

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, AUGUST 4, 2008.

Mayor Benton called the meeting to order.

Reverend Moses Hill, Moses Hill Ministries, gave the invocation.

The Pledge of Allegiance was recited.

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

The next item on the Agenda was Approval of Minutes of the Regular Meeting on July 21, 2008 and the Minutes of the Budget Workshop on July 24, 2008.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve the Minutes of the Regular Meeting on July 21, 2008, and the Minutes of the Budget Workshop on July 24, 2008.

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

Mayor Benton proclaimed August 4-8, 2008 as FLORIDA WATER PROFESSIONALS WEEK. Mr. Larry Benning, Assistant Superintendent of FPUA Wastewater Systems, was present to receive the proclamation.

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

Letter from Ron Butler and Jenny Matte, U.S. General Services Administration, thanking the Mayor and City Staff for their courtesy and consideration.

Mr. Terry Brisson, 1705 Porpoise Avenue, said every Friday morning for 12 years he chaired the Architectural Review Committee meetings for the largest homeowners association in the State of Florida consisting of over 19,000 members. Originally a Westinghouse project, then Gould Pumps & Batteries, and then finally for the Vadia family. He worked for the developer to establish architectural themes and design criteria to ensure that the developer's visions were communicated from thoughts to paper to finished projects. Builders and developers wishing to build within this community agreed to abide by the developer's vision and to conform to his standards. All in all, he thinks they did a good job. Where once there were only cow pastures, now stands the communities of Palm Beach Polo & Country Club and the Village of Wellington. A private developer has the rights to control architectural design standards. Governments must never be given that right. They are having this discussion because he heard a disturbing rumor that the Building Department, a government agency, has plans to establish an Architectural Design Review Board to evaluate and critique the architectural quality of projects proposed for construction in this community. This must never be allowed to happen. By its very nature, government is restrictive, it squashes individuality, and it limits the free flow of ideas. By its very nature, government is conformity, uniformity, and mediocrity. Every great advance in human history, every great invention, every great discovery was accomplished because man reached beyond the conventional thought of the time. They stretched their imaginations to the very limits. They exceeded all known boundaries and chartered new territories where man had never been before. Government must not be given the right and must not be allowed to seize the right to dictate thoughts, to suppress individuality, to mold architecture into a cookie cutter factory press of uniformity and conformity. Architecture is an expression of individuality. Through its designs it explores the personalities, the qualities, the characteristics of great entrepreneurs, industrialists, and visionaries, even the dreams of every homeowner wanting that special house designed just for them. Architecture is the freedom of ideas. It is the freedom of thought and expression. It is the freedom to explore

unchartered engineering parameters to create that which others cannot see, to create shapes never before imagined. Perhaps well intentioned, Staff's recommendations may sound like a good idea - let's control design to ensure good design for their community. It makes for a very strong argument. But government intervention into this creative process is a cancer to the free flow of ideas. Each time they give back to the government those freedoms which Americans fought so hard to secure, they give up another piece of themselves, another slice of freedom, another small piece of their liberty. For government to intervene into the act of defining design standards is a step closer to socialized government where no individual freedoms will exist at all. Every war ever fought by America has been fought for two reasons - to preserve the freedoms of each and every American, or to secure those very same freedoms for others in foreign lands - freedom from tyranny, freedom from oppressive government, freedom from government intervention into every aspect of their lives. It is the freedom to choose, the freedom of speech, the freedom of expression through individual thought. It is the right of creativity. It is even the right to be wrong. It is these principles for which they have fought for. It is these principles for which so many Americans have died for. Will they not stand and speak out to defend that which they fought for, they asked him. Did they die, they asked, so people would serve government or for government to serve its people. Millions of voices cry out from their graves. What did they die for, they asked.

Mr. Ja-Kerm Jordan said he is the Vice-President of the Community Outreach Youth Program.

Ms. Ashley Ruffin-Handy said she is a volunteer for the Community Outreach Youth Program.

Mr. Antoine Handy said he is the Senior Advisor of the Community Outreach Youth Program. Their address is 1600 San Diego Avenue. He is here to speak on behalf of the Community Outreach Youth Program, better known as COYP, formerly organized in March 15, 2007 and focusing on leadership, social, and cultural awareness. He does apologize for their delay of their presentation, but after so many compliments received from Commissioner Alexander and other spectators from the Fort Pierce community and Tampa, Florida, who reflected on their accomplishments and recognition received from the 23rd Annual Preventing Black Crimes in the Community Conference. They felt compelled to share with Mayor Benton and the Commissioners some highlighted recognition as representatives of Fort Pierce receiving number one rating in all activities that the group participated in at each session. He promises them they were unaware on one of their best friend's Doctor Brenda Caldwell's presence for the Lincoln Park Main Street Teen Summit. However, they thank her for inviting Mrs. Renee Jordan, their CEO and founder, and Quanicka Marshall, a COYP member who was used as a model to inspire two young black males with her testimony and who spoke out as a youth who was tired of being arrested and was delivered from handcuffs to hope.

Mr. Jordan said COYP won first place out of 15 contestants throughout the State of Florida. He is here to show them the trophy. He also received a monetary award for being the most creative in COYP by the Reverend Hugh Brockington who was a youth advocate for preventing black crime in the community. He thanks God for his accomplishments.

Ms. Ruffin-Handy said herself and a young lady by the name of Sandra Gabriel were interviewed during one session and they made it in the St. Petersburg Times. And Sandra Gabriel won an Oxford University sweatshirt because she was the first youth to stand up and ask a question from Garrett Johnson, who is an ex-football player who is now studying to get his Doctorate at Oxford University. They also received certificates from the convention for participating this year.

Mr. Handy said in conclusion, COYP understands their purpose to this community is to make a difference by touching the lives of other youth. They are the leaders of their next generation. COYP learned valuable lessons that will never be replaced at the conference. As a result of their accomplishments, they will be hosting two community projects. First, will be "Back to School Fun Day" in conjunction with Bethany Court residents on August 9, 2008 with a special guest, Cheryl Littlejohn, ex-WNBA player Robert Johnson, ex-Crip gang member, and workshops presented by Project Response and certified adult role models of St. Lucie County. Also a Criminal Justice Conference will be held in October 2008 at the Fort Pierce Central High School, a Teen Summit in conjunction with special guest, Doctor Brenda Caldwell. Again he says thank you to their CEO founder, Ms. Renee Jordan, and Sharonda Johnson of Fort Pierce Central High School, Criminal Justice Department, for making this conference a reality to many that would have never gotten this kind of exposure. Lastly, he thanks the Children's Service Council of St. Lucie County, Commissioner Alexander, Commissioner Sessions, and Vincent Gaskin, Bail Bondsman, for their monetary, love, gifts, and support.

Mayor Benton said he met them all last year when this program was sort of in its founding meetings. They have all come a long way and represented this community very well. He thanks them for being an ambassador to Fort Pierce. Their newspaper reporters are writing in the back row and hopefully they will get an article on what they have done. Keep up the good work.

Commissioner Alexander said they sponsor kids to go to those conferences every year. But this group here took it upon themselves to go out and stand on corners and raise nickels and dimes and pennies. He thinks they were very respectful to this community, for them to go to that conference on their own without any support from the City. He looks forward to them next year coming in just maybe for gas money. He was very proud of these young kids. He does not know how many kids from Fort Pierce, but they all stood out. Every year they are always at the top. He just wants to thank all of them and those who come behind him and beside him.

Mr. Handy said his momma didn't raise no fool. They accept monetary love offerings.

Ms. April Loving, 1810 Bayshore Drive, said in this beautiful City of Fort Pierce, she is here to speak out against the possibility of having concessions in their City parks, mainly Jaycee Park which is a very busy park. She is here to talk about the kayaks. They have swimmers, they have people putting boats in and out of the water there. There is already a lot going on. She feels as though it is a captive audience for anybody who wants to set up a concession there. She doesn't believe that is really fair to people who have businesses, who pay taxes on square footage, who run businesses in the City in other places. Also, adding that concession would also add problems with policing. They have issues already. There is parking on vacant lots that belong to taxpayers. Those cars stay parked and are not ticketed. There are 18-wheelers that park inside the parks - sometimes it is just the truck, sometimes it is the trailer and the truck. She doesn't know what has already been spent at the Causeway Park, the construction is going on right now. But last Friday an 18-wheeler was backed in there and spent the night. So they are not policing what they already have. They are going to add more things by adding these vendors to the parks, she thinks they are going to be adding problems. Also, the drinking in the parks. The Police need to get out of their vehicles and walk through the park. There are having policing issues with a lot of people using the parks. And now they are going to add vendors. She just wanted to speak out against the possibility of having those vendors in the parks.

Mayor Benton said he has addressed with the Chief those semis that have been parking in the parks. Hopefully they need to get the word back out to the guys on the street that it is illegal. Because he knows at the Boardwalk it was a real problem.

Ms. Loving said tax dollars are being spent to make it beautiful out there. And the first thing that is going to happen is the 18-wheelers are going to come in and cave in the pavement.

Mr. Jack Southard, Director of Public Safety for St. Lucie County, said one of the divisions he has is Animal Control. In that division, one of the programs they have that just started last October is the spay and neuter program. He is here to let them know that their spay and neuter program has been a great success. He feels the success of it is the over 300 animals they spayed and neutered since they actually got it rolling. It went into effect in October, but part of the spay and neuter program had a soft start in January. Since that time they have spayed and neutered over 300 animals. He feels a lot of those probably would not have been done if it wasn't for this program. He would like to offer any help he can with the City. He would like to work with the City. He would like to see them team up together and have the County program and the City program work in conjunction. He will do all he can to help them. Between the two agencies, the City of Fort Pierce and St. Lucie County, they spend over \$600,000 to the Humane Society. Those are animals that are turned in. That is not counting what are euthanized. It is over 5,000 animals every year that are euthanized. Somewhere along the way they have to do something, they have to prevent that from happening, and the animals from being turned in. The \$600,000 is only going to go up, next year it is going to be even higher. So the County looked at the approach of how do they start? Where do they start to do something? It is not going to happen over night, it is going to take some years to do that. Just taking those animals they have already spayed and neutered, as of today and they still have 50 applications in the process and they still have another month and a half to go, just until September 30th for their fiscal year. They probably kept over 1,000 animals off the streets and out of the Humane Society hopefully. That is a great start. He thinks the program has been a great success. And he hopes the City of Fort Pierce also looks at teaming up with them. They would be glad to work with the City and do whatever they can to help them.

Mayor Benton said he just wanted an update. He had asked the County for some information and he saw that they are talking about 4,200 total tags sold to the tune of \$97,500.

Mr. Southard said actually that figure is going to be just a little bit less. The reason why is, when they first started using Pet Data, they had licenses they were selling and they had the vets out there with licenses. So that figure is a little high. The gross figure right now as of today is \$83,000 that they brought in.

Mayor Benton said later on tonight they are going to see if there are three votes to start advertising and public hearings to move forward.

Mr. Southard said the success is the number of animals. That money just turns right around and goes toward doing spaying and neutering.

Mr. Richard Fitzpatrick said he resides in Port St. Lucie at 301 S.E. Strait Avenue. He is a local independent film maker who has seen some success. He is a graduate of Fort Pierce Central High School. His very first film is in national distribution and currently airing on Showtime. It is entitled, Love Trap. In spite of that, he recognizes the need here in this City in order to build the belief and the hope of young kids here in the City. This City is a melting pot of culture, of talent, but they have no vehicle with which they can express that talent. He wants to be able to give that talent back to the community because it was one of the things that was very difficult for him to achieve in doing this film. He wants to start out by being able to give back to the community. He doesn't have much, but he does have his dreams, and he wants to give those dreams back to their young kids by having a back to school event on August 16th and 17th and utilize the Amphitheater as the venue. With this event, the banner they are under is entitled, One Cause, One People, One Love Restoring

Community. When he talks about restoring community, it is not just the community itself, but it is the feeling of community, the feeling of family. He doesn't know if they can remember having to go to school and not having the things they need in order to get that education. But not being able to have those things impacts the mindset of a student. So they want to be able to give them the opportunity to go to school and obtain the education because that is what has been instrumental in him achieving the things he has achieved. So on August 16th and 17th, they are not asking that anything be given or anything be waived. All they are asking is to give them the opportunity to give to these young kids the ability to dream once again, the ability to become enchanted with what they can do with their minds, and the ability to step forward with a fresh and clean mind to get the education they need.

Commissioner Alexander said this is an item that is going to be discussed later on the Agenda, so they might have some questions for him at that time. This is a young man coming here and trying to bring something back to this community.

