be fiscally responsible to.

Ms. Johnson said as far as the dependents, if they are 12 years old, when the retiree passes no one else has that insurance benefit. When the retiree passes, the benefit does not carry on to the dependent or spouse, it doesn't do that. But when the

City was self-insured, they have to remember their retirees paid the same premiums as they did then. But in their audit, they would see that they had costs associated with being self-insured, and sometimes the premiums did not cover their health insurance cost. In that case the City was subsidizing then, it actually subsidized the additional cost as far as health insurance in claims that were over and above what they paid in premiums.

Mr. Barnes said they tracked the claims by employees so they could identify which claims were related to the retirees.

Ms. Johnson said some years the City paid \$600,000-plus more in claims.

Commissioner Becht asked do they want to do anything different?

Mayor Benton said he thinks they need to sit down and have a better understanding on how these numbers show up.

Commissioner Alexander said his only comment to sitting down and having a better understanding is that they should include the numbers not only for FPUA but for the County because the City residents are also their County residents. So getting a better understanding, he thinks it should not only be the Commissioners but the citizens of this County to know what they are being held responsible for. How many employees are there in the FPUA versus the City of Fort Pierce? How could there be such a disparity?

City Manager Recor said the U.A. is self-insured.

Commissioner Alexander asked the City is saving over \$1.7 million by not being self-insured versus the U.A.?

City Manager Recor said he doesn't think that is the way to look at it. There is a difference of that, but he doesn't think they are saving that.

Mayor Benton said when they are talking about the Utilities Authority, they can't compare it to the City, they have to compare it to another utility.

Commissioner Alexander said he is speaking of citizens of the City of Fort Pierce, they are the ones where the rates are increased they subsidize these figures. Again, they just need to have a better understanding.

Commissioner Becht said he has some questions and comments, but those kind of fold into what is going to happen at the budget workshops. He was talking to Mr. Barnes and Mr. DiBartolomeo and going over the CAFR. The transfer from FPRA to the City was \$600,000. They all know going through the budget workshops they are talking about reducing that dollar amount. Arbitrarily he thinks they came up with \$400,000 for the transfer from the FPRA?

City Manager Recor said yes, \$400,000.

Commissioner Becht said when he was talking with Mr. Barnes, he suggested they try to find the sheets that the old Department Heads did when they did the old study justifying the \$600,000. See if they can, instead of ordering a new study, find the old sheets. Send the old sheets out to the Department Heads and see if they can assimilate the information without having to order the study from an outside consultant and see what number they come up with. If there is a consensus, he would like to have the sheets updated. He is not sure Mr. Recor was here when they had that study.

City Manager Recor said he was. He recalls how difficult it was.

Commissioner Becht said they had some Department Heads who did not want to comply, they just wanted to turn something in and say zero or 100% or something. If they now understand the difference is going to be between \$600,000 if there is a heavy subsidy or \$400,000, they might spend a little more time and be creative and say there is more staff time and use of services by FPRA for that. As he was looking through the report, he had his concerns that they might be hitting the Solid Waste Department too hard. He wanted to ask Mr. Hopkins if they were hurting him with his capital equipment replacement because they were hitting him with the transfers. He wanted to ask him, but he is not here. When are they going to get their quarterly report and when was it due?

City Manager Recor said it was actually due he believes at this meeting; but given what they are going through with the budget, he extended Ms. Johnson's deadline to their next meeting.

Commissioner Becht said that was very kind of him. So they will have that at the next meeting? That is a very important thing for them. Ms. Johnson was the first one who actually got it together for them. They have talked about getting a separate audit of the FPRA. Was Mr. Barnes able to get an estimate together for that?

Mr. Barnes said he and Mr. DiBartolomeo talked about it. Really what it would be, it would just fold into the City audit. They would prepare a separate report. It would be \$7,500, give or take.

Commissioner Becht said he doesn't know if they will make a decision on that or not. What they are talking about is a stand alone audit on the FPRA. That apparently will cost an additional \$7,500.

Commissioner Coke said Mr. Ward is making notes, she is assuming to put it in his budget.

Commissioner Becht said in the Management Letter, they mentioned the number of journal entries they unfortunately had to do at the end of 2008. He does believe there will be a correlation between their quarterly reports and the number of year-end journal entries. The Management Letter says they had how many

for the end of 2008?

Mr. Barnes said it was around 80 or 81. The prior year he thinks there were probably about 60. So there was an increase.

Commissioner Becht said that is about a 33% increase. It is done at the year end and it catches them by surprise. He is going to beat this drum. He thinks the quarterly reports will make them deal with these changes, rather than at year end.

Mr. Barnes said he thinks it will. But another issue that affects this is, the Departments aren't always good about getting information to the Finance Department.

Commissioner Becht said the City Manager can help with that.

Mr. Barnes said this comment is about the City, not the Finance Department. Certainly a lot of the entries that are made relate to payables, because they don't make it over to Finance, probably 20 or 30 adjustments for payable entries. And this is after they close at the end of November. So in December or January people are sending September invoices to the Finance Department.

Commissioner Becht said it is in the Management Letter. He would like to see that reduced at year end. He is sure Ms. Johnson would like to see it reduced at year end. So whatever Staff can do to effect that change, he is expecting it to be done. They dealt with the Golf Course debt. He doesn't know if it is germane to the CAFR, but at some time he needs Staff to tell him where they are going to get the money for the Roundabout in front of Harbour Isle. He doesn't think that issue has been addressed.

City Manager Recor said Staff just spoke about that this morning. The Commission will have some choices to make.

Commissioner Sessions said he has one follow up with the FPRA. He noticed in the collection of monies \$10.1 million in 2007 and \$8.6 million in 2008 and it is projected to be \$6.9 million for the upcoming year.

City Manager Recor said not even close.

Commissioner Sessions asked nowhere near that? How much are they projecting?

Mr. Jon Ward, Director of Fort Pierce Redevelopment Agency, said the \$6 million number is the current year. The coming year is something like \$5.2 million.

Commissioner Becht asked that is based on what reduction?

Mr. Ward said 24%.

Commissioner Sessions asked what have they lost? Why such a major decrease? What is the problem?

Mr. Ward said he thinks what is happening is the area within the CRA appreciated faster when it went up and he thinks it is coming down faster when it went down. A good example would be some of the beach properties on South Beach in particular. For example, they are looking at an acquisition right now of the Mariner Bay (former Days Inn) site. A year ago in August the same appraiser, Mr. Fuller, gave them a \$40 square foot estimate on the cost of that land when Mr. Andrews went out for curb cuts. It came in yesterday at \$33 a square foot. That is a year. That property is being whipsawed by the economy. If the property is in a neighborhood in the middle of town, it is kind of smooth. But at the beach and these kinds of places, they get whipsawed.

Commissioner Becht asked the 24%, is that what Jeff Furst (St. Lucie County Property Appraiser) has given him, or is that his assumption?

Mr. Ward said that is what Jeff Furst has given them.

Commissioner Becht said so they have the final number, it is 24%.

Mr. Ward it is 24%. The estimate they had in the first draft of their budget was 25%. So he picked up \$150,000.

Commissioner Coke said tonight is probably the wrong time, but as food for thought as they are moving forward in the budget process. The year before last fiscal year, the FPRA had funded the Community Policing Program. Part of that the previous year they purchased equipment - cars, bicycles, radios, etc. that are now owned by the FPRA.

Mr. Ward said 14 Crown Victorias and that kind of stuff.

Commissioner Coke asked can somebody put their thinking cap on and at the next budget workshop tell her what they are going to do with those vehicles that are within the guidelines of what they can legally do with them as an FPRA?

Commissioner Alexander asked they are speaking of vehicles?

Commissioner Coke said all the equipment. She is hoping that the Chief is going to say every officer is going to be over there working in the community policing part of the day, so he still needs that equipment.

The next item on the Agenda was Ms. Arden Peck, Parks Advisory Committee, to give report on **Parks Ordinances**.

Ms. Arden Peck said the Parks Advisory Committee was formed to address and make recommendations to the City Commission on two issues. One, vendors being allowed to sell or rent their products within the City parks; and two, general and specific parking problems within the City parks. In December 2008, the Committee presented its initial report. They had agreed, and still do, that the rental of non-motorized watercraft and bicycles only would be allowed. At that same meeting, they

asked to study all of the park ordinances to not only solve the parking problems, but to update, clarify, and codify all of the ordinances. Some had been written in 1960 prior to many of their current park problems, such as the use of sound systems, portable generators, tents, and the severe overcrowding of their parks, especially their beach parks. This being due to the explosion of their County's population along with a change in their population demographics. The proposed ordinance changes before them tonight represent the collaborative effort of their appointed citizens, Public Works, Police, and Parks & Special Permits staff. Without bringing in Staff who deal with these issues on a daily basis and asking for their input, their final product would not be as comprehensive and as well thought-out as it is. The goals of their deliberations were to add, delete, and clarify the ordinances so that: (1) They are more easily understood by those using their parks, whether with or without a special permit; (2) They are easier to enforce by the Police Officers and Code Enforcement Officers; and (3) The health and safety of their park visitors is better ensured. Let her explain some of the hot button items they discussed. In that first report in December they did recommend allowing only non-motorized watercraft and bicycles to be vended in their parks. A vendor with multiple products must go through the RFP process for each product. The scope is small. They did not recommend any other items such as beach chairs, umbrellas, T-shirts, etc. be allowed to be vended. They also included a set of vendor rules. As far as parking, their suggested parking proposal, Section 12-12, has three components. During discussions they had many "what if" situations brought up. By using one or more of these three components, all were able to be satisfied and enforced. Chief Baldwin is most comfortable the way they were written and it is certain that his officers will have no problem with enforcement. Concerning oversized vehicles, there must be appropriate signage allowing them to park; if not, they will be ticketed. The Committee was in support of necessary appropriate signage; but if the illegal parking can be eliminated by incorporating landscape designs, trees, plants, pathways, boulders, etc., they would be much happier. They have great faith in Mr. Hood's abilities in this area as is exhibited by his work in Causeway Park. Those big garish signs that start by saying in bold letters "NO", no way give off a warm, friendly hospitable vibe to any park visitor. Because their beach parks are bursting at the seams, they felt that the City must adopt the attitude that if there are no more parking spots at a park, the park is full and people must move on to another park. They strongly suggest that the City work with the County to highlight those beach parks south of the City line, perhaps through their visitor website. She has visited John Brooks, Frederick Douglass, and Blind Creek parks. Some have restroom facilities and all have room for oversized vehicles and plenty of general parking. As for school buses, the same applies. If the signage is there, fine. If not, they must unload and park elsewhere. This summer at times the school buses have taken up the whole south side parking area of Jaycee Park, thus eliminating any parking for any other visitor. Because of their population explosion and lack of prior parking enforcement, an entitlement mentality has crept into their park visitor's heads: "I want to go to this park and I will; and if I park illegally, so be it, I