Mr. John Wolsiefer, 1625 Thumb Point Drive on South Beach, said he just wanted to say a few words about the application for Lisa's Kayaks to bring kayaks and bicycles and other water craft to Jaycee Park. He can really speak for that because he has been using Jaycee Park since probably 1993 to put his jet ski in. In fact, he used it yesterday. The problem with Jaycee Park is there is very little waterfront room. There is the beach, and between the ramps and the beach, the only place to put a water craft is in about a 30 foot to 50 foot space. Yesterday it was very un-busy. However, that space was all filled up when he put his jet ski in around 11:30 a.m. If they have several people they want to switch and bring out for rides, or if they had a small sailboat and want to step the mast, there is a lot of competition for that space. With the activities they have there now, he doesn't see how they could have other things like 8 to 10 kayaks or catamarans to be able to share that space. So he thinks having a vendor there renting them is just going to take away what little space they have, and then they are going to have arguments over who is going to be able to put their boat there. He can't speak for the other parks. If there is room at the other parks, it is nice to have somebody be able to do that kind of thing. But in Jaycee Park, there is no room. All they have to do is go down there on a busy day.

Ms. Arden Peck, South Beach Association Beach & Parks Chair, said she wishes to also comment on Agenda Item #15 and Item #16. They fully realize that a balance must be struck between developers rights, business owners rights, and the development of sound tourism strategies with the quality of life they presently enjoy. They appreciate the fact that they have chosen to deal with the global issues of parking and vendors in their parks before dealing with specific requests from individual vendors. On Item #15, they support in concept the adoption of policies that will allow permitted vendors in their parks. They do though have many concerns, questions, and suggestions. Should there be a limit to the number of floating permits issued? Vendors with a floating permit would be allowed to sell park-related items. A definition of park-related items would have to be developed. What food, if any, is appropriate to sell? Parameters need to be established. What type of signage should be allowed? They suggest that the commercial signage on the vehicle or trailer itself be enough. No umbrellas, chairs, etc. should be allowed. What controls would be in place to assure that the vehicle/wagons are sightly and in good shape? That part or all of the lease agreement monies go into a park fund or directly back to Public Works to be used for park maintenance and improvements. They are leery of the possible consequences of a first come, first served policy for the designated vendor parking spaces. Is more control needed to ensure that chaotic situations do not occur? Agenda Item #16 - they support this item also. Section 12-10 speaks to driving within the park itself. A new section might be needed to specifically cover bus and R.V. parking in designated areas only. Section 10-23 regulates the parking of vehicles within the City limits. She sees no section that directly speaks to parking in vacant lots, on City right-of-ways, or resident's lawns. The key to success of these items should they be implemented is the willingness of

their Police Department to properly enforce all of their parking and park ordinances. Without their full cooperation in ticketing and towing illegally parked vehicles and fully enforcing their no alcohol, dogs, grills, canopies, and other ordinances pertaining to their parks, any positive changes made will fail, thus only exacerbating the current problem. This problem will only continue to snowball when their new and newly designed parks become available to the public. In the summer of 2007 she met with the officers in charge of the patrols to discuss proactive policing. And since then have voluntarily patrolled their parks on Saturdays and Sundays during the summer months, noting any violations or health and safety issues no matter how minor, innocuous, or nonsensical. Her weekly report is emailed to the officer in charge of beach patrols and his supervisor. She has seen many violations. Need she remind them that their ordinances are on the books to ensure the health and safety of the park visitors? And that any violation or combination of violations, especially when mixed with alcohol, can and has led to combative behavior. She may also remind them that their two busiest parks, Causeway and Jaycee, are unguarded. Every patrol officer assigned to the beach must believe that what he or she does while patrolling has a dramatic and critical impact on the health and safety of their park visitors and their residents. They cannot be content just doing slow drive-throughs. They must get out of their vehicles, walk the parks, and do friendly but firm policing. Old-fashioned grassroots cop walking the beat community policing. They urge them to support in concept Items #15 and #16 and send them to Staff for policy development. They also urge positive dialogue with Chief Baldwin, staff, and concerned citizens to devise strategies to both alleviate not only the current problems but the future ones that might occur when the new parks are available for use. As always, their Association is more than willing to help them in any way they can.

Mr. Dan Conroy said he is a South Beach resident. Two items on their Agenda this evening have the potential to generate a great impact on their parks and the surrounding communities. Item #15 deals with establishing policies for allowing vendors in City parks, and Item #16 deals with the parking situation in their parks. He is going to direct his comments toward the situation at Jaycee Park, basically because he lives directly across the street and he feels like he is qualified and totally familiar with how the park operates and how it has evolved over the last few years. They are all aware of the great deal of resources that have been spent on the park by way of new and improved pavilions, landscaping, and installation of the huge playground. They applaud the City for this effort. They have unfortunately also experienced some not so positive things that are a direct result of the park expansion. Some of these issues are as follows. The draw to this park has increased tremendously over the last year. Parking and overcrowding has become a significant problem and a challenge to the quality of life by nearby residents. School and camp buses now converge on the park from a four-county range on a daily basis. These out of county bus loads do not contribute to their general tax base, but do put additional pressure on the park and the City's limited maintenance resources. Litter and trash left behind, particularly on weekends, is extremely disappointing to the neighbors. He suggests that they ask their Parks Staff to describe the often deplorable conditions that they find in Jaycee Park on Monday mornings. Just last week he was walking the park and he heard a young mother at the playground ask one of the Parks Maintenance people, how can people leave so much trash behind in such a beautiful park? The attendant just shook his head and said they put additional bags at each pavilion to handle the overload of trash and stuff, but some people just don't care. It needs to be said that Bob Hood's people do a tremendous job at the parks. But he thinks they are just overburdened with the amount of trash and debris that is left behind every weekend. He is at this meeting tonight because vendors are applying for permits to set up concessions in their wonderful parks. The dialogue at the July 21st Commission meeting might lead one to believe that the Commission was looking favorably at issuing a permit to establish a kayak and bicycle vendor at Jaycee Park. As concerned citizens, they provided this Commission with documents and a petition vigorously opposing the kayak vendor permit and any other commercialization at Jaycee Park. It should be clear they are not against eco-tourism, they

are not against kayaks, canoes, or people having fun, but they are against the commercialization of their parks. They now find themselves tonight discussing the possibility of establishing policy to allow multiple commercial vendors at their parks. They are at a real crossroad regarding the future of these parks. They hope they consider the long-term effects of their decisions, because it is often hard to reconcile a poor decision. The decision to approve the Harbour Isle development is a case in point. He thinks many of them wish they could have that decision to do over or at least to revise it. They hope they give as much consideration regarding the park issue as they did when they addressed the 4/8 situation. Simply put, what happens in this park on a short term is going to have a big impact over the long term to the quality of life for the people on South Beach.

Ms. Billie Groff, 1702 Bayshore Drive, said she owns the property that is on the corner within approximately 100 feet of the boat ramps and of Jaycee Park. She is here to speak in regards to Item #15 on the Agenda this evening. She also lives and works in the Fort Lauderdale area, across the street from the beach. She bought here on Hutchinson Island approximately three years ago because she loves the laid-back area that reminded her so much of the good old days of the South Florida/Fort Lauderdale area which was so nice with no high-rises and no vendors on the beach, only locals enjoying the area and the quality of life. Since her plan is to ultimately retire in this area, she hopes and prays that it will stay as it is today for a long time to come.

Ms. Barbara Conroy said she is a resident of South Beach. Considering the recent development and pressure on their parks, including vendor issues in other areas, she feels they need to establish a park oversight committee to work with the City staff to ensure that all of their citizens concerns are heard and given ample consideration. She was the original chair who coordinated the various South Beach Association Committees and has continued to gain a great deal of experience in working with the community on matters of concern. In April they rented a pavilion at Jaycee Park and she co-chaired a group who was recognized by Dr. and Mrs. Hendricks for raising over \$10,000 to help send the Avenue D Boys Choir to Italy. This is something they are very proud of. She hopes they will consider an oversight committee. And she would very much like to volunteer her time to such a committee.

Mr. Dwight Finch said his wife and he live at 1713 Sunset Isle Road just south of Jaycee Park about two blocks. They got back in town last week and found out they were going to plan to put some vendors in that park. They would oppose any type of vendors in that park, and specifically the kayaks. The main reason is because there is heavy powerboat usage down through that canal just off the Jaycee Park, jet ski traffic, and it is a designated water ski area. They live back in one of the canals that even waves off the boats going by come back in that canal. So it is very dangerous for kayaks to even be in there for one thing. The other thing they are worried about is accidents that could happen with powerboats and those kayaks in the same area. Whether the City would be liable if there is an accident or not, they don't know, but definitely the powerboat owner would be liable if they had an accident with one of them, that is for sure. They think there are plenty of other activities at that park without adding anything. They have swimming, tennis, basketball, picnicking, a children's playground, horseshoes, and whatever else. People are there to enjoy the park. It would be so crowded there. They already have the swimming area all marked off for swimming, and there is a very small area between there and the boat ramps for anything else to go in there. If the vendor was there, they would have to park their vehicle by the boat ramps and it would be very dangerous down there. They are just against having any private vendors in City parks. They don't think it should be allowed because why should they make money off them paying taxes to support those parks? It is property taxes that support the parks. He doesn't believe in having private vendors in City parks.

Mr. Richard Wilson, 1611 Surfside Drive, said he is here to protest the amended City Manager's contract. Paying an employee a full and complete generous annual pension for

13 years service to the City of Fort Pierce is appalling. A cover memo from Mr. Beach to Commissioners indicated a \$300,000 savings. This is a fantasy. Mr. Recor's job or savings associated with the reorganization has nothing whatsoever to do with Mr. Beach's pension. Since there are no figures in the proposal, it is difficult to even say, but it is beyond belief that this is any way considered a savings to the City of Fort Pierce. Why do they need to pay Mr. Beach to train Mr. Recor? Mr. Recor was employed by the City of Fort Pierce as Deputy City Manager three years ago, so training should have occurred. If the Deputy City Manager's job is not needed now, why in the world was he hired in the first place? As he understands it from the amended contract proposal he saw, there is not one solid financial figure as to the costs associated with Mr. Beach's request as presented to the Commissioners. He supposes maybe with the exception of the Mayor, the other Commissioners are expected to sign off on essentially a blank check. Although it is ludicrous that such a request without exact cost figures is presented to the Commissioners, it is even more insulting that the public was not presented with the facts and figures of this proposed contract. Why does Mr. Beach need an amended contract? He is on a year to year contract now that covers him leaving his employment voluntarily or otherwise. His one year contract ends in July and sets out terms already agreed upon by the City Commission and Mr. Beach - one year's severance and benefits plus the standard retirement pay based on his most recent salary in 13 years of service. There is absolutely no justification for this amended contract which surely increases what he has earned. If Mr. Beach wants out, they can terminate him tonight or in July without changing his contract. They wish him godspeed.

Mr. Charles Grande, St. Lucie County Commissioner, said when he saw Agenda Item #13 on the Agenda, the discussion of the differential license, he asked Jack Southard to come and give them a brief description of how this has been working so far for the County. What they were looking for was a methodology to reduce the number of euthanasias that were necessary and at the same time reduce the amount of expense to the government for these pets that were turned in. He thinks the Commission paid about \$250,000 last year to the Humane Society to handle pets that perhaps shouldn't have ever been in the community before. What he sees as a long-term goal here would be having the Humane Society that is a no-kill facility. What he would like to see is both the County and the City drastically reducing the bill they get annually from the Humane Society by reducing the number of pets that need to be turned in. He thinks the fees in there are designed to accomplish just that; that is, a very low annual license fee, the ability to buy one time a lifetime license. Since they as government would probably be beyond their scope if they were to try to mandate spay and neuter, the answer to that is to make the person who chooses not to spay or neuter pay a differentially large amount of money, because eventually that choice probably is going to affect the taxpayer with the eventual bill from the Humane Society to the governments. It has been working for them so far and they would really like to join with the City. What he has noticed is the critters really don't recognize the city line. Doing this on a countywide basis would be really great.

Mr. Grande said the other thing is, a while back the City came to the County and said if the County will get out of their way, they can fix up Causeway Park and really improve the situation for the folks in Fort Pierce. As reluctant and slow as the County was, he thinks they finally got to the point of agreeing to that. He just wants to say, because he sees that facility frequently, it is not done yet, but the pace their folks are working at and the amount they have accomplished so far on that facility, he envies the City's Parks Staff. He thinks they should be proud of what they have done. He can't speak for the other County Commissioners because of the Sunshine situation, but the City made their point with him. The next time they have an idea like this, it is going to be a bit easier, he thinks they can do things quicker than in the past. Nice job. He is grateful for what they have done.

Mayor Benton said Mr. Hood and his crew over at Public Works has done a remarkable job and has been doing that for a while.

Ordinance No. L-34 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 ADD A DEFINITION OF "ACTUARIAL EQUIVALENT"; AMENDING SECTION 13-166 ENTITLED "RETIREMENT" TO PROVIDE THAT THE BENEFIT PAYABLE FROM THE RETIREMENT SYSTEM FOR OFFICERS AND EMPLOYEES OF PARTICIPATING EMPLOYERS SHALL BE SUBSIDIZED TO MEET THE MINIMUM BENEFITS REQUIRED UNDER FLORIDA STATUTES CHAPTER 185; ADDING A NEW PARAGRAPH TO SECTION 13-166 PROVIDING FOR THE SUBSIDY OF DISABILITY BENEFITS PROVIDED UNDER THE RETIREMENT SYSTEM FOR OFFICERS AND EMPLOYEES OF PARTICIPATING EMPLOYERS; AMENDING SECTION 13-167 ENTITLED "DEATH BENEFITS" TO MEET THE MINIMUM BENEFITS UNDER FLORIDA STATUTES CHAPTER 185; AMENDING SECTION 13-168 ENTITLED "EMPLOYEE WITHDRAWAL FROM THE PLAN" TO MEET THE MINIMUM BENEFITS UNDER FLORIDA STATUTES CHAPTER 185; ADDING A NEW SECTION 13-170 ENTITLED "FORFEITURES" TO PROVIDE FOR FORFEITURES OF PENSION BENEFITS FOR CONVICTION OF FELONIES WHICH ARE CERTAIN SPECIFIED OFFENSES; ADDING A NEW SECTION 13-171 ENTITLED "PENSION VALIDITY" TO PROVIDE FOR THE RIGHT OF THE BOARD TO EXAMINE PENSION BENEFITS PREVIOUSLY PROVIDED; ADDING A NEW SECTION 13-172 ENTITLED "CLAIMS REVIEW PROCEDURE" ESTABLISHING A HEARING PROCEDURE FOR THE PLAN; ADDING A NEW SECTION 13-173 ENTITLED "REQUIRED DISTRIBUTIONS" ADDING PROVISIONS TO THE PLAN TO COMPLY WITH THE DISTRIBUTION REQUIREMENTS OF THE INTERNAL REVENUE CODE; A NEW SECTION 13-174 ENTITLED "ROLLOVER DISTRIBUTIONS" ADDING PROVISIONS TO THE PLAN TO ALLOW FOR TRUSTEE TO TRUSTEE TRANSFERS UNDER THE PLAN; A NEW SECTION 13-175 ENTITLED "INTERNAL REVENUE CODE LIMITS" ADDING PROVISIONS TO THE PLAN TO COMPLY WITH THE MAXIMUM DISTRIBUTION REQUIREMENTS OF THE INTERNAL REVENUE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR APPLICABILITY AND AN EFFECTIVE DATE." was placed on first reading and read by title only.

Mayor Benton asked this comes with the blessing of the Retirement Board?

Ms. Gloria Johnson, Director of Finance, said yes. This is just an ordinance amending their 185 plan.

Commissioner Coke said this didn't come in front of the Retirement Board. It is separate. It just brings them in line with the Florida Statute.

Ms. Johnson said it was on the last Board meeting.

Commissioner Alexander said he hears a lot of new ones like Section 13-173. She said this is just bringing them up to date with the Florida Statute 185?

Ms. Johnson said that is correct.

Commissioner Alexander asked when did all these come into the Florida Statute? Did it just come in this year?

Ms. Johnson said no, it has been in the process ever since last summer. She thinks they started putting this ordinance together some time in October of last year.

Commissioner Becht said they get a summary report on each Agenda item. This particular one he wants the public to know there is a column called fiscal impact. In the fiscal impact

statement, it says there is no financial impact. He wants it clarified that there is no fiscal impact this year or in the future years by them passing this ordinance. Is that correct?

Ms. Johnson said that is correct. They can only implement these minimum benefits if the fund will allow it. It does bring them up to code. Most of the things their retirement system already provides for their officers. Therefore, they technically had to do a little housekeeping on some of the languages and things of that nature. But there was no funding required.

Commissioner Becht asked now or ever?

Ms. Johnson said if they don't have the funding available, they can't do any additional benefits. But they do have the minimum benefits they can provide right now.

Commissioner Becht asked there is no additional funding requirement placed on the City by them passing this ordinance?

Ms. Johnson said no, none at all.

Mayor Benton declared a Public Hearing on Ordinance No. L-34 in session and asked if anyone in the audience wished to be heard.

Seeing on 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 Becht, that Ordinance No. L-34 be passed on first reading.

Those voting in favor of the passage of Ordinance No. L-34 on first reading were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

Ordinance No. L-35 entitled, "AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, AMENDING ARTICLE I, CHAPTER 9, **LICENSES AND BUSINESS REGULATIONS**; AMENDING SECTION 9-1(a), BOAT LICENSE, TO INCREASE THE LICENSE FEE FROM \$35.00 TO \$38.50; REPEALING ARTICLE II, BUSINESS TAX, CHAPTER 9, SECTIONS 9-16 THROUGH 9-31; CREATING AND ADOPTING A NEW ARTICLE II, BUSINESS TAX, CHAPTER 9, SECTIONS 9-16 THROUGH 9-31; ESTABLISHING A NEW SECTION 9-30, FEES, TO PROVIDE FOR BUSINESS TAX FEES FOR BUSINESSES, PROFESSIONS, OR OCCUPATIONS; AND ESTABLISHING A NEW SECTION 9-30(145), MERCHANTS, TO INCLUDE A BUSINESS TAX ASSESSMENT FOR BUSINESSES WITH AN AVERAGE VALUE OF STOCK OF GOODS OVER \$50,000; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE." was placed on first reading and read by title only.

Deputy City Clerk Jeanette Conlon said the City of Fort Pierce has had an Occupational License Tax, now known as a Business Tax Receipt, since as early as 1914. In the early 1970's, the State of Florida became involved with Occupational Licenses through State Statute 205. Florida Statute 205.0535 requires before adopting a reclassification and revision ordinance, the municipality or county must establish an Equity Study Commission. The State Legislature must open a window of opportunity before a municipality or county can form an Equity Study Commission. The last window that was opened by the State of Florida was in 1994. The City of Fort Pierce did not take advantage of that opportunity at the time. The last increase by the City of Fort Pierce was in August 1985. Therefore, it has been 23 years since there has been an increase in the business tax. The package of materials they have in front of them is what was presented to the Equity Study Commission

on July 1, 2008. This contained copies of the pertinent sections of Florida Statute 205 concerning the local Business Tax reclassification and rate structure revisions, along with copies of Business Tax rates from the City of Fort Pierce and various other municipalities. For their convenience, Staff prepared a chart showing comparisons in Business Tax rates for some of the occupations which the Commissioners may be particularly interested in. It is important to note that the Florida Statute allows for a maximum increase of Business Tax of 75% to 200% based on existing rates. After a review of the materials, the Equity Study Commission made a motion to recommend a 10% initial increase, and then a 5% increase every two years, as long as it is thought to be necessary by the City Commission. Again, Staff prepared a chart showing the effect of this increase on certain classifications in order to make it easier for them to review. Ordinance No. L-35 shows the 10% increase in every business category. At this point, Staff is recommending the City Commission pass Ordinance No. L-35.

Commissioner Alexander asked for his information, when they speak about the definition of stock and goods over \$50,000, what do they call stock and what do they call goods?

Deputy City Clerk Conlon said that would be the inventory in a particular business.

Commissioner Alexander asked how would she know what inventory is in a particular business?

Deputy City Clerk Conlon said when a person comes in to apply for a Business Tax, they ask them what their inventory is and they give them...

Commissioner Alexander asked is that vehicles, equipment?

Deputy City Clerk Conlon said no, this would be a merchant. Take for instance a convenience store...

Commissioner Alexander asked a funeral home?

Deputy City Clerk Conlon said no, that is not considered a merchant.

Commissioner Alexander said it is so broad, he just wants to make sure. She said 5% every year after?

Deputy City Clerk Conlon said every two years.

Commissioner Alexander said so in the next ten years they are thinking of 25%?

Deputy City Clerk Conlon said an initial 10% and then every two years it could be increased by 5%.

City Manager Beach said that requires Commission authorization.

Deputy City Clerk Conlon said yes.

Commissioner Sessions asked what is the projected fiscal impact this will have for the 10%?

Deputy City Clerk Conlon said about \$20,000.

Commissioner Becht said someone, and he forgets who it was, gave him a glaring example of how far behind they are when Fort Pierce is compared with Port St. Lucie and what they derive. The example he was given was Wal-Mart. If he recalls correctly, the number was like \$30,000.

Deputy City Clerk Conlon said the two Wal-Marts in Port St. Lucie, Port St. Lucie collects approximately \$22,000 a year from each Wal-Mart.

Commissioner Becht said this amendment won't get Fort Pierce anywhere close to that. If they wanted to get that high, it would take them several years to get up to that. So he doesn't see it as running any business out of Fort Pierce and down to Port St. Lucie because they are about twenty-fold what they are here. He would be in favor of it. He appreciates staff for going to the trouble. He would also point out they had unanimous approval from the citizen committee they appointed which was comprised of local business owners. They came back with the unanimous recommendation for the 10% increase, which on most of the things is somewhat like \$20 a year on a particular business. Where Fort Pierce is really behind is with the merchants with inventory over \$50,000. This is just the first step of getting them close to that. He thanks Staff for bringing it to their attention.

Commissioner Sessions said just to extend his gratification to those individuals who were on this equity study commission. They came in out of a busy day and brought all of the different lines of expertise. It was a very broad professional base - they had a doctor, some salesmen, a combination of everything. Just to extend gratitude to them for coming in and putting their time and effort into this.

Mayor Benton said he took the words out of his mouth. He wanted to thank them for coming in and taking time to make their job a little bit easier and advise them.

Mayor Benton declared a Public Hearing on Ordinance No. L-35 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-35 be passed on first reading.

Those voting in favor of the passage of Ordinance No. L-35 on first reading were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

Mayor Benton said he thanks Ms. Steele and her Staff, because had they not brought this to the Commission's attention, they would have missed that window which only comes up over so many years to address these numbers.

City Clerk Steele said these two (Jeanette Conlon and Vanessa Ventura) worked very hard on this presentation. It was their first time.

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 08-33

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, CERTIFYING THE REAPPOINTMENT OF **FANNIE HENDERSON AND EDDIE WHITFIELD**, AND CERTIFYING THE APPOINTMENT OF **JEAN L. JOHANSEN**, AS MEMBERS OF THE **COMMUNITYWIDE COUNCIL ADVISORY BOARD**; PROVIDING FOR AN EFFECTIVE DATE."

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, that Resolution No. 08-33 be adopted.

Those voting in favor of the adoption of Resolution No. 08-33 were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

The next item on the Agenda was Submittal of Applications for Appointment/Reappointment to the **Communitywide Council**.

City Clerk Steele said they have additional applications to consider and there will be a resolution on their next agenda.

The next item on the Agenda was Mayor Benton discussion on proposed **Animal Licensing Ordinance**.

Mayor Benton said in the Minutes from a meeting a year ago (July 2, 2007), at least three Commissioners - he knows Commissioner Sessions wasn't here - said they would at least like to hold public hearings and hear what the public has to say about this proposed ordinance, which is identical to what the County has enacted and appears to be very successful there. Like County Commissioner Grande said earlier, there are two different sets of rules (for the City and the County), it depends on which side of the road they live on.

So he thinks it is easier for enforcement. And he thinks in a time when they are having to cut back as far as funds coming in, it might help pay for the Animal Control Officers. So he thinks it is something they should take a look at, making people responsible for their animals. He is just asking if there are three Commissioners willing to take it to the next step.