will pay the \$30 or whatever it is." This behavior must be corrected. Chief Baldwin supports this new policy and will instruct his officers to offer visitors the alternative parks to the south. This will not be an easy task, but hopefully with the completion of Pioneers Park, some of the summer children's programs will opt to go there rather than Jaycee Park or the Causeway Park. They will note in Section 12-17, Domestic Animals, that they have made no major changes. The Committee's major concerns were owner's physical control of the animal and owners not picking up after their animals. These could produce litigious and unsanitary situations. Adding a dog park was discussed, but the consensus was that it was not viable at this point in time. As was noted in last week's paper, Walton Rocks in Jensen Beach is a dog-friendly park. The County also has 20 preserves scattered throughout Fort Pierce, Jensen Beach, and the unincorporated County, which do not enforce the leash law. Also three more areas - North Beach, Germany Canal Road, and North 25th Street - are being considered as dog parks. They have added Section 12-22, Sound Systems, to make the use of sound systems, amplifiers, etc. emitting noise that can be heard beyond 50 feet illegal without a special permit. The distance of 50 feet is the benchmark measurement used in other sections of the code dealing with noise. So by keeping it the same, they would further add to the simplification of enforcement. In Section 12, Article II, Special Events, their main goals were to simplify, remove redundancies, and reorganize so that all information regarding one type of event is together. They also recommend that the Alcohol Special Event Permits be issued to profit organizations for private parties not charging a fee or being held for profit. This is simply acknowledging what is already occurring. They recommend that the window for applying any special event permits should be standardized to not before 180 days and not less than 30 days. Their hope is that all groups will abide by this and not forget and come begging to any ear that they can find for an exception. In fairness to all, they felt that the 180/30 window should be upheld, with waivers given only to exceptional unforeseen circumstances or occurrences such as the Bill Clinton visit. Their discussion also included the fees charged for special events, though they were not charged with making recommendations. They felt that the current charges need updating as they certainly do not reflect the actual cost to the City. These also should be broken down into categories, i.e. electric, electrician for set-up, electrician on call, electrician for entire event. They understand that Greg Martzolf and his staff are working to put the entire special permit application process on the City's website. They support this and hope it will be available in the near future. She is so proud of their Committee's commitment to this monumental task. As a matter of fact, two of her Committee members have sat through this meeting, waiting for this item and supporting it. These visions reflect the collective wisdom of the citizens, the staff who maintain the parks, and those who are charged with the enforcement of these ordinances. They feel confident that they have more than met their aforementioned goals. The Committee has done its work and now it is time for action. They thank the Commission for the opportunity to help the City and certainly to learn more than they probably ever wanted to know about their parks. But they truly did enjoy the

experience. They ask them to accept both reports, the December one and the one tonight, including the vendor's permit rules. Send it to Legal for review with a date certain to come back to the Commission for Public Hearings if necessary, followed by a vote of adoption. They also need to know what their Committee status is. Are they a standing committee, are they a standby standing committee, or are they an ad hoc committee, or whatever? This was particularly asked at their last meeting. The rest of the Committee didn't know if they would be disbanded or exactly what their status was, so at some point they would like to know.

Mayor Benton said he wants to thank Ms. Peck and the Committee for putting in all this time they have for nearly a year now. He thinks they need to at least meet until these recommendations make their way through the process, if there are any glitches in it. Then maybe they could meet once every six months or something to see how things go.

Ms. Peck said obviously if there were glitches, they would certainly meet and finish what they started.

Commissioner Becht said he got some comments from somebody who took the time to read the proposal today. He is going to clean it up and forward it to Ms. Peck so she can have some of the comments. He thanks her and the rest of the Committee. He thinks the Committee reflected the community well, which meant they might have had people who were at opposite ends of the spectrum. But it seemed to work, because what came out of the Committee from his observation is a balanced approach to the use of their parks, not sedate use but not over-use either. So he thanks them for that balanced approach. He would like the Committee to be on standby. He doesn't know if that is specialized, ad hoc, or whatever. Because he thinks they are going to need the Committee definitely in the next six months and they may need the Committee as they go through the LDR Rewrite to make sure they get it right in 2009. He would like to post the proposed rules on line. Is that possible?

City Manager Recor said yes.

Commissioner Becht said that way they can get wider input from people who might see something they don't see because they use it.

Ms. Peck asked is he talking about the proposed changes in the ordinance?

Commissioner Becht said he would like both the rules and the ordinance posted so they can get the feedback. He sees practical problems with the permit application fee time period being not more than 180 days, but not less than 30 days. How does that work for the Farmer's Market or Friday Fest or Backus Days, or any events that they historically have an interest in building? They can have somebody nasty come in and book a weekend that historically has been used because they happen to get there first on the 180 days. He doesn't have the solution.

Ms. Peck said she thinks that is already taken care of.

Commissioner Becht said okay. Then he is going to forward these on to her and see how many are addressed or not addressed. But there was one thing that was not concise for him, and maybe they did it and maybe he missed it. The Committee spent a long time focusing on one issue that the Commissioners asked them to focus on; and as they were doing that, two or three came up. He would like feedback from the Committee on the top five issues they would like to spend time on and focus their energies on, and then the Commission could decide whether they think that is appropriate or not. They have touched on a couple in here, but the things they touched on are interlaced in a fairly lengthy report. So he would just like the Committee's top five issues they think need to be addressed. Parking, vending, and the ordinance, some of those they have dealt with. But it seems to him there were one or two more that she mentioned in here that the Committee wanted to go back and look at.

Ms. Peck said she can get in touch with the Committee and see if they feel globally there are other issues they feel they should address.

Commissioner Becht said he is not looking to create work. He just thought since the Committee focused on the parks that they may have seen something the Commissioners missed that needs work.

Commissioner Alexander said he has been following her Committee a little bit on the blind side because he has concerns with what is going on in these parks. He just wants to tell all the ones who served on that Committee and Mr. Hood that they have all done a great job. He doesn't have any questions or objections, but he does have a comment and he hopes it is not taken wrong. He knows they have Friday Fest and downtown and their parks, but do they have adequate parking at these parks? That is where his head was going. But when they limit the individuals... One suggestion was that once it is filled, then move on. How can they tell their visitors to move on? He doesn't know what they are going to do. But he has been to cities where they may have to walk from here to the bridge before they can get to the main event. He just thinks about their Veterans Park and Downtown. How can they turn people around once the park...? It is just a thought of his. Pioneers Park for example, they are not going to have nowhere parking for that area that may possibly come up. He is just thinking of the City to welcome individuals who may want to be here. They can ride out some of these things. They don't have to put up and tolerate the foolishness that comes along with it.

Ms. Peck said she thinks some of the problems, especially with some of their beach parks, with the parking is that if they allow more than x-number, then they definitely have a health and safety issue.

Commissioner Alexander asked how many issues have they had in the past with health and safety?

Ms. Peck said she thinks they have had quite a few.

Commissioner Alexander said he thinks that is what they should relate to the public so they don't think they are just being mean. Just let them know. Right now they have some type of epidemic going on. But he just wants to be a friendly City.

Ms. Peck said they do too. That is the whole object. One of the things they really have discovered is with the demographic change and the population explosion and especially now with the economy, people instead of going away are jumping over to the parks and they are just drowning over there.

Commissioner Alexander said he just knows that the Chief is going to have a very difficult time with their employees that they are going to have the notion to go out there and want to be mean. They know if he walks, he is walking just like they are walking to see what is observing and not being mean. Smiley face tickets, he mentioned several years ago. Just give them a break. That is just his suggestion.

Ms. Peck said one of the things she could think would be to have generalized parking maybe down at the County parking lot and then have some sort of transportation to some of these other parks that don't have as much parking but could hold more people there.

Commissioner Coke said thank you, she thinks they did a great job. The concerns she has is with the parking. Maybe what they need to do is get a big map or something where people pull up at the entrance and if it was full they could see where the other parks are. She has had a lot of complaints, if the park is full, everybody is parking in somebody's driveway, in their yard, they are digging up their yard. They have to protect the residents also. She was reading in the December 1st Minutes that they decided that since food vendors and non-motorized vendors were two different issues, they were going to address the one and leave the other for later. Her concern when they talked about it originally is, first of all she thinks there is a time and a place for everything. If they are at the beach, it is great to be able to walk up off the sand, have a hot dog or hamburger or an ice cream bar. But her concern is, without a specified set of rules and regulations... She has been over at the old Boardwalk Park where the ice cream truck just pulls in there. They know what happens when the truck pulls in? Kids run and they run out from between parked cars. Somebody is going to get hit. She doesn't know if the Committee has recommendations. They now have some on-street parking there. Can they designate something for the ice cream truck or a hot dog vendor to stop at? They are coming, they are going to be there no matter what. Whether they are licensed, she doesn't know. Whether they have permits, she doesn't know. But she guarantees where there are children on the beach, there will be ice cream trucks and probably hot dog vendors. So how do they resolve that issue?