Commissioner Coke said she is always willing if the next step is going to be to have a Public Hearing. She told County Commissioner Grande, and she has said in this forum before, she has some concerns. Today was proof, as her phone was ringing off the hook. People are very concerned that they won't be able to afford the \$75.00 registration and they will have to give up their animals, or they can't afford that if they want to have a dog and they have kids. She is sure there is a solution and she would love to sit down and listen to everybody's answers. Also, she really doesn't want to complain, but she has to tell them, she thinks part of the problem with having their animals sit in the Humane Society is... She went last Saturday with friends to adopt a dog and it was absolutely the worst experience she has ever had at any Humane Society she has ever been to. They sat there. They were told to leave and come back. They came back. It was supposed to open at 10:00 a.m. They left them sitting there until 10:35 a.m. They have signs they can't go in the back unless accompanied by a Humane Society worker. They sent them in the back, they said they might as well go in the back and look. There was no one there they could ask a question to about a dog or anything else. They would have left that day having adopted a dog, but they couldn't get any assistance. She has some concerns that the Humane Society needs to address their public friendliness, because it certainly wasn't evident that day. Afterward they went to an adoption center that she didn't recognize was going to be part of the Humane Society. And she knows of at least five people who turned around and walked away because they were yelling at each other, there were children volunteering and they were getting yelled at, and dogs were getting yelled at. It was just an awful experience. She thinks if they are looking to improve relationships and take better care... Everybody knows she loves her four-legged friends probably more than some of her two-legged friends. It is the truth, she might as well be honest. But she thinks they can't get animals adopted out if they are not putting forth the right kind of attitude to people who walk into that shelter. She guarantees, the people she went with would have left with a dog that day or with the intention of having a dog delivered to the vet the next day and then bringing it home. So there is one more animal still sitting in the Humane Society that should have been adopted.

Commissioner Alexander said he has a concern of elderly senior citizens who are on a fixed income. He doesn't know what the answer is, but surely they should not penalize

those individuals, they may have some dogs older than they are in dog years and they are not going to get out where they are going to reproduce dogs. He has a concern about that. When there is a senior citizen and that is their last line of defense. Sometimes companionship is just having a dog. That is what he wants to be able to address, that they are going to give some exceptions to the rules for anything they do.

Mayor Benton said he thinks the County is now assessing some of those problems, because they have been at it for almost a year, to amend their ordinance. When it comes to indigent folks, they don't want to create a hardship on them, especially when it comes to spay and neutering. So there is the ability to fund that for them through these fees. If they look at the fees, it is \$25 for a lifetime if their animal is spayed or neutered. But if they are a breeder, which are expensive dogs from \$500 or \$1,000 plus, it is just \$75 to run their business.

Commissioner Alexander said that is separate. They need to make sure they draw that line.

Mayor Benton said they do in the ordinance. The County is fine-tuning theirs. But he just thinks it is good when they have the same rules on both sides of the road, because in how many areas in Fort Pierce or St. Lucie County they go down the street and one side of the road is Fort Pierce and the other side is St. Lucie County. Plus with the cost to the taxpayers, it is time people are more responsible and have their animal spayed or neutered.

Commissioner Alexander said he doesn't want to punish the ones who are in need of a dog. If someone just wants to have a dog for a pet, that is fine. But some people have a longevity of their life just by having that little pooch there. He doesn't want to see them punished. He won't stand here and see them punished because of a dollar amount. He thinks the County extending their hand of fellowship, they should always accept that from the County.

Commissioner Sessions said he is going to support it. But while they are implementing this ordinance, make sure they come back with something along the same lines as what Commissioner Alexander is concerned about. He just has a concern for those who are less fortunate than others, people who don't have the income bracket that others may have, that this will impact them. This is a pretty nice healthy fee. True enough it is for a worthy cause. But by the same token, they have a community of individuals especially here in the City of Fort Pierce who may not be economically in a position to afford this fee. So if they are trying to get a criteria in place to decide those they can waive the fee for, he hopes it is based on their income to be taken into consideration, so they can address them.

Mayor Benton said he thinks the County is looking at that right now. Okay, they have three folks. The City Clerk can advertise that. Does she know how long it is going to take, so folks will know approximately when?

City Clerk Steele said they have a draft of a draft ordinance, the Chief sent it to her a few days ago. It needs some work, it needs to be signed off by the City Attorney, and then she can advertise it. So it won't be on the next meeting, but they can certainly try for September.

Commissioner Coke said she would suggest that maybe when they are looking to have the Public Hearing, that prior to that... She knows they had surveyed some of the local vets previously and she received paperwork that was dropped off at her office where some individuals went around and surveyed the vets and had their concerns expressed. Maybe they could redo that survey with the local veterinarians and see what they feel is good or bad or needs to be changed or added to or subtracted from this Ordinance. Her concern always boils down to, they have 50 licensed dogs and cats in the City. If they are going to

try to implement this, they need to find a way to either sell licenses through the Humane Society or the vet. She is probably as guilty as the next one. She always have to call and ask if Zack's license still good? Because she goes to the vet every year - and responsible pet owners do that - he gets his shots, gets his tests, and they are out the door with their rabies tag. If the vet would say at the same time, here is her dog license, give him a check, then that would be one thing. But they don't say that, so she ends up walking out thinking she doesn't know when Zack's City License expires.

Mayor Benton said he thinks that is what makes this a little bit easier is the ability to have that one-time and it is good for the rest of their life. It is a lot less than a vet's visit. Their goal is to reduce the population out there that is not wanted, but that also reduces the numbers and the revenue source for the veterinarians in some cases.

Commissioner Coke said she knows she feels about her vet like most people feel about their pediatrician. If she called him up and asked questions, she is confident she would get fair and honest answers, otherwise she wouldn't trust her children with him.

Mayor Benton said let's move forward with it. If Mr. Schwerer could take a look at that very quickly, because if it was approved by the County, it should be legal.

The next item on the Agenda was Mayor Benton discussion on request to change existing prohibition hours of **alcoholic beverage sales** on Sunday.

Mayor Benton said they put restrictions on their businesses a little bit more than just across the street or down U.S. #1. St. Lucie County and Port St. Lucie allow their restaurants and their liquor stores to sell before 1:00 p.m. on Sunday, but Fort Pierce still goes by the old law. He thinks it is time they took a look at it, because why should they make it tougher to do business in Fort Pierce? He just thinks it would be the right thing to change the rules. It makes it easier for law enforcement also. It is hard to tell who is on what side of the street, especially on U.S. #1.

Commissioner Becht said he would like to move it forward for a Public Hearing at least.

Commissioner Coke said she would agree with that.

Commissioner Sessions said he doesn't have a problem with moving forward with a Public Hearing. He sees where they are going and what direction they are going, he does have some concerns about it. He just hopes the public will come and address their concerns, to either alleviate his or go from there. At any rate, he just feels this is a very strong religious belt in this community. He takes it that this ordinance was put in place for that reason. When he looks at what is going on in the surrounding cities and looks at the hours they are talking about increasing this, he doesn't know whether or not it is going to have some impact on the financial... With regards to the businesses, they are looking for this to impact them positively from a financial standpoint, if in fact it is going to do so because they are only talking about the morning hours from what he can see. Again, he will wait and see what happens with regards to the public's concerns if they have any when they go to a Public Hearings.

Commissioner Alexander said he just wanted to follow up on what Commissioner Sessions is saying about the hours. He wants to know who drinks at 7:00 a.m.? He is not being facetious.

City Manager Beach said this ordinance as it is impacts fishermen. That is who it impacts. They can't get their six-pack before they go out.

Commissioner Alexander said they need to stock up the day before. It is problematic, they try to raise their young people to stay away from alcohol and be responsible; then they have people who want to buy alcohol at 7:00 a.m. Whether they are going fishing or going on vacation, they should already be prepared for that. He will support it if the rest of the Commissioners support it. But he has a concern about somebody requesting alcohol at 7:00 a.m.

Mayor Benton said a lot of times if they are going offshore fishing, they don't know what the weather is going to be like until that morning if the wind is blowing at night. A lot of times it is a last minute...

Commissioner Alexander said keep their beer and wine in the refrigerator for later. He is not trying to be facetious, but four hours?

Mayor Benton said a lot of times when they live on the beach with the price of gas now. When he goes to the grocery store, he has been getting beat up at the grocery store for many years. In fact when Sam's was still here, they used to announce it several times an hour on Sunday, because a lot of people were shopping, that they couldn't buy beer or wine. He thinks they really did it when they saw him in the store. But Publix has done the same. It is one of those things, only in Fort Pierce. And they made it clear. A lot of times if they do their shopping, they don't want to have to drive back.

Commissioner Coke said she doesn't know too many people who go out and start drinking at 7:00 o'clock in the morning. She thinks the reason this was brought in front of them was from a commerce standpoint, because there are people - whether they are planning a picnic or going out on the boat - who realize they had forgotten something, or even if they are entertaining at 2:00 in the afternoon and realize they have forgotten something, they don't want to wait until their company is showing up to run to the liquor store. Now what is happening is, those people are driving to Port St. Lucie and getting what they need, and it is taking business away from the local merchants. So she thinks they ought to at least listen to what the public has to say. Any opportunity they have to grow business here locally rather than grow business in their sister cities and the county, she thinks they need to avail themselves of.

Mayor Benton said so they have enough interest to move forward with advertising the Public Hearings on changing the hours.

City Attorney Schwerer said just a point of clarification. The current City Code provides that the alcohol will not be sold or consumed between the hours of 2:00 a.m. on Saturday night until 1:00 p.m. on Sunday. He understands the Commission is wanting that to be changed to the 7:00 a.m. time as opposed to the 1:00 p.m. time. Does that mean they want to do it seven days a week?

Mayor Benton said yes.

City Attorney Schwerer said also, their City Code does provide for one exception here. Besides specifying those hours, it does state that no alcoholic beverages may be sold, consumed, served, or permitted to be served in any place holding a license for alcoholic beverages from 6:00 p.m. until 9:00 p.m. on Sunday when such location or business is within 300 feet of a duly organized church that conducts a regular Sunday evening service. Do they wish to keep that in the ordinance or do they wish to take that out?

Mayor Benton said he thinks they would probably have to address both.

City Attorney Schwerer said when they draft something and bring it to the Commission, do they want that to stay in; or do they want that to come out and anywhere in the City from 2:00 a.m. to 7:00 a.m. would be the prohibited hours?

Commissioner Sessions asked could he read that language again?

City Attorney Schwerer said they regulate hours of sale, basically which says every day of the week except for Sundays they can't sell between 2:00 a.m. and 7:00 a.m. On Sunday morning from 2:00 a.m. to 1:00 p.m. they can't sell. So really they can't buy until 1:00 p.m. on Sunday and they can't buy until 7:00 a.m. the rest of the days. But their ordinance also has an additional provision that says when alcoholic beverages are sold, consumed, served, or permitted to be served or consumed in any place holding a beverage license which is located within 300 feet of a duly organized church which conducts regular Sunday evening services, that establishment cannot sell between 6:00 p.m. and 9:00 p.m. on Sunday. So there is an additional three hour window there that they can't sell. They can start selling at 1:00 p.m., but they have to stop selling at 6:00 p.m., and then they can resume sales from 9:00 p.m. forward if they are within 300 feet of a church. That was put in there for some reason.

Commissioner Coke asked does anyone even know that existed?

City Attorney Schwerer said it is in the Code.

Mayor Benton said he bets if they were to enforce it, it could be a problem in a couple of places.

City Attorney Schwerer said he thinks it was designed to protect those churches that are within 300 feet of a place that serves alcoholic beverages for consumption on premises, a bar for instance, to protect their Sunday evening services. He is simply asking, when they bring this back changing the hours, do they want that out or do they want that in? Or do they want them to leave it in and they can debate it at the time? They can remove it.

Mayor Benton said he thinks they will debate it during the Public Hearings. Does everyone agree?

City Attorney Schwerer said they can leave it in and debate it at the time. They can always remove it from the ordinance. But if they advertize it for the time frame between 7:00 a.m. and 2:00 p.m. and leave that in, they would not be able to adopt it on first reading. If they struck it, they would have to re-advertise.

Commissioner Alexander said so they are going to address both.

City Clerk Steele said or they could do another ordinance.

City Attorney Schwerer said they can do two ordinances.

Commissioner Becht said he would recommend they eliminate it. They don't protect the churches, they don't protect the temples, they don't protect the muslim mosques. They are not regulating anything else based on churches, so he doesn't know why they are regulating alcohol and churches. He may be lambasted by some of the churches for it, but his point is that he doesn't understand the underlying rationale for having any difference with the sale of alcohol than selling anything else. So he would pull all of it out and just standardize it so they can sell every one of the days the same as anyone can sell a pillow or a loaf of bread.

Mayor Benton said they advertise that too, eliminating that.

City Attorney Schwerer said yes. If it didn't pass, the code would stay the same, they wouldn't have to change it.

Commissioner Alexander said if they have concerns of churches, then he thinks they should keep that 1:00 p.m., because there are more church services going on between 7:00 a.m. and 1:00 p.m. He doesn't know many churches that function at 6:00 o'clock in the evening.

Mayor Benton said times have changed.

Commissioner Alexander said times have changed, so his concern would be that 1:00 p.m., where people would be rushing to get out of the church to go get some alcohol.

City Attorney Schwerer said they can bring them the history on the ordinance at the same time so they can review what was decided. This ordinance had been amended in 1993, 1985, and 1984.

Commissioner Alexander said tell him what churches have 6:00 p.m. services.

Commissioner Coke said she would agree with Commissioner Becht, because she doesn't think any of them knew it was on the books. She thinks they ought to just pull that paragraph. If they are going to amend the ordinance, do it once and be done. She also doesn't think that anybody who is actually going to be in church, just because the liquor store is open is not going to church because the liquor store is open.

Mayor Benton said let's advertise this for both. (The Commissioners agreed.)

The next items on the Agenda were Commissioner Coke discussion on proposal to establish policies for allowing **Vendors in City Parks** and Commissioner Coke discussion regarding need for new parking ordinances or enforcement of existing ordinances on **Parking at Public Parks.**

Commissioner Coke said she is going to clarify herself a little bit here because she knows everybody showed up (during Comments from the Public) and was adamantly opposed to this. But her concern is that she thinks as they move forward they are going to get more and more people looking to utilize their public land for private enterprise. She thinks they need to establish a global kind of policy to meet the public needs that will encourage tourism and will protect their parks. She met with Mr. Hood and she met with Arden Peck who is Chairperson of the South Beach Parks Association. They discussed a lot of the problems they are having. Everybody goes over to the beach, sometimes the ice cream truck pulls in, it stops dead smack in the middle, and cars are zipping around it to get to the parking spaces. Of course, they know what happens around ice cream trucks? Children are running. It is an accident looking for a place to happen that this vehicle is not stopped in a designated spot. So she has concerns about that. When she called the City Clerk's office and asked how is the ice cream truck operating in the parks? The City Clerk told her, illegally. So they just don't enforce it. She thinks they need to make some conscious decisions as a Commission. If they are not going to allow any vendors in the parks, then they are not going to allow any vendors. If they are going to allow vendors, Mr. Hood's suggestion is that they have a specific spot in each park that they are going to allow them in or in each park throughout the City where they are going to stop. Because it is not just beach parks that the ice cream vendors go, they go all over. The thought that a child is going to get hit trying to buy some ice cream is just really bad. When talking with Mr. Hood they talked about setting up a spot in park sites, having a floating park permit, having people use those spots and those spots only, that they can't park there overnight to hold the spot, and that they need to establish a policy that is going to work in conjunction with

their Police Department to be sure the policy is enforced. To that end, she loves the suggestion earlier this evening that maybe they have staff move forward and also possibly form an advisory committee of some citizens that could work through the different questions and concerns of the citizens. Because that is their number one thing, they have to have their parks safe for their residents. She will address the parking issue with the buses. She wants to thank Barbara Conway for bringing those pictures they have here. She doesn't want to see them getting in a position where the tail is wagging the dog. She thinks they ought to be pro-active rather than reactive and establish policies now that are going to see them through the needs of the future. That way, the rules are in place. It is not a matter of, are they going to do this, this, and this today, and then somebody comes in tomorrow and they have to re-invent the wheel.

Commissioner Sessions said he is just a firm believer that it is not necessary to micro-manage people. And the less legislation they have, the less burdensome it is for enforcement, as well as giving their citizens the liberty to somewhat be free to a certain degree and be liberal with them in giving them access to use and utilize their public parks. Is this a problem in the City right now?

City Manager Beach said what Staff gets is pretty much a constant flow of requests to use the parks for business purposes - for hot dog stands, they are currently dealing with the bicycle rentals and kayak rentals. It isn't a problem to the extent that when they go out and enforce the ordinance and ask people to move, they do. But are they constantly attempting this? Yes. They will see fruit stands setting up on roadsides, on the island, and so on. He likes the idea of actually putting an advisory group together to study this issue because public opinions are all over the board on what works and what doesn't work, what is good and what is not. He thinks that would be an effective way to really assess it and analyze it and get good public input.

Commissioner Coke said there was a hot dog stand on Binney Drive last week in somebody's front yard.

Commissioner Becht said he likes the idea of setting up a committee. He would like to do it on both Agenda Items #15 and #16, talking about the vendors and talking about the parking, combine those. He thinks the public input on that would be important. Some of them may have noticed that he wasn't here for a while, but he is back now. He ran through the Causeway Park and the improvements that have now been done there and he was just amazed at how nice it looked. He was also amazed at the mix of people who are there. They are not all Fort Pierce residents and anybody who thinks they are is mistaken. The County he thinks assumes it is all Fort Pierce residents. But he assures them there were some folks from Port St. Lucie there, Okeechobee, and west St. Lucie County. He would like to establish the committee. His concern is that even though it is inside the city limits of Fort Pierce, he would like to have some - not overwhelming - input from folks who are coming in from west County and Port St. Lucie, so they make it friendly. He doesn't think they need to make it friendly to Polk County or wherever those school buses are coming from. But he would like it to be a friendly park for everybody within the County.

Commissioner Coke said as long as they tie the two together, when they are talking about the parking, that has been a major concern of everyone. Last week she was in San Diego which has parking lots. They pull in and put \$5 in and it gives them a little ticket. Or they pull in and put their resident's card in - she is sure they get an annual pass - and it puts out a little ticket and they put it on their windshield on their car. They had even discussed trying to find a way to possibly beef up the maintenance of the parks and fund it by the parks themselves, that maybe they could have a parking machine where people pull in. If they are a resident of Fort Pierce or the County, if they have a resident's card, they put it in, get their ticket, put it in the windshield, and they park free. If they weren't, they put in their \$5 and pull in and they could park their car there. That would require then that they would

have the Police Department ticket those people who did not have authorized parking tickets in their windshield. In the same vein, it would be a way to cut down on some of these busloads of people who come, and it would give them some added money maybe for maintenance in the park.

Mayor Benton said he thinks in the future they are going to have to address that because more and more, when local residents can't get to their own parks, they have to give them priority. They paid for it, so they should have priority. He thinks they have to do something. The last time when they discussed Lisa's Kayaks...

City Manager Beach said Lisa's Kayaks did submit a proposal in response to all of the questions that were asked by the Commission at the last meeting. That is attached to this Agenda item with this memo from Commissioner Coke. Through oversight, they did not get this scheduled for action tonight. But they have it. Please review it. It will be scheduled for their next Commission meeting for discussion.

Mayor Benton said he knows good points were made, he heard loud and clear. Jaycee Park probably needs to be three times its size, it does get very congested on the weekends versus maybe a winter day where they could probably do anything over there. The numbers and the congestion is getting pretty absurd during the summer time.

Commissioner Coke said she asked Lisa if she would go down and set up to give them an example of what she was looking to do and she appreciates those efforts. But she still has such a major concern that they are utilizing prime public beach access - whether it is at Jaycee Park or Causeway Park or someplace else - for private industry. She would have much less of a concern if it were in the rear part of the park where it wasn't going to be a conflict with where people are going to want to be. All that is for when they do have a public hearing on it.

Mayor Benton said the route to go is, if they are going to form a Committee to look at this, they are going to have to look at different parks in a different eye.

Commissioner Coke said she wants to thank Mr. Hood for his time and his input. She met with him after they had the hearing on Lisa's Kayaks because she did have some concerns about how they are going to deal with the different vendors that come in - the hot dog people, the ice cream people, the kayak people. If Lisa will be successful, next month they will have six other kayak people in wanting to do the same thing. That is when they talked about having a designated area in whichever parks they are going to allow this in, whether it is just certain parks or all the parks that would be designated, and the spaces would be available on a first come, first serve basis. She kind of figured Mr. Hood gave them great input on that kind of thing.

Mayor Benton said when they look down near the boat ramp, a lot of fishing tournaments in the past have taken place there. So as long as it doesn't become a problem if they do something like that during these tournaments. He doesn't think it would be normally. But he thinks they will wait until the public hearing comes up, if they are looking to have a public hearing?

City Manager Beach said it isn't scheduled for a public hearing, but it will be a publicly agendaed item; and they can take whatever input from the public they choose at that time.

Commissioner Coke asked do they have a consensus here that they would move forward and get some citizens working on some suggestions on how they are going to handle this and establish a policy? Or is the Commission satisfied with each time a vendor comes in having to deal with it basis?

Mayor Benton said he thinks forming a group of citizens and getting their input, it is their parks.

Commissioner Alexander said he is in agreement with that. But he wants to make sure the committee represents, like Commissioner Becht said, the whole County. Because if they get there late, they don't get to... St. Lucie County individuals use those parks. So if they get there at 10:00 o'clock, they are out of luck. It has to be like sunrise. He saw the buses. How do these people in other cities and other counties know about their beautiful parks? Evidently that is a plus for Fort Pierce if they have people coming from over on the West Coast to come. They need to try to accommodate them. Maybe the buses don't park there, but unload there and have a staging area. They just bought properties down the road, so they could utilize that. But surely he doesn't want to turn people away from coming into this City and saying they visited a beautiful city.

City Manager Beach asked would it be appropriate for each Commissioner to provide his office two names for this committee?

Mayor Benton said he thinks it works real well that way.

Commissioner Alexander asked for both items?

Commissioner Coke said to deal with the parks and the parking.

City Manager Beach said they should discuss the parking at the same time. He thinks the Police Department and Public Works is doing some work on that now. But they can include that in the discussion with the group.

Commissioner Becht said he thinks they don't need two committees. He thinks one committee can deal with all the issues. He thinks two appointees from each of the Commissioners. He wants to throw out for consideration the pros and cons of asking the County Commission to send somebody over, asking Port St. Lucie to send somebody over, and asking the School Board to send somebody over. They are going to have ten City folks. But they are going to need input and feedback from the County residents who might use their City parks and feedback from Port St. Lucie and feedback from the School System if they did that. It is not all a plus, he can see some negatives with having that. But with them having minimum votes on that committee, they may be able to accomplish a universal appeal with their parks system.

City Manager Beach said he will get a memo out to the Commission asking for those names and will follow up on it over the next couple of weeks.

Commissioner Coke said since they are going to combine this, she wants to talk about the parking. She understands first of all they are again having tractor trailers parking in all their parks, which should not be tolerated.

Commissioner Becht said also R.V.'s.

Commissioner Coke said yes. She doesn't know if R.V.'s are included in their ordinance, but she knows trailers are. And it is not being enforced and they need to do that. Her concern is, when they look at these pictures, all these buses. What happens is, the buses come and not only do they drop off more children than the park can accommodate, but then they are taking up all the parking spaces that their residents can't get to park and utilize their parks. She thinks it is great to be a good neighbor and invite Port St. Lucie's kids up here and Vero Beach kids, but she thinks they need to find a way to limit that. Her thought was if they could designate certain spaces that was bus parking only, that way when the bus parking is taken up, if they show up with a bus then if that space is full, they need to go

on to the next park and utilize that bus parking space. So they are still having some part of the park open, not only for parking spaces for their residents, but accessible for the kids to play. When they dump 500 kids in the middle of Jaycee Park, then nobody is going to have a good time.

Mayor Benton said in this case, maybe they need some signage. But further down near the water plant at Jaycee Park, there is no reason why they couldn't drop the kids off and park the buses down there, the way they drop the kids off in front of Sunrise Theatre and park over here. He thinks it is just a little common sense.

Commissioner Coke said if they have a space for bus parking, then they can put up a sign for bus parking with an arrow. Then if they are not parked in bus parking, she is sure the Chief will ensure that the buses will get a ticket for parking there.

Mayor Benton said taking up 15 parking spaces per bus doesn't make sense.

Commissioner Coke said right, or parking in somebody's front yard and tearing up their lawn.

Mayor Benton said maybe it just takes a report from the Chief on what kind of language they can put on one of those signs, and work with Mr. Hood so they can address where the problem is with some of these parks, to put the motor homes and buses out of the parking spaces.

Chief of Police Sean Baldwin said actually Mr. Hood and he have already talked. There is a plan in place to try to move the buses at least to the other side like the Mayor suggested. That will take some signage. Public Works is going to re-mark the parking lots and do some things that may help with the immediate problem. But it may be good to continue this discussion and talk about all of their parks and what their policies are. So they will be happy to join in with a committee and help in that effort.