Ms. Peck said when she last polled the Committee - and this was shortly before they finished on the ordinances - again the consensus was that they did not want any food vendors in the

parks for several reasons, one of which is the local business people.

Commissioner Coke said she thought it was just something the Committee didn't want to cover at that time, that they wanted to start with the other and then come back to that.

Ms. Peck said she polled them again and they said no, because of the businesses that would be affected.

Commissioner Coke said that is certainly understandable. Those business people pay taxes, they pay rent, and everything else.

Ms. Peck said to be frank, she thinks also when they were doing that original work on whether they would have food vendors or not, the amount of information they got back from other municipalities and counties, it was like more of a headache than it was worth. They got this thing from West Palm Beach on what a female food vendor could wear. She means line, phrase, and verse on some anatomical areas, several inches down and not higher than and so forth and so on. So they just kind of threw up their hands and said they don't want any of that. She thinks that was part of the fact of what they got back from other municipalities. They said no. That plus the local ice cream, hot dog, and food places, so they just said no.

Commissioner Coke said they will just leave it up to the Chief to make sure that everybody follows the rules.

Commissioner Alexander asked when they have special events, they are not allowed to...? On 25th Street every year they have these festivals out there. They can't do that?

Ms. Peck said that is under a special event permit. Whatever the special permit allows, they can do it.

Commissioner Alexander said Frederick Douglass Park has no businesses in that area.

Ms. Peck said no, it is absolutely virgin land there. But that is in the County.

Mr. Bob Hood, Director of Public Works, said they did have a County employee on the Committee, Steve Fousek, who is pretty well versed in the various parks. One of the things they did discuss was the fact that many of the County parks, out on the beach especially, are underutilized. They think the reason that is true is because people don't know that just down the road a little way is a very nice park and beach access and good parking, and in many cases like Frederick Douglass Park, a restroom and everything. But people don't know about it. Mr. Fousek brought them some brochures which was real helpful. He thinks a lot of this is communication, they just need to do a better job of letting people know in a friendly manner this park is full and there is no parking. If they park in somebody's front yard, that creates problems in all neighborhoods around parks. Let them know there are other parks in the area they might want to try.

Mayor Benton said a suggestion might be at least when it comes to the beach parks... When they are going across the bridge, now that they have made the Causeway Park so inviting, a lot of people stop there for various reasons. Maybe a sign that would show not only the local Fort Pierce beach parks and also the ones that go all the way down to the County line. Just have a friendly sentence in there that if one park is full, chances are there will be plenty of openings in another. He knows a lot of times people like to swim where there is a lifeguard and there are very few that have lifeguards now. But he thinks it is just getting that information out, because it benefits all of them from Stuart all the way up.

Commissioner Sessions said he wanted to thank the Committee too for their hard work. He was very comfortable with this Committee because he knew they weren't going to have a whole lot of bureaucracy because they had people to the extreme right and to the extreme left. He is proud to say they all came up with middle ground. He appreciates that and he is grateful to them. One of the things though that he wanted to point out was the fact that she brought up that she didn't know whether they were charged with making recommendations in terms of charging fees. If in fact this is going to be an ongoing Committee, he would like to see them take on that task of making recommendations regarding fees for the particular parks themselves. That is something he would like to see them do since they have done such a fine job. He takes it she has gotten information from other municipalities. So that concept would certainly help them out in terms of trying to get appropriate fees for particular parks. So he would like to see them take that task on. This is going to be an ongoing thing.

Mr. Hood said he agrees totally, he thinks it is time they looked at their fee structure. It is in a different part of the ordinances than what they dealt with. It certainly is something that needs to be looked at, potentially updated. He is tickled to be able to work with this Committee. It is a good group with a lot of diverse opinions, left and right. But it is a good hardworking committee. Reverend John Quarterman and Lisa Fasnacht are here tonight, and he knows others would have been here but it is just the time of the year. It is a good group. He knows that not all of them will be able to serve totally. But he would like to see it as a quarterly meeting every three months. And then when they have issues, they can kind of charge the Committee with that and let them go to work on it.

Commissioner Sessions said another observation of his too, and it is not a point of criticism, but just for information. Mr. Hood somewhat talked about it too, but he disagrees with him on that. He really doesn't think they are going to find themselves in a situation where they are going to be able to divert crowds to parks that they feel are underutilized. The reasons why those parks are underutilized is because they don't have the accommodations and the facilities that other parks have. So until they bring all their parks to that same standard, then they are not going to be able to divert people over to parks like Frederick Douglass, when they have other parks that have

parks that accommodate children, things for them to do. So that is something they need to work on, if in fact they want to divert people to other parks. But in the meantime, he feels it is a blessing to ride by a park and see a crowd. When they ride by and see a crowd at a restaurant or a crowd at a church, there is something going on in there, something good. So that in itself is somewhat of an attraction that they could even be blessed to have a parking problem. So they need to work on trying to accommodate these people. And until they can facilitate all their parks on the same equilibrium in terms of facilities, then they are going to have that problem. While they have been blessed and fortunate to have a couple of wonderful parks in their area, they are going to have parking and overcrowding. So to put a punitive measure on people because they don't have the parking facilities to go to the park where everything is, he doesn't think is the answer.

Commissioner Coke said just so they don't have any redundancy, she thinks from previous conversations, Mr. Recor has already gathering all the information about what other neighboring places are charging for park rentals and things. She certainly understands his position on the parking; but the flip side of that is when the park is overcrowded, they are parking on the people who live across the street's front yard and pulling up and tearing up their begonias and gardenias and things. They really don't want to have their neighbors suffering through that either. So she thinks there has to be some kind of good compromise. Probably the big part as they are redoing the parks is designating... They can't have a big tractor-trailer or the school buses taking up three-quarters of the parking spaces, which is a lot of the problem. They take up the whole parking lot and there is no room for a single car.

Mayor Benton said he thinks the Committee should continue to meet. Mr. Hood can organize all that.

Mr. Hood said he will be happy to. They will move this forward through the total ordinance rewrite and start the Public Hearing process.

Mayor Benton said he thanks them for all their efforts and time.

The next item on the Agenda was Resolution No. 09-37, Appointing Members to the City Planning Board.

City Clerk Steele said the Resolution to appoint members to the City Planning Board has been pulled by the City Manager and Staff.

Mayor Benton asked is there more than one opening on the Planning Board now?

City Clerk Steele said she believes what has happened is there has been additional resignations and they want to send out for additional applications.

City Manager Recor said there are three vacancies now on the Planning Board. He believes there are two regular members and

then an alternate member position has opened up as well.

Mayor Benton said he knows they have some applications on file.

City Clerk Steele said yes. They had those sent to them at their last City Commission meeting.

Mayor Benton asked at the next meeting they will have all the applications?

City Clerk Steele said hopefully they will have additional applications. Is she correct?

Commissioner Alexander said if they have other resignations, he thinks they should fill this one position and let the other ones come back. Will they have a quorum at their next meeting?

City Clerk Steele said yes, Mr. Weaver is an Alternate Member.

Mayor Benton said he is still an Alternate Member, that means he can vote.

Mr. David Carlin, Assistant Planning Director, said at the last Planning Board meeting, if it hadn't been for an Alternate Member, they would not have had a quorum because of the summer season, vacation schedules, and whatnot. So they have had a change from the last submittal they had in their Commission packet where they had two other members who have elected to resign from the Planning Board. So he thinks that is the basis for what Mr. Recor was saying to put out for new applications.

City Manager Recor said there was also a question late in the day as far as the City's policy regarding the automatic advancement of an alternate, and whether or not the Alternate needed to be replaced. That combined with the three vacancies...

Mayor Benton said in the past they usually saw a group of them before they...

City Manager Recor said it is up to the Commission how they want to proceed obviously.

Commissioner Sessions asked why is it being pulled?

City Manager Recor said because of the question regarding the City's policy of the automatic appointment of an alternate. He did not have an answer for that this afternoon.

Commissioner Sessions asked is he saying that the policy up to this point has been that the alternate always moves up when a position becomes available?

Mayor Benton said they just created the alternate position about a year and a half or two years ago.

City Manager Recor said no, he does not think that has been the policy, because the alternates for both Planning Board as well

as Board of Adjustment & Appeals was just created a few years ago. That is a relatively new concept. If they recall a few years ago, they were having a difficult time getting a quorum at the Planning Board.

Mayor Benton said he knows the Mayor had to sit in on that meeting.

Commissioner Becht said apparently they are still having a problem, because the alternate is making sure they have the quorum.

Commissioner Coke said ten years she sat on the Civil Service Appeals Board and they always had alternates. An Alternate was never automatically moved up by Staff, it was a matter of coming to the Commission and there was always a designation on there that somebody had been an alternate and attendance records and other things, but she doesn't think Staff ever just moved people into that slot.

Mayor Benton asked there is more than one alternate, right?

Mr. Carlin said there are two Alternates who serve on the Planning Board. Just so they know, the rules and procedures for Board of Adjustment are different than the rules and procedures for the Planning Board. Under the Board of Adjustment rules, an alternate member automatically defaults to the vacancy from a permanent member. The Planning Board rules and procedures do not indicate any type of filling of a vacancy from an Alternate Board Member. So there is a little bit of a disparity. He doesn't know why that is, but the rules and procedures are somewhat different in that regard.

Mayor Benton asked who is the other alternate?

City Manager Recor said Darryl Bey.

Mayor Benton said he has been on there for several years.

City Manager Recor said Mr. Bey resigned. That is one of the resignations.

Mr. Carlin said Mr. Knott and Mr. Bey have recently resigned. Mr. Reilly was the first resignation. So they have three vacancies.

Commissioner Becht asked so they lost Mr. Reilly, Mr. Knott, and Mr. Bey?

Mr. Carlin said that is correct.

Commissioner Sessions said he is confused. If they have lost alternates and they have someone who is applying, he doesn't understand what the problem is.

Mr. Matt Margotta, Director of Planning, said in the last two weeks they have had several resignations. Depending on whether they use an alternate to fill the full time position, then they

have two alternates they need to fill and they still have a regular member to fill. If they decide to fill the empty positions as they are right now, they have two regular members and one alternate to fill. So one way or the other there are three positions that need to be filled. Why not re-advertise for those? They can consider the alternates who are already on the Board, that is fine. But why not re-advertise?

Mayor Benton asked why don't they just fill the position tonight and get it over with? They have a resolution in front of them. He knows they have applications from other people and he is sure they can ask for more. But if they are shorthanded and the other alternate steps down, he just felt if there was an alternate who had more time on there... He knew Mr. Bey was on there, but he resigned. They have one right now, why not just move forward with it and adopt this resolution?

City Clerk Steele said the resolution has blanks in it, they need names. She didn't pass out the polling sheets because she was told that Staff had pulled this so they could ask for more applications for the Commissioners to consider.

City Manager Recor said the Commissioners made a different decision. Let's move forward.

City Clerk Steele asked do they want the polling sheets?

Commissioner Becht said what he would prefer to do is just elevate the alternate to the permanent position or whatever. He doesn't want to deal with the rest of it tonight. All he wants to do is that.

City Attorney Schwerer said so the Resolution will be read with the alternate's name, appointing him as a regular member.

City Clerk Steele introduced the following Resolution by title only:

RESOLUTION NO. 09-37

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, APPOINTING **STEVEN M. WEAVER** AS A REGULAR MEMBER OF THE **CITY PLANNING BOARD**; PROVIDING FOR AN EFFECTIVE DATE."

Motion was made by Commissioner Alexander, seconded by Commissioner Sessions, that Resolution No. 09-37 be adopted.

Those voting in favor of the adoption of Resolution No. 09-37 were:

Commissioners Alexander, Becht, Coke, Sessions, and Benton.
Those opposed: None.

Commissioner Becht asked how many and what positions do they have now open on the Planning Board?

City Manager Recor said two Alternates and one Regular Board Member - Mr. Knott, Mr. Reilly, and Mr. Bey.

The next Item on the Agenda was Consideration of Amended 2009-2012 SHIP Program Local Housing Assistance Plan for FY 2009-2012.

Ms. Sadie Cooper, Community Services Program Specialist, said before them tonight is the amended Local Housing Assistance Plan for the SHIP Program for Fiscal Years 2009-2012. The original plan was approved on April 6, 2009. The State of Florida Housing Finance Corporation has implemented a new program called the Florida Home Buyers Opportunity Program, which will be taking the place of the SHIP Program for this Fiscal Year 2009-2010. What they are requesting tonight is to amend the original plan to the current plan in order to submit it to the State to receive the funding for this particular program for this year. City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 09-38

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, AMENDING RESOLUTION NO. 09-21 TO INCLUDE THE NEW STRATEGY "**FLORIDA HOMEBUYER OPPORTUNITY PROGRAM**" (FHOP) IN THE LOCAL HOUSING ASSISTANCE PLAN FOR FISCAL YEARS 2009-2012 CREATED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 AND ADMINISTERED THROUGH THE FLORIDA HOUSING FINANCE CORPORATION STATE HOUSING INITIATIVES PARTNERSHIP (SHIP) PROGRAM ACT, SUBSECTIONS 420.907 - 420.9079, FLORIDA STATUTES; AND RULE CHAPTER 67-37, FLORIDA ADMINISTRATIVE CODE; PROVIDING FOR AN EFFECTIVE DATE."

Motion was made by Commissioner Becht, seconded by Commissioner Alexander, that Resolution No. 09-38 be adopted.

Those voting in favor of the adoption of Resolution No. 09-38 were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 09-39

"A RESOLUTION OF THE CITY OF THE CITY OF FORT PIERCE, FLORIDA, AUTHORIZING THE TRANSFER OF CERTAIN REAL PROPERTY TO ST. LUCIE COUNTY AND ACCEPTANCE OF THE TRANSFER OF REAL PROPERTY FROM THE COUNTY IN EXCHANGE; FINDING THAT SUCH TRANSFER CONFORMS WITH THE CHARTER OF THE CITY AND SERVES A VALID PUBLIC PURPOSE; AUTHORIZING AN INTERLOCAL AGREEMENT KNOWN AS THE **PROPERTY EXCHANGE AGREEMENT** GOVERNING THE TRANSFER AND ACCEPTANCE OF REAL PROPERTY AND SPECIFYING TERMS FOR THE EXCHANGE; PROVIDING FOR AN EFFECTIVE DATE." (Exchange of City-owned Chamber of Commerce parcels for County-owned Jetty Park parcel)

Motion was made by Commissioner Coke, seconded by Commissioner Sessions, that Resolution No. 09-39 be adopted.

Those voting in favor of the adoption of Resolution No. 09-39 were: Commissioners Alexander, Becht, Coke, Sessions, and

Benton. Those opposed: None.

The next item on the Agenda was Commissioner Coke discussion on Sunrise Theatre Advisory Board Membership.

Commissioner Coke said sitting on the Sunrise Theatre Advisory Board, they really need to have a good working close relationship with the Sunrise Theatre Foundation Board. The Advisory Board has requested that the Commission change the membership of the Advisory Board to automatically include the Chairperson of the Foundation Board so they can work a little closer together and be better informed.

Mayor Benton asked that will still keep it an odd number, adding another member to the Board?

Commissioner Coke said she doesn't know. They don't really argue about anything or vote on anything, they advise. They have discussions. Their big vote is approval of the Minutes. Mayor Benton said they never know what the future has in store. But he thinks it is a good idea.

Commissioner Alexander said he thinks so.

Commissioner Becht said yes.

Commissioner Sessions said okay.

The next item on the Agenda was Commissioner Coke discussion on Sign Ordinances.

Commissioner Coke said she is sure they all have had the same complaints from merchants who are having problems with getting in trouble for putting up signs. First thing after the hurricanes they passed rules about the pole signs and those are all due to come down this year. She really doesn't think, considering the economic times, that now is the time to run around and try to enforce that and force businesses to spend more money. She knows they see signs up all over the place. Code Enforcement can't be every place at once. Port St. Lucie recently put an abatement on enforcing their signs. If they go downtown, there are sandwich signs advertising restaurants and other businesses, and that is great. But the same type of sign out on Delaware Avenue, people are calling her because they got in trouble with Code Enforcement. What she would like to see is if they couldn't put a hold on... First of all, see what kind of extension they need to do with the pole sign deadline for changing those. Secondly, she thinks they ought to have an open forum, whether it is a staff-generated kind of thing where they invite some business people and the Chamber in, to have a discussion on the problems with signs and what other signs they want to allow. If they are going to allow sandwich signs in the downtown area, then they need to allow sandwich signs in other areas. They do not currently have a provision allowing for new business signs or banners. She thinks when everybody is new, they need that added little bit of help. Maybe they need to have some exceptions to their rules for when a business first opens for the first 90 days or 120 days or whatever. But she

thinks it is important to get that input from people and to generate some discussion in the business community. She can't be the only one getting these calls on a regular basis.

Commissioner Alexander said he has for the last 7-1/2 years.

City Manager Recor said if there is a consensus from the Commission and they are interested in changing the date for the amortization of the pole signs, he will move that forward. He can tell them that the Code Enforcement was pretty close, knocking on the door, that deadline was looming. As a matter of fact, it was part of negotiations in a settlement for a business that the City Attorney and he were dealing with. A forum and explaining sign regulations is a good suggestion, as well as amending the Code to allow for some sort of grand opening period. If it is the rather of the Commission however, let him handle the enforcement of the temporary signs as opposed to the City Commission making a decision tonight to abate the ordinance. Let him handle that administratively. He understands what they are looking for. He is afraid they might not like what they see after a couple of months though. They can revisit then if they need to.

Mayor Benton said it is selective enforcement, in some areas it is enforced. He sees a new pole sign that is right there - he is not going to mention who - and he had some people question how they can have a new pole sign. He hopes they can extend the date. The ones who can afford it should do it because it is a safety issue in hurricanes. But he knows there is some ridiculousness out there.

City Manager Recor asked is there a consensus to move forward with the change to the pole sign deadline?

Commissioner Sessions said yes.

Mayor Benton said extend it.

Commissioner Alexander said he can go along with that. He looks at their parking garage riding through downtown today and he sees the banners there and it is a welcome sight to the visitors and the people who are coming into downtown. Still they don't allow businesses to put banners up, but the City has it. That is his only knock. He can't enforce anything that he sees the City does the same. He means anything. It could be as small as signs. But he has heard businesses tell him they throw their hands up and say the heck with Fort Pierce because of a sign ordinance. He doesn't think that is fair to the community or to the citizens of the City of Fort Pierce to walk from City Hall and see...