Commissioner Sessions said he hopes they continue to be user friendly. Because if they have an attraction here that is attracting all of these different schools, if they have buses overloading, if they have tourists coming from the west coast and as far north as the Melbourne area and as far south as West Palm Beach, that they don't place a whole lot of restrictions on these people that will run them away. It seems they need to be trying to facilitate and accommodate the parking, as opposed to putting restrictions on people and hoping that will scatter and run the people away, in order to have more ample parking. He thinks they need to concentrate more on trying to accommodate and getting more parking in this area so they can continue to be more user friendly. They have an attraction here. It is something he is proud of. Let's not run the people away, let's just accommodate the people.

Chief Baldwin said Commissioner Session's remark is insightful. He has complaints sitting in front of him about too much enforcement and complaints about not enough enforcement. So it is important that they find that balance. He will be happy to work with a committee and the rest of the department staff to find that balance.

Commissioner Coke said although she agrees partially in theory that they don't want to have built these wonderful things to bring people into this area and then not be user-friendly, her concern is that when people come to their parks, it is not the same as coming as a tourist. They are not going to the local restaurants, they are not spending money, they are not staying in hotels. They are bringing busloads of children to utilize their parks, which is putting a burden on their taxpayers by having Public Works there. It is a great thing to have people come. But she thinks they need to ensure that the number one people they service with these parks that they have spent their taxpayers money on is their

taxpayers. Secondary should be all of these other people who want to come along. If it was a tourist kind of thing where they were coming and spending money and helping generate local economy or helping generate tax dollars to help maintain the parks... The truth is, she has gone to Jaycee Park sometimes on Sunday morning and it is a mess. They can't fault Public Works. She has been there when Public Works has shown up on Sunday morning, cleaning the park. They are doing a great job. But it is a lot of the out of town people who are putting the burden on them. She thinks their number one concern has to be to service their own citizens.

Commissioner Sessions said not to prolong the point, but he knows that children bring about business. When they look at McDonalds when the Happy Meal went on the market, that is when everybody started running into McDonalds. So to see these children coming out to this park, he can certainly attest to the fact that he is sure the parents are subsequently coming in and bringing the children to these parks and that brings about the type of tourism he is speaking of that he hopes they don't deter and run away from their City. An attraction is an attraction, whether it be parks or whatever it may be. He thinks they have something beautiful. He just doesn't want to run people away. If they can bring them to the City of Fort Pierce by way of a park, so be it. From the highway to the park, they will certainly run across the businesses. He just thinks it is a win/win situation if they can just accommodate people, as opposed to placing restrictions on them and sending that message out that they are not user-friendly.

Mayor Benton said they will let this committee make some decisions for them. Lisa's Kayaks, that would be put on the Agenda?

City Manager Beach said it will be on the Agenda for the next Commission meeting.

Commissioner Alexander asked but is the committee going to be making recommendations, not decisions, right?

City Manager Beach said the issue with Lisa's Kayaks is an ongoing issue of the Commission and they will need to make a disposition of that. The request she has made will be in front of them at the next meeting. And they can apply whatever judgment they want to apply to it, but they won't have the benefit of the committee's input at that time. Whatever decisions their discussions take them to on that subject, it still needs a disposition.

The next item on the Agenda was Commissioner Alexander discussion regarding use of the **Amphitheater** on Indian River Drive.

Commissioner Alexander said the reason he placed this item on the Agenda is, he is always an advocate for children. They had this gentleman who is returning home to Fort Pierce who wants to do something. And unknown to him about the time restraints on getting an item before the Commissioners... He has the support of the Lincoln Park Main Street, making sure everything is done right and correct. He just put this on the Agenda because their next meeting is after the event for children returning to school. He doesn't ever want to put a child in front of a meeting because there always should be the child first. He just wants to welcome him to this community back home. He is not asking for any waivers or anything with the Amphitheater. He knows there is a process and an application that has to be applied for, so that is why he placed it there. So if there were any questions they need to ask of this gentleman, he is here tonight.

City Manager Beach asked does rental of the amphitheater require authorization by the Commission?

City Clerk Steele said no, it does not.

City Manager Beach asked is there a liquor permit involved here or anything of that nature?

City Clerk Steele said they have never received an application.

City Manager Beach said he thinks if they submit an application and go through the application process...

Commissioner Alexander said the confusion is among himself as well as the gentleman. He went to put an application in and he doesn't know what was said to him, not that Ms. Steele's office would have anything to say other than accepting an application. The requirements on the rental of the amphitheater is a long list. He just doesn't want it to become a door shut on the kids because he is talking about doing something for the kids.

City Manager Beach said they will be happy to process that.

City Clerk Steele said someone picked up an application, but they have not seen the application come back.

Commissioner Alexander asked they don't have to authorize anything that goes on at the amphitheater?

City Clerk Steele said as long as no alcohol is involved.

Commissioner Alexander said there is no alcohol.

Mayor Benton said he knows Christian FM put on a program within a short period of time for the 4th of July. He thinks it was less than a week that they came in. So it must work.

Commissioner Sessions said they are against the clock. If they want to do something before school starts, they certainly have a worthy cause in order to fund children with what they need in order to go to school. The gentleman had an opportunity to review the application. Does he see any problems or caveats with it that they might be able to address while they are here?

Mr. Richard Fitzpatrick, 301 S.E. Strait Avenue, Port St. Lucie, said only the time constraint is what concerned him at first. They said they needed a 30 day window in which to address an application for the Amphitheater. Noting that the event is August 16th and 17th, that is less than 30 days, so that was a concern to him. He spoke at length with Commissioner Alexander, Elise Rollins, and he has also spoken with Vincent Gaskin. He tried to reach Commissioner Sessions, but he has been quite elusive this week and he couldn't catch up with him. He had spoken with Al Johnson as well. This is an event that he is passionate about because of the fact that everything starts with education. Without the education he had, he would not have been able to achieve what he has achieved with his first film. He is mostly looking to film his next project right here in the City of Fort Pierce. He heard the discussion about jobs and creating revenue and creating tourists. That is what film brings. It is a clean industry. Once the film is shot, everyone is out of here. But it provides for hotels and restaurants, the whole nine yards. It also provides jobs for those who are here. There is a host of talent here in Fort Pierce that is not getting the exposure that it needs. He for one was one of them. But with a feature film that airs on Showtime and is in national distribution. They were even flown to London, they screened in London. That is exposure that talent needs to build from and he believes that talent exists right here on the Treasure Coast.

Commissioner Sessions asked so the 30 day time frame was too long, he guesses what he is concerned about?

City Clerk Steele said the problem is, they need an application so they can process it. They work with people as best they can, but they have to have something to work with.

Commissioner Sessions said he needs to get that application in ASAP.

Commissioner Alexander said he understands it was just a mis-communication, because someone gave him a 30 day period and that was what his concern was.

City Clerk Steele said that is probably for the Special Event application. As Ms. Rollins knows, they have worked miracles sometimes in under a week.

Commissioner Alexander said so long as there is no hindrance for them. That is the only reason he placed it on the Agenda, because he saw what was coming.

City Clerk Steele asked can Mr. Fitzpatrick be in her office tomorrow? They will get the paperwork started. When is this event?

Commissioner Alexander said August 16 and 17.

City Clerk Steele said they will do the best they can.

Mayor Benton said Mr. Fitzpatrick will bring that in tomorrow and speak to the City Clerk, and they will see if they can process it.

The next item on the Agenda was City Manager request consideration of amended Employment Agreement.

City Manager Beach said for the benefit of the viewing audience and for the Commission, he wants to read into the record the Agenda item summary and then paraphrase a memo he sent out to the Commission today:

"As the Commission is aware, staff has been reviewing various early retirement incentives in an effort to encourage senior staff to evaluate retirement options. The value to the City can result in substantial savings if combined with organization restructuring. As part of this process, I am proposing to the Commission that you consider my early retirement from the current date of March 2012 to January 2009. The City Manager's office will be restructured to consist of four positions as opposed to the current six positions. We will remove the Deputy City Manager's position and shift one Administrative Assistant to a vacant position in the Planning Department. If you calculate the savings over a three year period, it will result in a reduction of spending exceeding \$300,000. If you base the calculations over a longer period, the savings are greater by whatever number of years that you maintain that change. The attached employment agreement and amendment to my employment contract provides the conditions under which that could occur."

City Manager Beach said a separate memorandum that he hopes everybody got today, it is from him dated August 4, 2008, he is going to paraphrase that. As indicated in his July 31st memorandum, this proposal is based on the City Manager's office being restructured to consist of four persons, as opposed to the current six positions. The mathematical calculations on the savings for the period between January 2009 and March 2012 are as follows. The Deputy City Manager's position at \$125,000 with 35% fringe benefits comes to around \$168,000 a year. As of January 1, 2009, that position will no longer exist, saving three years and three months compensation for a Deputy City Manager position. That figure for that period of time is \$548,000. They also propose to eliminate one Administrative Assistant which is currently paid \$30,000 a year, plus their benefit package brings it to over \$40,000 a year. Within that same time period, that adds up to \$131,000.

They put those two together over the time period that they would no longer have a Deputy City Manager and it totals \$679,900. The early retirement proposal he has submitted to them has a value of \$203,000. When they do the math, the savings to the City over the three-year period that the Deputy City Manager position would be eliminated is in addition to \$475,000. The proposal is to compensate him one month's pay and benefits for each year of service that he has worked for the City of Fort Pierce. In January, he will have been here 13 years and 9 months. And the calculations they see in front of them are based on that period. He thinks this has financial merit to the City and he encourages them to give it serious consideration.

Commissioner Alexander asked concerning all of the employees that may be retired, did they get these kinds of concessions from him on their retirement?

City Manager Beach said no, this is not a package that has been offered to anyone to his knowledge.

Commissioner Alexander asked why not?

City Manager Beach said it hasn't been broached. The subject hasn't been brought up by anyone.

Commissioner Alexander asked if Mr. Beach is retiring early - and he is just trying to get a feel on this - why would it have to be involved with a decision that goes on in the City Manager's office if he is not going to be there any longer? The removal of the Deputy City Manager and Administrative Assistant, if they don't need it now, why did they need it yesterday? And why would he be the one to make the decision on what the City Manager...? He may want to come in and remove another position. Why is it that it is not left up to the City Manager who is going to be here?

City Manager Beach said that is an important point and it is good that he brought that up. This only works if the Commission does it the way it is listed here. He has discussed that in detail with who he believes will wind up as the next City Manager - this is what he has agreed to and what he accepts as an approach to managing the City Manager's office. Please understand that Mr. Recor was brought in three years ago specifically with the intent of training him for his replacement at the time that occurred. Had it been absent that, had they not been planning for his departure, they wouldn't have brought in a Deputy City Manager. Now Mr. Recor is a young man and his suspicion he will be here as long as he chooses to be here. That is how this works and why it works.

Commissioner Alexander asked why wouldn't it be Mr. Recor's responsibility to reconstruct his City Manager's office as he feels like it?

City Manager Beach said it will be. And if he does anything different than what is suggested here, they are not going to recognize the savings that he is representing to them.

Commissioner Alexander said that is fine too. But who constructed this contract? Did their City Attorney have...?

City Manager Beach said yes.

Commissioner Alexander asked he didn't have any concerns or questions about that?

City Attorney Schwerer said he was presented with a draft of a second amendment to the contract for Mr. Beach, presumably after he talked to the Commissioners individually. His draft was in good legal form, it was basically similar to what his contract already read. They

took what Mr. Beach had presented in draft form and made some minor revisions to it and put it into what they believe a correct legal form would be. With the understanding of course that the basis of the agreement, the terms of which, is something the Commission is going to have to approve. But it otherwise meets legal standards from his office concerns with respect to the City.

Commissioner Alexander asked his contract that rolled over in July is the same contract he had last year which says if the City Commissioners choose to relieve Mr. Beach of his position, then he would be paid a year's severance pay. If Mr. Beach chose to leave, he gives them a six month notice. Is this not a six month notice?

City Attorney Schwerer said no, it is not a six month notice that he intends to leave the position. It is a second amendment to his agreement. Let him back up and try to understand the question. Under his existing Employment Agreement, which has been modified once before, he has a severance payment of 12 months of severance plus certain benefits, should the Commission either not renew his contract or decide to relieve him of duties during the term of his contract, which is year to year. So he already has that. If he decides to voluntarily leave the City on a certain date, he has to provide the Commission with specific notice of that. This amendment is a proposal, if accepted by the City Commission, to pay him what appears to be an additional two month's worth of base pay or salary or severance, plus certain benefits to be then calculated under the code for retirement purposes. It is not really considered his notice to them that he is terminating his agreement and leaving. It is an offer to them to do that upon these terms.

Commissioner Alexander said so this is not a six month notice. But if he counts from August to January, that is six months.

City Attorney Schwerer said if they agree to this, it will be a departure date specified in this second amendment. It will be a date specific.