Commissioner Coke said non-conforming signs on their own property.

Commissioner Alexander said he sees the sandwich signs downtown.

City Manager Recor said he will handle that issue administratively. Just for everyone's peace of mind, Mr. Carlin

has been in further discussion with Duncan & Associates about revisiting the sign code. They believe they have an understanding to at least get the general bones and structure of a new sign ordinance that they may go back in administratively after the rewrite is complete. He doesn't want to do anything that is going to derail the time frame of getting that done and issuing a change order for that contract. But he believes they made some progress in getting the structure in place that will allow them to make some effective changes to the ordinance.

Commissioner Coke said think business-friendly.

Commissioner Sessions said this particular business has been calling him too. He spoke with the owners, so he knows it is an ongoing problem. He has spoken with Mr. Recor about this too. When they look at what they are going through with this crisis right now with businesses doing all they possibly can in order to survive and pay their rent, certainly the City needs to be a little more conducive and friendly toward them advertising their business. This is probably number two on the list of complaints since he has been here. Number one is the utility bill. But this is number two and they need to do something. He doesn't know if it is a situation where they have selective enforcement or what. But people are complaining about this and it is hurting the businesses.

City Manager Recor said they will put their heads together and come up with an alternative that works.

Commissioner Becht said he is going to ask Mr. Recor to do that and thank him for doing that. But he is also going to say that if everybody plays by the same set of rules, then the signs are not that big a deal. Because if everybody can only have a one square foot sign, then their competitor isn't competing any more. He has been pleasantly surprised and has viewed with great affection what happened with the signs post-hurricanes. Because before, driving down U.S. #1 seeing so many signs he was confused by what the businesses were. When they got uniform and organized, he could actually find a business easier. A business doesn't have to have the biggest sign with the most lights around it. So if it is uniformly applied... He thinks the problem is with selective enforcement. He doesn't think the problem is with the ordinance.

Mayor Benton said he would agree.

The next item on the Agenda was Assistant Planning Director to advise of administrative approval of a **Minor Replat** to property located at **1920 Seaway Drive**, splitting one parcel into two lots.

Mr. David Carlin, Assistant Planning Director, said they have administratively approved the lot split. (Eastern one acre being purchased by Fort Pierce Redevelopment Agency for expansion of Jetty Park)

Commissioner Becht asked is the legal description correct?

City Attorney Schwerer said the legal description is correct according to the City Engineer and Mr. Ward and his own review.

The next item on the Agenda was Code Compliance Manager recommendations for Lien Collections.

Commissioner Coke asked is this the same presentation Ms. Arraiz gave them at the Budget Workshop (July 10th)? She was ready to take Staff's recommendation. Ms. Arraiz did a fine job with it. She would be more than willing to go with her recommendation.

Ms. Peggy Arraiz, Code Compliance Manager, said there are several different recommendations. The first set of recommendations were about doing lien collections. She recommended that they do them in-house. She recommended that they send invoices to all property owners.

Commissioner Becht asked does she want to take these one by one? He doesn't want to send it out to third parties.

Commissioner Coke said she doesn't understand what he means by third parties.

Commissioner Becht said her recommendation was that they not send collection out to a third-party collection agency.

Ms. Arraiz said that is correct, they will do it in-house.

Commissioner Becht said exactly. He wanted to get a consensus so she would have a checklist and they are making progress. How does she want to handle it?

Ms. Arraiz said she recommends that they do the collections in-house and this presentation is based on that recommendation.

Mayor Benton said they have three who agree.

Ms. Arraiz said the guidelines she is recommending are for the in-house collections. It is for annual invoices to be sent to all property owners regardless of homestead status. It would simply be an invoice reminding the property owner that there is money owed to the City.

Commissioner Alexander said Mr. Schwerer told him that these liens can be on a property for as long as the person owns it. So they going to be sending out taxpayers monies every year? If they are not going to pay it, they ought to be able to come to that conclusion after the first year, right?

Mr. Arraiz said if it is a homestead property, they could receive an invoice every year.

Commissioner Alexander said he doesn't care what property it is. He is asking Legal that if a person owns that property, that lien could be on there as long as they own that property, for 20 years at least, right?

City Attorney Schwerer said that is correct. The Statute

governs the length of time that a code lien will remain on someone's property.

Commissioner Alexander asked are they going to send these annual thousand letters out every year?

City Attorney Schwerer said Staff is proposing they at least send a bill annually to remind them that they have a debt to the City and perhaps someone will send a check and maybe they won't.

Mayor Benton said maybe on that one, get an idea of what the annual cost would be. Working on their conscience, hoping they will pay it.

City Attorney Schwerer said they can't start foreclosure, of course, on those type liens.

Ms. Arraiz said this is simply an invoice, a statement saying there is money owed. It would just be a single letter that gets mailed out annually to everybody who owes money to the City for these. Right now they are just dealing with lot clearing and demolition liens, though she would like to address code enforcement liens at a later date. If the lien has been in place - and this is where she is looking for recommendations - she is recommending five years, or is in excess of a dollar amount like \$5,000, which is also her recommendation, and is not a homestead property, then it would move forward with additional collections. If it is a homestead property, they would just get an invoice every year. If it is not a homestead property, then they would move forward with the additional collections. Her recommendation is five years or \$5,000.

Commissioner Alexander said he is looking at her payment guidelines to the collection. It says they must. It didn't say can they or will they. He is speaking of the economic times now. They must pay 25% of whatever?

Ms. Arraiz asked the payment plan?

Commissioner Alexander asked is he associating that with the wrong conversation now?

Ms. Arraiz said yes, that is for a payment plan.

Commissioner Alexander said he will wait until she gets there.

Mayor Benton asked are they good with this one? (The Commissioners agreed.)

Ms. Arraiz said so if it moves forward with collections, she then makes the recommendation that a second invoice is sent out after 90 days and indicate if payment is not received within 60 days then it gets forwarded to the Legal Department, at which time they send a final 30-day notice. The reason she is recommending 90, 60, 30 days is that is 180 days. They are giving ample time for someone to step forward and make payment or payment plan arrangements, something to resolve this matter before it goes to foreclosure. That is why she recommended the 90, 60, 30 days. It is 180 days if the notices get sent out

exactly on time for someone to do something about the property.

Mayor Benton asked does everyone agree? (The Commissioners agreed.)

Commissioner Coke said these are non-homesteaded houses.

Ms. Arraiz said these are non-homestead properties that will be in place either for five years or they have over \$5,000 owed to the City that are non-homesteaded. If after that 180 days there is nothing, then the Legal Department can initiate the foreclosure proceedings. It doesn't mean it is going to be foreclosed on, but they are going to initiate it. There are title search issues that the Legal Department gets involved in. They would at least initiate the proceedings and see where it goes from there.

Commissioner Coke said for point of clarification, not only are these non-homestead properties, but they are talking about collections of liens that were actual expenses to the taxpayers of the City.

Ms. Arraiz said that is correct. These are lot clearing or demolition liens.

Commissioner Coke said it is not that it was a code enforcement lien that didn't cost them anything. This is something that came out of the City taxpayers pocketbook in order to bring the homes into compliance.

Ms. Arraiz said that is correct.

Commissioner Alexander said he thanks Commissioner Coke.

Commissioner Coke said she needed to clear it up for herself too.

Ms. Arraiz said the next set of guidelines she was asking the Commission to review is to initiate a payment plan. As she indicated at the Budget Workshop, the Finance Department already accepts payments. There is no regulation to it. If someone can pay \$5, they pay \$5. She just made some recommendations as far as initiating a guideline, such as to put 25% up front. If they are going to do a payment plan, they at least need to put out of pocket 25% to initiate it. These are just some recommendations that the Commission can consider. One of the other ones is that no additional penalties will apply, but interest would still accrue.

Commissioner Becht said he is against the payment plan. He thinks it is going to burn more Staff time than they are ever going to see recouped. It is going to be a monumental headache.

Commissioner Coke asked didn't Ms. Arraiz say they already accept payments?

Ms. Arraiz said it is a very informal payment plan. If someone can come forward with any type of dollar amount, they accept the

payment. Interest and penalties do continue to accrue while payments are getting done.

Commissioner Coke said maybe she is just going to end up having to agree with Commissioner Becht. Her initial thought was 25% is a lot to expect in this economic time for someone to come up with. Then when she talks about interest and penalties still accrue, it kind of reminds her of those awful credit card companies that charge \$100 and say they only have to send them \$5 this month and that is what everybody sends, and by the time they get done it is a \$5,000 bill. So if their goal here is to collect the actual costs that were incurred by the City, she thinks if somebody can come up and make an initial payment of 10%, and then when the payment gets to 25% they will stop interest and penalties. She wants to be more user-friendly, she would also like to do something to encourage these people to start paying their bills.

Mayor Benton said he is willing to give the whole plan a try. Then look at it a year from now, if it has worked and they have collected money.

Ms. Arraiz said using Commissioner Coke's suggestion, maybe if 25% down will stop the accrual of interest and penalties, and then they can do a payment plan from that day forward.

Mayor Benton said that means at least they show enough interest that maybe they mean business.

Ms. Arraiz said 10% or 15%, but they put an initial payment down and that will stop the interest accruing.

Mayor Benton said he would agree.

Commissioner Becht asked they can't waive any portion of these expenses, where they actually have a cost?

Ms. Arraiz said the payment plan would apply to both, those who come before them for reduction or full payments.

Commissioner Becht said he is just talking about lot clearing lien. Can they waive any portion of a lot clearing lien?

City Attorney Schwerer said not the principal amount, no.

Commissioner Becht asked is that by Charter or Ordinance?

City Attorney Schwerer said it is by general law. When the public expends funds on property, there is a special assessment. It is in the Charter.

Commissioner Becht said the City needs money. If they could across the board just say they are going to have a blanket sale of a 10% discount on all these liens if paid within the next 60 days... Mr. Schwerer is saying they cannot do that by law?

City Attorney Schwerer said not as to the principal. But if they look at the records, he thinks what they are going to find

is that sometimes these liens have been on the property so long that the interest almost exceeds the expenditure. Is he correct?

Ms. Gloria Johnson, Finance Director, said yes.

City Attorney Schwerer said their special assessments traditionally are very small, unless they have knocked down a large building structure. But they are very small, \$200 at best. And then sometimes they will accrue \$300, \$400, or \$500 interest because they are out there for ten years or more.

Ms. Arraiz said the next recommendation she is bringing before the Commission is for two reasons. One is because it is going to be very time consuming for Staff and she would like it to be included in future collections. That is the code enforcement liens. These are soft costs. These are fines that have accumulated over time between the changing of computer systems and whatnot and moving files from building to building. There is a large amount of fines open on the books that really need to be researched to find out if they have been foreclosed on or if they are still valid. She is recommending that a full research be done of all open code enforcement fines to hopefully be included with the collections at a later date.

Mayor Benton said the public will be happy. It will keep somebody off the street for awhile.

Ms. Arraiz said then they go into the lot clearing reduction requests. These are when someone comes before the Commission for a reduction request. She wanted to just put the guidelines out there so everyone is familiar with it. Reduction requests will only be accepted if there is no active code enforcement or building violations on the property.

Commissioner Coke asked that goes for all code violations, not just lot clearing.

Ms. Arraiz said that is correct. When Staff makes a recommendation to the City Commission, it will be for waiving interest and penalties only. Staff's recommendation will include the administration costs with the hard costs. But the Commission does have the right to waive everything. So if they choose to waive the administration costs, that will be up to the Commission. Staff will always recommend the administration costs with the hard costs. The standard payment right now is 60 days. They have run into some circumstances recently where someone has come in late to pay it. What she recommended is Staff can do a 30 day extension when those occur without bringing it back before the City Commission. Only if it goes beyond that 30 days would it have to come back before the City Commission. She made that recommendation also.

Commissioner Becht said he wants to be fair to the public. But her recommendation in here, "The Commission can choose to waive all or a portion of the administrative costs at their discretion." Is she currently charging any fee for processing an application for a reduction?

Ms. Arraiz said no. However, whenever there is a lot clearing or a demolition completed, when it is done, there is a \$100 administration charge placed on it.

Commissioner Becht said no. When somebody comes in and they file a petition with her to have a reduction, do they charge them anything?

Ms. Arraiz said no, there is no fee.

Commissioner Becht said this is taking additional time. So why don't they consider this. Because what he wants to do is discourage them from coming up to the Commission and asking them to waive all or a portion of the administrative costs. Why don't they keep doing it her way free. But when they want to come to the Commission and ask for a waiver of a portion of the administrative costs, then at that point in time, let's charge them a fee. They are going to come here on the Consent Agenda, but they are burning Staff time in order to save them money, so let's charge them.

Mayor Benton said they used to do this. That was the problem, they could be sitting here all night long.

Commissioner Coke said they could be done with the meeting by 8:30 and then code enforcement was until midnight.

Mayor Benton said he thinks allowing the Commission to waive all or a portion needs to stay out. Otherwise, he thinks their meetings are going to be extended by hours again.

Ms. Arraiz said the Commission has been very consistent in doing this. They have only waived the administration costs in a couple of certain circumstances recently. The two that are coming to her mind is the Habitat for Humanity property and the Love Center. So there are circumstances where they did waive the administration cost, but those were very specific. They have been very consistent in denying those requests all the other times.

Mayor Benton said if there is something specific, he doesn't think there is a problem. But many years ago they would see a dozen in one night from anybody who thought they could get it waived.

Commissioner Coke said that was before they made them go to the Code Enforcement Board.

Ms. Arraiz said that is why Staff will always recommend putting the administration costs with the hard costs, their recommendation will always include that. And only if the Commission sees that it is a certain circumstance, like the Love Center or the Habitat for Humanity, they have the right to pull it and then say let's waive this. Staff will never make that recommendation. It will always be at the discretion of the City Commission.

Mayor Benton said they can give it a try.

Ms. Arraiz said then code enforcement lien reductions, first recommendation is reduction requests will only be accepted if there is no active code enforcement or building code violations. They have now started requiring documentation to support the requests. So if someone is asking for a reduction due to a health problem, they are asking for some kind of documentation to support the request. They have been doing that with everything that is in-house. So anything coming before them from this point forward should have that. Staff reviews each request on a case by case basis. There are seven criteria outlined in the rules of procedure and they do try to make practical recommendations based on that seven criteria, though she has been using some guidelines to go by and she thinks Commission has seen these in the past. On homestead properties she tries not to go beyond 10% of the fine or 10% of the property value. If it is commercial property, it is 25%. And then foreclosures they go with 10% of the sale price of the property. But these are only guidelines she has been going by. Everybody has a set of circumstances that need to be considered. Sometimes she will recommend a greater reduction, up to a complete waiver if circumstances warrant it, and there are certain ones that do. On the reverse side, sometimes Staff recommends denial or a lesser reduction.

Commissioner Sessions asked does she not see a need to deviate if it is a foreclosure? The banks are the ones with all the money now.

Ms. Arraiz said Staff originally had made recommendations of \$2,500 to \$5,000 in that range. She went with 10% of the sale price based on comments from the Commission.

Commissioner Becht said they have a requirement that she is not going to process it if there is an active code violation on that property. He didn't see where she had a condition that if this is a repeat offender or a multi-property offender, that if he has other existing code violations on other properties, they are not going to consider it. She did catch that?

Ms. Arraiz said under code enforcement lien reduction guidelines, if there are any active violations on the subject property or any other property within the City limits, that is one of the seven criteria for consideration.

Commissioner Becht said then she did catch it. He is going to raise this issue again because they are spending a lot of time on these reductions. Does anybody else think it is appropriate to charge a fee? He doesn't care how nominal it is, \$25 or something? They can apply the \$25 to the fine if they grant the reduction.

Commissioner Coke said she thinks it is very valid, especially since sometimes when they get the request she sees those have been authored by Staff.

Ms. Arraiz said the fine they impose has to cover the

administration costs. That was a recent ruling by one of the Appellate Courts in the State of Florida, it was very specific that they cannot charge administration costs for staff time for Chapter 162 fines, which these are applying to.

Commissioner Becht said the fine has been levied, he is not charging anything for that. What he is charging for is her processing a petition or application for a reduction, which he thinks is a different animal completely. This fine has been levied.

City Attorney Schwerer said he would agree with Commissioner Becht that the application fee is different than administrative costs. So they could set it at whatever the Commission desires.

Commissioner Becht said it is additional revenue for her department.

City Attorney Schwerer said there is definitely a correlation between Staff time there incurred in the application process.

Commissioner Coke said she would agree to that.

City Attorney Schwerer said they might want to add that to their fee schedule in that resolution that was just adopted earlier.

Commissioner Becht asked did Mr. Carlin catch that? He appreciates Mr. Schwerer's pro-active comment. What they are talking about is adding a component for charging a fee for filing an application for a lien reduction. He is thinking something nominal like \$25, just so it starts the process. What Mr. Schwerer asked is if Mr. Carlin could add it to his fee sheet by the second reading, then they will have it.

City Clerk Steele said the Resolution was already adopted.

Mr. Carlin said the nice thing about a resolution is that it can be amended at any time. So they can simply add that via another resolution, if he is not mistaken, to allow that fee to be put on there.

Commissioner Coke said let's do that August 3rd.

City Attorney Schwerer said before they set the amount, let Staff sit down and think about what it is going to cost staff time to do that and then bring a number back to them that is reasonably supported by some detailed information.

City Clerk Steele said they can bring it back by resolution with their detailed support.

Ms. Arraiz said so the Commission understands, Staff is using these guidelines with variables - it can go up, it can go down. But their recommendations are just that to both the Special Magistrate and the Code Board. They can approve or amend the recommendations as they see fit when it comes back to the Commission. Staff is going to use some basic guidelines. They are trying to standardize some of the work they are doing so

they are familiar with what they are doing.

Mayor Benton said let's give it a try.

The next item on the Agenda was City Engineer update on **A1A Construction Project**.

Mr. Jack Andrews, City Engineer, said they have his report. He is willing to answer any questions they may have.

Mayor Benton asked what about the roundabout in front of Harbour Isle?

City Manager Recor said they don't have the funding identified.

Mayor Benton asked when will it be in front of them for choices? At the next FPRA meeting?

City Manager Recor said they talk about this like every meeting and they get the same answer.

Mayor Benton said they have the money, they just have to reallocate it. It is something they have to do, he believes. He doesn't think they can get out of this one. Maybe Mr. Schwerer can have a legal opinion on this one.

City Manager Recor said he doesn't think they are going to get an answer tonight at 11:00 o'clock of where the money is coming from. The same question is asked every meeting and they don't have an answer for it.

Mayor Benton said maybe for the FPRA meeting they can have a legal answer, but he believes the road is getting right where it needs to start. He has brought up the question many times and a lot of money has been spent since. Either they are going to do it or they are not going to do it.

Commissioner Coke said they should have had the money from FDOT; but just so everyone is aware, they pulled money from the St. Lucie County Transportation Planning Organization and just spent it some place else. How much money was it that they took away from them?

Mr. Andrews said close to \$7 million.