Commissioner Alexander said he is being confused because he thought he read somewhere that he wants to train Mr. Recor. Mr. Recor has been here for three years. Are they talking about future training or are they talking about previous training? He recommends that Mr. Recor become the City Manager because he knows what he is doing? Is that what is in this agreement now, is that what they are speaking of?

City Manager Beach said no, that is not part of that agreement.

City Attorney Schwerer said this agreement is an amendment to the City Manager's Employment Agreement only.

Commissioner Sessions said if he is hearing their City Attorney correctly, he is saying that the already existing contract lays out 12 months severance pay. And the addendum only adds two more months and some additional benefits. Is that the only difference between what is already in existence versus what he is proposing?

City Attorney Schwerer said yes. He thinks the six month notice might be confusing. Mr. Beach certainly has the option of terminating his employment contract with them upon six month's notice. If he wants to voluntarily leave the City, he can do that, but he has to give six months notice. If the Commission does not renew his existing contract after the term expires year to year, or if they decide to terminate it during the one year period, then his severance payment is made, the 12 months. That is already part of his contract. That was done in 2004 he believes. The Employment Agreement was amended in 2004 after Mr. Beach had served since 1996 he believes. The previous Commission at that time agreed to the 12 month severance. That was the First Addendum to Mr. Beach's contract. This is the Second Addendum. So what he is saying is, by looking at what is in the first addendum, he has a 12 month severance plus certain benefits. This second addendum

provides for additional severance payment of two months more, to 14 months. He has seen some figures that were presented by someone that calculated it to be 14 months and that is the difference between what he has now. And he has some additional benefits in this second addendum that are not part of the first addendum.

Commissioner Coke said this is a little different from what her understanding was initially. She sees the lump sum amount is \$203,128.99. Not that she is looking to do this, but should the Commission say they are going to terminate Mr. Beach effective January 31st, she understands he would be entitled to a 12 month severance package and his health insurance, dental insurance, taxes; but she does not believe included in that would be \$5,700 for auto lease or \$2,000 worth of memberships or a physical. She is not sure about the retirement, that would not be included in the severance package. Can Ms. Johnson tell her the dollar amount versus this \$203,000? If they were to say to Mr. Beach, they are going to terminate his contract effective January 1st, what the cost to the citizens would be versus this \$203,000?

Ms. Gloria Johnson, Director of Finance, said they wouldn't include the auto lease or the retirement or social security taxes.

Commissioner Sessions asked it wouldn't include the retirement?

Ms. Johnson said no, they would not include it in the payment. They would give him his health insurance and his dental package. But FICA taxes they would not include. Medicare taxes they would not include.

City Manager Beach asked can she put a figure on that?

Commissioner Coke asked they are looking at about \$30,000 less?

Ms. Johnson said close to it, maybe \$27,000.

Commissioner Coke said then there would be a couple of thousand dollars less in salary because it would be 12 months rather than 14 months.

Ms. Johnson said that is correct.

Commissioner Becht said that is a good line of questions, but he got lost somewhere in there. Ms. Johnson confused him. To repeat Commissioner Coke's question, if they executed the contract and said - for lack of a better phrase - they have a vote of no confidence in Mr. Beach, the current contract says he gets a 12 months severance package. Ms. Johnson was kind enough to work up numbers that are in the memo he got this afternoon that has the City Manager's summary for an annualized total. What he thought Ms. Johnson just said was, if they executed a contract that way and did a severance, they are not going to have to pay FICA? Is that what she said?

Ms. Johnson said they would not have to pay him... In essence, he is including this in his final figures as far as a buy out.

Commissioner Becht said the cost to the City is, they are going to have to pay FICA taxes on the salary. So what he thinks he has done is, he has given him accurate figures.

Ms. Johnson said these numbers do not include benefits.

City Manager Beach said his calculation, based on the question that Commissioner Coke asked, the difference would be \$180,000 as opposed to \$203,000. He thinks that is the difference. It is going to be give or take a couple of thousand dollars.

Commissioner Becht said he didn't mean to interrupt Commissioner Coke; but when she is done, he wants to follow up on this.

Commissioner Coke said she guesses she is getting a little confused. Because if they take the \$134,000 annual salary plus the \$12,000 for health and dental, if she adds that together she gets \$146,000. If they take \$146,000 from \$203,000, they are looking closer to a \$60,000 difference. She is not sure where that difference is, unless this is a lump sum amount? She guesses the lump sum amount they were looking to include was retirement and taxes. Her second part of that question is, normally were they to - for lack of a better term - terminate the contract and pay the 12 month severance, that 12 month severance would not then be calculated in to raise the retirement, would it? She believes it is being shown here as a lump sum payment, which then raises retirement benefits.

Ms. Johnson said yes, she is correct.

Commissioner Coke said since Ms. Johnson is the financial person, if she could tell her actually lump sum payment of \$203,000 versus lump sum payment if the contract were terminated by the Commission, what that dollar amount difference would be?

Ms. Johnson said if she is correct, the annual salary would be included, the \$134,000. His insurance, she is not really sure. This is a year's insurance. And dental is for a year.

Commissioner Coke said so that is about \$12,000.

Ms. Johnson said correct. The others would not be included.

Commissioner Coke said so they are talking about a lump sum payment of \$146,000 versus \$203,000. Is she correct?

Ms. Johnson said yes, if he was just terminated.

Commissioner Coke said the only other comment she is going to have at this juncture in time, regarding her understanding when they hired Mr. Recor, it was not that he be trained to be the City Manager. Not that she is saying one way or another how she feels about that. But it was her understanding that he was there to be the Assistant to the City Manager because the workload had gotten so tremendous. One of her big concerns is, none of the Commissioners had any input into choosing Mr. Recor; and it is their job as a Commission to choose the City Manager.

Commissioner Becht said he had discussions with Mr. Beach that entailed an amicable split of Mr. Beach after many years of what he considers to be valued service to the City of 14 months severance, which was two months more than what, in his opinion, the contract called for. He is still trying to wrap his mind around what that two months costs and he is not sure that he has that tonight. He has several questions. One of the questions he needs answered is, if this City Commission decides it does not want to have a Deputy City Manager, is that within their domain or is that within the City Manager's domain?

City Manager Beach said the City Manager has to have positions approved by the City Commission. When he proposes a budget to the Commission, it includes certain positions. If the Commission made a decision to fund at a different level...

Commissioner Becht said he is starting to sound like Mr. Schwerer. Be careful.

City Manager Beach said he is trying to say this accurately, because they clearly understand the City Manager is the person who employs staff. But the City Commission

approves the budget. If they put the budget in such a condition that changes have to be made, then the City Manager has to make the changes. In other words, it would be inappropriate for the City Commission to take the position that he can't have a Deputy City Manager. But if he came to the Commission and said he wants a Deputy City Manager, they have the ability to say no.

Commissioner Becht said because they won't fund it.

City Manager Beach said that is correct. Does that answer the question at all?

Commissioner Becht said yes, it does; and it was more complicated than he thought it was going to be. So even if the next City Manager wanted to have the Deputy City Manager, if three of the Commissioners felt that was not prudent, if that was not part of any plan to move forward, then the Commission would have the ability to control that and not fund that position. He maybe over-simplified this in his own head. If they provide two additional months that are not... He needs to interject here, Mr. Beach is greatly loved and greatly hated in this community.

City Manager Beach said that is his job.

Commissioner Becht said he got phone calls singing his praises and he got phone calls and emails and letters that were not quite as fond of him. So it is heated. Some of the rhetoric has basis, some of the rhetoric he thinks is based on emotion. Mr. Beach had made hard decisions in the 14 years he has been here. But the way he balanced this out in his head was different than Mr. Beach had. It is that to transition into the next generation of Fort Pierce, whether that is Mr. Recor or somebody else, it costs him two months more than what it would cost to say, "Thank you Mr. Beach, have a nice day". If he eliminates the Assistant City Manager's position, then that money is recaptured by his calculations based on numbers - even what he thinks is a high number, the \$203,000 figure - in 14 or 15 months based on the existing Deputy City Manager's package. This may sound like a shell game, but it is not a shell game. At the end of 15 months, the City will save money by having made this move. Mr. Beach has it done a different way, projecting it out over three years. But he has, if it costs \$200,000 to transition to the next level or next step, in 14 or 15 months if he doesn't replace the Deputy City Manager, he has recaptured that cost; and every month thereafter he saves the City anywhere from \$14,000 to \$16,000, depending on what the true cost is of a Deputy City Manager. The Commission has the power to control whether there will or will not be a Deputy City Manager going forward through the funding mechanism. He would like to get to Ms. Johnson. Her answers to the cost of the severance under the existing contract troubles him. Because it seems to him that the FICA on the one-year severance currently provided in the contract, they are going to have to pay FICA if they pay that money to him. But her answer to Commissioner Coke's question, if he understood her correctly, is that should not be factored into the cost of the severance. So he is going to ask the question again. How would they not have to pay FICA if they pay him a year's salary?

Ms. Johnson said the numbers on this revised amended Employment Agreement, the numbers listed here, these are not benefit numbers.

Commissioner Becht said these are cost numbers to the City, if he understood them correctly.

Ms. Johnson said right.

Commissioner Becht said he guesses indirectly it benefits Mr. Beach that they are paying the FICA taxes.

Ms. Johnson said the way she should explain it, they still would have to pay the same FICA taxes to the government.

Commissioner Becht said right, that is what he thought. She made another statement that if they pulled the trigger on the contract as it exists tonight before modification and they say, "Mr. Beach, it has been a fun ride, see you, here is your 12 month severance package". She did say that she thought the severance payment would not be factored into his retirement calculation. He would like confirmation that everybody agrees with her. Because he doesn't see how that could possibly be. It is part of his base pay.

City Manager Beach said let him address that, because that is a source of contention. The Retirement Board made a decision several years ago about a submission that was made by an employee who left who got severance pay. The Board concluded from reading the ordinance that severance pay was not compensation as it is defined in the Charter. The lawyers may agree with that. But it is a source of contention and it is something that would have to be resolved. If he understands their position today, the Retirement Board would take the position that it would not be counted toward retirement. He disagrees with that position, but he is not a lawyer and he is not on the Retirement Board. He would argue it, if it occurred. If something of that nature occurred, he would be arguing it because it is a substantial figure and a very meaningful figure to someone's retirement compensation.

Commissioner Becht said he is not a lawyer in this capacity, he is a City Commissioner. But he read Paragraph 8 of Mr. Beach's contract that was done before he got up here, either the first term or this term. It says the City shall continue to pay Mr. Beach his then annual base salary. It bothers him for purposes of comparison for somebody to say that it doesn't get factored into his retirement; because the way he reads that, it says annual base salary. They are not going to decide that issue tonight. But it seems to him that there is a very strong argument to be made from Mr. Beach's perspective that, yes it would factor into his retirement.

City Manager Beach said that argument would be made. He knows they all need this information and they want to do these comparisons; but he would encourage them to focus on the proposal that is in front of them. There is not a proposal in front of them, at least from him, to enforce the provisions of the contract relating to his termination. The proposal in front of the Commission has to do with this method of compensation for early retirement. That is what he is asking them to consider and move forward with.

Commissioner Becht said he doesn't think he can weigh it properly in that vacuum. Because as he had his conversations with Mr. Beach, the cost was two months. He really thinks when they get to the end of the road - and he doesn't think they are there yet - the cost is two months of his pay. And he thinks the cost to the City is going to be 14 months of not having a Deputy City Manager, and then they transition where they are saving money.

Commissioner Coke said apparently there will be plenty of time between now and whenever to thank Mr. Beach for all the good things he has done for the City and there have been many. She doesn't ever want this to become a bone of contention that is going to sour all the wonderful things he has done. Her concern is that she came with an understanding that they were talking 12 months as her preference or 14 months as his preference. But as she sits here tonight, in her mind she is not looking at 14 months of his salary, because when she reads the severance it says salary, health insurance, dental, and she is assuming they would have to pay taxes; but she is also then looking at an additional \$13,000 in retirement, \$6,000 in the car, \$2,000 in memberships, \$1,500 in physical. When she and Mr. Beach had talked previously, her thought was annual salary plus insurance divided by 12 times 14, if that is the route they were going. Now suddenly they have added an additional \$22,000 there. \$22,000 is somebody in Public Works working for a year.

City Manager Beach said it is nothing to sneeze at, that is for certain. He thinks he has made it clear that the reason this works for him to make early retirement is because it brings the contribution to a point that it provides the monthly income that he can retire on. If they don't do this, then he simply can't retire. Those are the two options. He will remain working here until 2012, at which time his retirement will fully kick in; or they can work out this method of compensation and he can retire in 2009. Those are his options at this point in time.