Commissioner Coke said so the money should have been there. However, when she went to the TPO and asked them for it, they said no, they reallocated that funding. So everyone at the TPO - and they are supposed to get a report back from them - is very upset. It is not just the fact that they couldn't reallocate the funds from another Fort Pierce project to there. They took that \$7 million away from the entire St. Lucie County Transportation Planning Organization.

Mayor Benton asked the additional money for A1A from \$12 million to \$19 million, they have that?

Mr. Andrews said they have that, yes.

Mayor Benton said let's have it on the Agenda for the FPRA because they have discussed this many times and he guesses they are either going to build it or they are not. Put it on the FPRA Agenda.

Mr. Jon Ward, Director of Fort Pierce Redevelopment Agency, said there are only going to be three of them at the FPRA meeting, so let's talk about it during the budget hearings. Is that a good idea? He will plug it into the budget to talk about.

Mayor Benton said ASAP, because the road is right there now and they might miss their opportunity.

The next item on the Agenda was Engineering Project Manager update on permitting for City Marina Expansion Project.

Mr. Ed Seissiger, Engineering Projects Coordinator, said they are on track to have their project presented to the Governor and Board of Trustees on August 11th. They are working to finalize the agenda item and meet with Cabinet Aides the week of August 3rd in Tallahassee to make sure everybody is on board with their project and hopefully go for a complete approval on August 11th.

Commissioner Sessions asked are they going to have representation on August 11th? They definitely need representation.

Mr. Seissiger said he is hoping they would have City representation.

Mayor Benton said he will be there. He is planning to be at the Aides meeting by phone, if they can arrange that.

Commissioner Becht said he can't go, but he would like to have as many of them up there as they can.

Mayor Benton said from his conversation with Secretary Sole on Tuesday, and he is waiting to see it in writing, but it appears they have their support. That is usually real good news. He wants to wait until it is in writing, because they adjusted it to the 41 acres.

Mr. Seissiger said they need to thank Representative Mayfield for all of her assistance in that also.

Commissioner Becht said make sure she gets a personal invite to that meeting. When they went up there before and they had Gayle Harrell with them, she was a tremendous help with getting a fair shake out of the Cabinet at that meeting.

Mr. Seissiger said once they get done with this meeting on August 11th, they are going to look for some assistance from City Staff and from the Commission moving forward with the Army Corps.

Commissioner Alexander asked could they not get some support of some type from the League of Cities since they are right there

in Tallahassee?

Mayor Benton said he thinks they could request from them. Is he on any of the Committees?

Commissioner Alexander said yes.

Mayor Benton said if he would ask. It never hurts.

Mr. Seissiger said any positive assistance they can have would help.

Commissioner Alexander said that would be after the fact though. He is there on August 13th, so that is after August 11th.

Mr. Seissiger said they are looking for the Board to approve their project on August 11th. That is the direction they are headed.

Commissioner Alexander said maybe a letter from the Mayor and Commissioners to the League of Cities asking if they can support that effort.

Mayor Benton said they could start with a phone call to them, because he would hate to have to try to educate them on it in this short time before they could take a stance one way or the other. He doesn't know how they do business, but he thinks a phone call. He could check. They do have Senator Pruitt working on it as one of his last items before retirement. They brought out everyone they could on this one.

The next item on the Agenda was City Planner response to City Commission request regarding strategies for promoting **Infill and Redevelopment**.

Mr. David Carlin, Assistant Director of Planning, said at the last June 15th meeting Staff presented some information regarding the Evaluation & Appraisal Report and how the City has to proceed with updating the Comprehensive Plan. At that time the Commission expressed some interest in coming up with some infill and redevelopment strategies or initiatives. They put together some ideas, whether inside the box or outside the box. They have that in their packet. He thinks it is late in the evening to go over every single item in that, but he would certainly welcome any feedback they have, or anything they would like to see changed, modified, or have them expand upon as they initiate the process to go through the EAR.

Commissioner Coke asked does he want comments from them in writing?

Mr. Carlin said certainly, if that is something she would prefer to do.

Commissioner Coke said there are several things here for at least 7 or 8 years have come up and have been voted down. She is talking about businesses on first floor being retail only. It is a wonderful idea; but until the money tree starts growing,

they can't afford it. Requiring evening hours among businesses, she doesn't know when they were taken over by a Communist state that is going to tell private business owners of private buildings... If the City owned downtown and the City wasn't charging rent, they could say if someone wanted to run a business here they have to stay open, but that is not the case. Anyway, she has gone through this page by page and she has all kinds of comments like that and it is way too late for her to be making them, so she will send him something in writing.

Mr. Carlin said that is fine.

Mayor Benton said maybe schedule an appointment or at least touch base with each Commissioner and see what they have in mind.

Mr. Carlin said he can certainly do that

The next item on the Agenda was Director of Fort Pierce Redevelopment Agency discussion on the Coastal Barrier Resources System Digital Mapping Pilot Project.

Mayor Benton said it appears from this map, the only place they are talking about is the north edge of the inlet?

Mr. Jon Ward, Director of FPRA, said no. What had begun as a fairly benign appearing exercise by the U.S. Fish & Wildlife Service has some fairly insidious problems for the City. Fish & Wildlife is updating their maps. It came about as a digital update of maps that had been drawn 20 years ago. That is fine if they were just updating their information. However, what they are doing is, they are also absorbing an additional 2,100 acres of this area and putting it into the coastal wetlands areas. The best example is (on the map in red) these are currently wetlands protected areas, essentially State parks and scrub areas and that sort of thing. Those are appropriate areas for fish and wildlife protection. However, what Fish & Wildlife has proposed is this (on the map in green) becoming their new boundary. What happens is, starting at the mouth of Fort Pierce Inlet, Fish & Wildlife is drawing a line along the shoreline all the way down the south boundary of the inlet, all the way to South Bridge - including Pelican Yacht Club - then up through the Port, Fishman's Wharf, Taylor Creek, HarborTown Marina. Fish & Wildlife is creating a box here. What he showed them as an existing area (in red), now imagine Fish & Wildlife is including all of this other area (in green). What happens is, if they allow this to get past them, everything within that box is no longer subject to Federal flood insurance, they can get no FEMA recovery money, it is not subject to any Federal grant programs whatsoever - they are out of business. In his estimation, this has an extremely chilling effect on the future development of Downtown Fort Pierce. Anybody that comes in and buys the Port property is going to want to put out docks and develop that shoreline area. But they won't be subject to any number of programs. If they spend millions of dollars building docks for yachts and things like that, if those blow away in a hurricane, there is no FEMA money for recovery. So what he is saying is, he sees very real potential for a chilling effect on

any future development. What he is suggesting is that the Fish & Wildlife folks just go back to redrawing their maps and only include the areas that are truly wildlife areas, and not highly urbanized developable areas in Downtown Fort Pierce. Another point he wants to make, down south of town is an existing box which Fish & Wildlife already has in their wildlife area. Here comes the new area they are including, the inlet and this entire area to the north. He will tell the Commission, it is a very simple exercise for Fish & Wildlife to connect the dots in that little half mile area, which includes the downtown City Marina. They all know what would have happened had they not had FEMA money after the last hurricane, they wouldn't be rebuilding the City Marina right now. They need to resist this vast enlargement. Fish & Wildlife is proposing a 50% enlargement to their territory. They are not doing this in downtown Miami. Can they imagine Fish & Wildlife coming into the Ship Channel in Miami and saying this whole area is a wildlife area? That is what they are doing to Fort Pierce.

Commissioner Coke asked does Mr. Ward have a very strongly opposed letter that this Commission can send?

Mayor Benton said he thinks it should be a strong Resolution.

Mr. Ward said they only have until August 5th. The comment period ends literally very soon on this. He wanted to put this in front of the Commission and make absolutely sure he has total support and objection to this. Staff certainly does want to develop a strongly-worded response. They have a conference call with them tomorrow at 1:00 o'clock.

Commissioner Coke said the Mayor is right. They have a meeting August 3rd. If the comment time ends August 5th, there is no reason they can't pass a resolution. Mr. Ward can tell Fish & Wildlife tomorrow that it is coming.

Mr. Ward said that is exactly what they want to do. The County had a presentation on this last Tuesday at their meeting. The County also feels this is going to interfere with their future beach renourishment programs, all that is federally-funded stuff. So everybody is on board with the opposition to this.

Commissioner Alexander asked how many pieces of property is owned by the City of Fort Pierce in both of these boxes?

Mr. Ward said not many pieces of property are actually owned by the City itself. Fisherman's Wharf is in the middle of downtown. And of course, the new Jetty Park area.

Commissioner Alexander asked the Little Jim Bridge area?

Mr. Ward said the Little Jim Bridge area is appropriate to have protected by these kinds of things in some ways.

Commissioner Alexander said but they won't be able to get any FEMA money if there are hurricanes or anything.

Mr. Ward said that is true.

Commissioner Alexander said he is in support of the resolution.

Mr. Marc Meyers, Building Official, said they are also asking to contact Representative Mayfield and Congressman Rooney. Because if this goes into effect, it is an act of Congress. And it will take an act of Congress to get it changed, and that is not going to be easy.

Mr. Ward said if they let it get past them, it will have serious long-term implications.

Commissioner Becht said contact their lobbyist.

Mayor Benton said contact Senator Nelson and Congressmen Rooney and Hastings. They need to get to all of their Congress and Senate delegations.

Mr. Meyers said the County is working with the Army Corps of Engineers on renourishing the beach down south a little bit, and Fish & Wildlife said they will not do it, they will not get any Federal funds to do that renourishing because it is within their jurisdiction.

Mayor Benton said act quickly on this and get the word out to everybody they can in writing.

Mr. Ward said so they have the Commission's support to express strong opposition to it. There is a conference call tomorrow. They are going to go ahead and prepare an objection letter ahead of the resolution, and then bring a resolution.

Commissioner Sessions asked what about the lobbyists? They call all the time and want to earn their money. So this will be a project for them too.

Mr. Ward said it is a perfect project. It is a classic example of the government... This was put forth in such a benign fashion, they were just redrawing some maps. He has to give full credit to Marc Meyers and Danny Hawkins for catching this thing. If they had let this get past them... Fish & Wildlife was just sliding it past, it wasn't obvious at all.

Mayor Benton asked how long have they been working on this? It didn't have anything to do with the get together they had at the Fenn Center a couple of months ago about flood elevations?

Mr. Meyers said no, that was totally different. That was FEMA. This is Fish & Wildlife.

Mayor Benton asked didn't they notify anybody about this?

Mr. Meyers said they received notice about them digitalizing their maps.

Mr. Ward said Fish & Wildlife had a comment period for about three months. But again, they were saying they were just remapping, because ears ago their line used to be 50-foot offshore and they weren't sure... They literally draw these

kinds of maps for over 3 million acres, all the way from Alaska to Maine to Key West. So this is a pilot project in which they are going back through and digitizing to literally within a few inches of where their property is. But what they have sneaked in is the addition of all this additional property, which they didn't declare.

Mayor Benton said usually the Federal government lets everybody involved know. He has never seen this, he doesn't think anybody else up here has. They can imagine the feedback the elected officials will get. HarborTown Marina is in the middle of this. There are hundreds of millions of dollars worth of investment.

Mr. Ward said Culpepper & Terpening are objecting to it, when they discovered it.

City Manager Recor said staff is clear on direction.

The next item was the Consent Agenda. Mayor Benton asked does any Commissioner have an item they would like to pull for further discussion?

Commissioner Alexander said Agenda Item 27d (Red Light Video Camera bid).

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

- a. Approve travel and attendance by Commissioner Alexander and Commissioner Sessions to the Florida League of Cities 83rd Annual Conference on August 13-15, 2009, in Orlando.
- b. Approve piggyback City of Belle Glade RFQ #22-06 and authorize Staff to commence contract negotiations with Kimley-Horn & Associates, Inc. for completing the Evaluation & Appraisal Report (EAR) and Amendments to the City's Comprehensive Plan in an amount not to exceed \$114,997. RFI No. 5922
- c. Authorize Police Department submittal of a Grant Application to the Florida Department of Law Enforcement for Edward Byrne Memorial Justice Assistance Grant (JAG) Program for funding totaling \$71,365.
- e. Approve City Manager request for leave August 5-7 and August 19-21, 2009.

The next item considered was Item #27d, which had previously been removed from the Consent Agenda: Approve Police Department piggyback City of Vero Beach RFP/Bid #140-08/JO for the provision of Red Light Video Camera Enforcement Equipment & Services, conditioned upon passage of an ordinance allowing such enforcement.

Commissioner Alexander said obviously he is not going to be in support of this. He is just looking at this piggyback, the

thickness, and all the comments that was made. Again, it is obvious it is sticking out that there is so many comments and scratch outs on the scope of work. How can they piggyback on something they don't have a clean version of this?

City Attorney Schwerer said he and the Chief did not really have an opportunity to talk about this before it was put on the Agenda.

Commissioner Becht said his concern is if he has the cart ahead of the horse. He appreciates that the Commission told him they wanted him to do this quickly. But he heard a very interesting public comment on this and he is waiting to have further public comment on it when the ordinance is brought up. So even though the Chief says there is no cost, there is staff time on this; and if they don't approve the ordinance, then it would be wasted time.

Chief of Police Sean Baldwin said to clear up the first question. They have copies of a draft contract in their Agenda package. He is not asking them to approve a contract tonight. What he is asking them to approve is accepting the RFP and piggyback Vero's bid award. They would ultimately negotiate their own contract with ATS (American Traffic Solutions). That paperwork is just demonstrative of what Vero has been through in their process. They actually have a copy of the final signed contract from Vero Beach now. Perhaps he is putting the cart before the horse, but that is because he wants to get ahead of this. There is quite a bit of work to do in this project yet. They still have to go through two public hearings, which will take at least 30 days and will put them into September. If this is approved tonight, he can go through the process of negotiating a contract, doing the site surveys, and getting everything ready to go. Yes, it will burn a lot of his time. But he is looking at this as a solution to several of their problems over the next couple of months. He appreciates their support and interest in it, and especially appreciates their interest in his time. But if they are willing to approve it, he is willing to burn that time and even waste it if that is what it takes to get them where they need to be to implement this, if it is approved.

Mayor Benton said this is just the first phase. The final agreement will come back in front of them.

Chief Baldwin said right. He knows they heard some public comments earlier tonight. Don't assume those public comments are... He could rebut those comments if they want him to tonight; but he would prefer to do that at the public hearing.

Motion was made by Commissioner Coke, to approve Police Department piggyback City of Vero Beach RFP/Bid #140-08/JO for the provision of Red Light Video Camera Enforcement Equipment & Services, conditioned upon passage of an ordinance allowing such enforcement.

MAYOR BENTON PASSED THE GAVEL TO MAYOR PRO TEM SESSIONS AND SECONDED THE MOTION.

Commissioner Coke asked for clarification, this is to allow the Chief to begin negotiating a contract, piggybacking off Vero? City Attorney Schwerer said the issue of piggybacking is such that it avoids the bidding process and the length of time, so that this vendor is going to be selected. All of the terms of the contract will have to be negotiated and brought back to the Commission for approval. All this does is eliminate the bidding requirement and time wasted in bidding, because this firm has been selected by a competitive bid process by a sister city, so this is allowable.

Commissioner Coke said her theory is, if they have the ordinance in front of them for two meetings starting in August, if they don't move forward with this until after the ordinance passes, then they will be starting in September to try to get to where they need to be, and it could be a 30 or 60 or 90 day process.

Chief Baldwin said his intention is to get their approval and begin that process now, so that they are running on a parallel course. As they are moving the ordinance through the public hearings, they are also negotiating a contract.

Commissioner Coke said she understands that is what his intention is. Her point is, if the Chief does not get approval this evening, then they will have to wait until after the ordinance is passed to begin this process, which would then take 30 or 60 or 90 days more.

Chief Baldwin said that is correct.

Mayor Pro Tem Sessions said while he is not in support of it right now, he is just one of five; and he does not want to complicate matters in terms of expediting it if it is in fact ultimately approved. It is going to be real interesting to see what happens in the public hearings. But as far as the concept right now, he is not convinced that is the way to go in terms of a revenue generator for the City. He thinks it is more punitive in nature and does not think it is going to be an attraction to their City, and he has always taken that position. But he is going to support the motion today from a practical standpoint, if in fact the ordinance is approved, so they can move forward with it.

Commissioner Benton asked wasn't this what they told Staff to bring back as soon as possible the other day at the Budget Workshop? They are just doing what they were told.

Mayor Pro Tem Sessions said absolutely. But still, his position is the same.

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

MAYOR PRO TEM SESSIONS RETURNED THE GAVEL TO MAYOR BENTON.

Commissioner Alexander said he can't leave the Chambers tonight

without commenting on something that he read in the newspaper about Police Officers serving the City of Fort Pierce. It really troubled him that they pulled officers out of the field, officers who were putting their lives on the front lines for the City of Fort Pierce. He does not know who could wake up and say as of today they are no longer a part of their organization. Along with that, he is not in agreement with the way it happened and how it was done. He can't accept how it was done, how it happened. Not only that, he was told they are going to have additional employees to leave the City of Fort Pierce, and it is not by the Commission's decision, it is by the City Manager's. There is an item on the Consent Agenda about Mr. Recor being away from the City the day after the Budget Workshop - the first workshop and the second workshop. So if they have any comments at either one of these workshops, Mr. Recor is not going to be available for whatever reasons. He is not asking for a comment, he is just making a statement that he does not appreciate Mr. Recor being out of the office the day after a rescheduled Budget Workshop.

City Manager Recor said that workshop was scheduled all summer.

Commissioner Alexander said again, he is not asking him for a comment. He is making a statement. He is letting him know that he personally is not self-serving, he is wholeheartedly, his whole fiber of being Butch Alexander, Commissioner of the City of Fort Pierce, is that he is not going to treat anyone any kind of way or let them be treated any kind of way in his presence. That is his comment. He does not need a statement from Mr. Recor.

Commissioner Coke said they have discussed the lack of activity at the **YMCA**. She was rather disappointed because Mr. Recor did invite the YMCA people to show up here this evening to give an update on their activities at their local facility; however, they declined to show up and said they would let them know in writing. So she is exceptionally disappointed.

Mayor Benton said he got a letter about the **speeding on Indian River Drive**. He knows the Chief is short-handed, but writing speeding tickets does bring in revenue. If the Chief could find some officers and free them up, whatever help he can give out there. It is a County road. He knows those people who were almost killed the other day.

Chief of Police Sean Baldwin said he made a note of it and will take care of it.

There will be a Budget Workshop on Tuesday, August 4, 2009, beginning at 9:00 a.m. in the City Hall, 2nd Floor Conference Room, 100 North U.S. #1, Fort Pierce, Florida.

There will be a Budget Workshop on Wednesday, August 12, 2009, beginning at 2:00 p.m. (location to be determined).

There being no further business, the meeting was adjourned at 11:20 p.m.

Regular Meeting

July 20, 2009

Adjournment .

ATTEST :

CITY CLERK

MAYOR COMMISSIONER