Commissioner Coke said not that she would want to pursue this matter, but there is always the third option, that 90 days prior to his contract...

City Manager Beach said that would be the Commission's option. He is talking about his options.

Commissioner Coke said she has always taken the attitude if somebody is not happy doing a job, then they are not going to do it well.

Mayor Benton said he is going to weigh in. Maybe this discussion has taken place because of himself having lunch with the City Manager a few months ago and out of the clear blue sky he said look at what they are doing at the County where they have offered Department Heads who have been there a long time so much money up to a point for each year they had put in. Working with Mr. Beach since he was here maybe a year before he was, but he was there the day he was hired. He thinks Commissioner Sessions was one of those Commissioners who hired him. But knowing what Mr. Beach has done for this community and knowing most City Managers might last four or five years in most jobs. When he says this community - he hates to talk bad about it - but when Mr. Beach took over they had a previous City Manager who talked about their being crack city on national television and they didn't think much of themselves. The crime rate now is at a 30 year low. Mr. Beach got them through three hurricanes. He just has done a remarkable job. He was the one who told them how they could do what the public wanted. Every time they had a charrette, they needed money, how are they going to do it? Mr. Beach brought them the FPRA. A lot of this wouldn't have happened. He is probably the first real professional City Manager that Fort Pierce has had. He just felt with that background and that experience and his resume, if he wanted to... He wouldn't have even brought it up had it not been for Amendment #1. Amendment #1 is making everyone take a look at their whole organization. A couple of years ago they were talking about needing additional space for more employees as the City grew. Now the environment has changed so much that they have empty space. He thinks Amendment #1 said loud and clear, downsize government where they can. A lot of times at the top, they can. If they have less employees and they have the right people in charge... Mr. Recor, in his opinion, was brought on board for that reason. When Vero Beach was looking for a City Manager - which Mr. Beach was interested in at the time and that is why he got this new contract - Commissioner Nelson brought them 30-something resumes to look at. All these people wanted to move down here to retire from up north. If they saw what happened in Vero Beach, they hired somebody from up north and he lasted less than a year, and they all were tied up in ethics issues. Fort Pierce is a very unique community. They just don't bring somebody from up north in and expect them to learn about Fort Pierce. Mr. Recor has been here for several years and he thinks he has done an exceptional job, second to none, as did Mr. Beach. So he just threw something on the table thinking about what is going to happen next year. Because eventually there is going to be some downsizing, because next year is probably going to be a tougher year than this year. In his opinion, an additional two months... If for some reason somebody wanted to get rid of him, he would get 12 months severance pay. So for two months more, in his opinion, that would be a pat on the back for a good job done and it helps the City make ends meet in the future. He thinks that is where it started. So the public knows, what numbers they read in the newspaper, he doesn't know where \$320,000 came from. His

addition is a little different, he expected somewhere between \$150,000 and \$200,000. It came in, at least the figure they are working with here, is \$203,000. He doesn't know whether that is negotiable or not. But he just felt Mr. Beach has done an exceptional job for this community and an additional two months is like a pat on the back.

Commissioner Alexander said he reads the newspaper too and he did read the Mayor's comments about Mr. Beach being discouraged or micro-managed by City Commissioners. And he was told not to believe the figure of \$326,000. He wants them to know they can't believe the comment that they are micro-managing the City Manager. But his concern is, they have had a few department administrators to retire. He is concerned that in the future they are going to have some more. But he wants everyone to be received from the City of Fort Pierce that they are doing an excellent job because they are moving forward. If Mr. Beach does not take this agreement and whereas if he is leaving, they were talking about not having a Deputy City Manager, or if he stays then they are going to continue as they are with the Deputy City Manager and so forth? That is what his concerns are. He says that is his decision and he gave them two options. When they speak of a third option, that is not his concern, he says. But again, not only Mr. Beach, he wants each and every employee to feel when they leave here that they are loved and cared for. He doesn't think anybody here has a great dislike for Mr. Beach. He surely doesn't. If that comment was pointed at him, no. He thinks he and Mr. Beach have a good rapport. It is just that he is a man of his own, he speaks for himself only, he can't speak for anyone else up here. This is just in discussion phase now; so no decisions have to be made tonight, is that what they are saying?

City Manager Beach said he has submitted this to them for action. They clearly don't have to take action. He sees their options as approving it or disapproving it, basically.

Commissioner Sessions said he wants to first start off by saying he was on the Commission when Mr. Beach was hired. He came in and has done a tremendous job in terms of what they had status quo. This is a real hot issue. He received a lot of emails. He guesses Mr. Beach is somewhat like Jesus to a certain degree - he is extremely hated or he is extremely loved. But the phone calls have been coming quite a bit. There have been some people in support and some against what is being proposed. But what he would advise Mr. Beach to do, given the input the Commissioners have given, in order to get a consensus, perhaps he needs to take into consideration what has been expressed by all of the Commissioners and maybe come back with a second proposal, and not expect them to take action tonight. Make it amendable that perhaps they can buy into what he proposes in terms of an early retirement, maybe not with these figures, but certainly something that the whole Commission could buy into to a certain degree. It is a lot to digest for him tonight, it is a lot of information. He has several questions of their Finance Director, he has several questions of Mr. Beach, and some other individuals. But he wouldn't be in a position tonight to take action. But by the same token, it is an issue he thinks they need to address. He is glad to hear that the Mayor has pointed out to them that this is something he prompted; and it wasn't something from Mr. Beach, that he was discouraged with what was going on within the City. He feels a lot more comfortable knowing that. They are going to continue to thrive. They are going to continue to do a lot of positive things in their City. He looks forward to being a part of it, that is why he ran for public office. If this is something that is going to be a caveat to the City, then it certainly needs to be addressed in terms of his leaving. But from what he is hearing, it is not. Again, it is something he would like to revisit. He is not prepared to take any action tonight on the issue, but he would like to revisit with all things taken into consideration of his colleagues, and perhaps they can come up with something that they could live with.

Commissioner Becht said it appears that is what is going to happen, they are not going to be able to take action on it tonight. He doesn't want this thing languishing. The worst thing that could happen in the City is not knowing who is going to be in charge, so they need to

get it resolved. He strongly recommends they make a decision at the next meeting - up, down, or just be done with it. Mr. Beach needs to know if he is staying or not staying. They just need to get out of this negotiation mode is what they need to do. Since they are not going to be able to take action on it tonight, because he is not feeling there is a consensus, then he would like for Mr. Schwerer and Ms. Johnson to get together and agree on the application of the existing contract should they pull the hypothetical 12 month trigger. They are not in that setting, but that is how he was weighing what they were doing. He has to tell Ms. Johnson, he disagrees with her. He thinks she has accurately reflected the cost of the buyout and he thinks it is consistent with the contract. He thinks they are going to have to pay, as he reads the contract, everything that is listed clearly. The only questionable areas would be the vehicle lease, the memberships, and the annual physical, and he thinks there is probably an argument that they would have to pay that. All that being said, he really doesn't want to prolong this. They need to have a clear direction to staff and to their citizens about who is on first and who is on second.

Commissioner Coke said when she is looking at severance, it says annual base salary, life insurance, medical insurance, accrued sick leave, and vacation time. That is why she is not in a position to move forward, because she had read that and in her mind they were going with \$134,000, the \$11,000, the \$580, and the applicable taxes. She didn't see in the severance package where it said they would pay for benefits. If they could show her that, she would appreciate it.

Commissioner Becht said the only thing he doesn't see in there... The retirement, to his way of thinking, is implied; because he doesn't think they can pay him an annual base salary and not pay the retirement. But that is why he wants Rob Schwerer and Gloria Johnson to sit down together, because he is not going to make that legal decision. But he thinks it is probably implied. He thinks everything is captured by the language, but he doesn't need to think about it because he is not paid to be a lawyer up here. Mr. Schwerer and Ms. Johnson can figure it out and they can come back and tell them what the cost of that trigger is.

Commissioner Coke said he is right. Her question with the retirement is, they never pay an employee the retirement, because the retirement pay goes into the retirement system. So if they are paying the salary, the retirement pay should go to the retirement system.

Commissioner Becht said he is not going to argue with her. He is going to let staff come back. Those two can figure it out and come back and tell them what that triggers. Mr. Beach may tell them it really doesn't matter because this is how it works for him and his family. And if it doesn't work for three Commissioners, then he is happy to ride out three years and then get off the horse.

City Manager Beach said he is reluctant to bring it back. This level of scrutiny and this level of detail and this level of discussion about his income and his retirement is incredibly uncomfortable. He thinks the facts are in front of them. He will have to give it some thought as to whether he brings it back at the next meeting or not.

Commissioner Coke said she knows it certainly is not his fault, but had she gotten the layout early enough that she could have recognized what her questions were, she would have had that opportunity earlier and she is sorry she didn't.

City Manager Beach said not a problem.

Mayor Benton said they will be waiting to hear from Mr. Beach. If there is more to discuss on this, he can maybe set an appointment up with each one of them, and they will take it from there.

The next item on the Agenda was Chief of Police presentation concerning the adoption of an ordinance that enhances Residency Restrictions for **Sexual Offenders**.

Mayor Benton said the City of Port St. Lucie passed a resolution supporting a St. Lucie County countywide ordinance, for the record.

Chief of Police Sean Baldwin said at the last Commission meeting, they asked him to conduct some research and put some thought into the possibility of adopting an ordinance that would provide some additional protection to their children from convicted sexual offenders. He has done that and forwarded a package to them. He hopes they had the opportunity to look through that. He will take a couple of minutes to just go over this and then answer any questions they have. The Florida Statute already provides for a barrier for their children. It restricts some sexual offenders, but not all sexual offenders, from living within 1,000 feet of any school, daycare center, park, or playground. It only applies to offenders who are convicted of very specific crimes - sexual battery, lewd or lascivious offenses, sexual performance by a child, or selling or buying minors. The victim has to be 16 years of age or younger or it doesn't apply. And the offense has to have occurred after October 1, 2004. They looked at some ordinances around the State, he gave them some examples of what some municipalities and counties are doing around the State. Some of them mirror the Florida Statute almost identically and others get very broad in that they restrict 2,500 feet from bus stops and any place where a child may gather, or churches was another one. Some of them are very broad. Just in the little research he did, it appears that those are being challenged to great extent at this point. Two or three are being challenged, and one was successfully challenged and some reductions were made. That brings him to the discussion about the County ordinance. The County ordinance essentially mirrors the Florida Statute except it adds some restrictions. The qualifying offenses are the same as the State Statute. The victim age is expanded to less than 18 years of age. So in the State Statute, the victim is less than 16. The County's ordinance, less than 18 years of age. The distance has increased from 1,000 feet in the Florida Statute to 2,500 feet in the County's ordinance. This is a draft of that ordinance, it hasn't been adopted. The locations are essentially the same. The County ordinance spells out public or private elementary, middle, or secondary school, where the State Statute just says school. The County Ordinance says park, the State Statute includes playground, he thinks they are the same, or a licensed child care facility. His understanding is that draft ordinance is going to be presented to the Board of County Commissioners for consideration later this month. His Staff did a map to show what impact these ordinances might have. If they look on this map with the dots, the darker the orange color, that shows them the impact of the existing Florida State Statute. The light green shade shows them the expanded impact of 2,500 feet. They can see the places in purple and the blue are in the City limits. There are some places within the City limits that are not covered, but most of the City is covered at 2,500 feet.

Commissioner Coke asked if they just put a church or a playground in those areas, they are good?

Chief Baldwin said he will let her define what good is. If they put a church or a playground in those areas, they will not have sexual offenders living in there.

Commissioner Alexander asked did he say the darker areas are 1,000 feet and the lighter areas are 2,500 feet?

Chief Baldwin said yes, that is correct. The County provided a map to them which was essentially the same. They came up with the same results as the County did in their study. If the Commission is considering action on this, he is going to make a suggestion and he is going to ask Mr. Schwerer to nod his head if this is okay. The City of Port St. Lucie just considered this issue and on July 28th adopted a resolution that encouraged the County to

adopt this ordinance and apply it countywide, not just in the unincorporated parts of the County, but countywide. If they decided to do the same thing, it would mean they would not have to adopt a separate ordinance, they would simply enforce the ordinance that was put in place by the County. His suggestion is, if they are going to consider this ordinance, that they do just that. If they were to do that, they would simply need to pass a resolution and pass that on to the County and let them handle it.

Commissioner Alexander said he is looking at South Hutchinson Island. Is the Chief telling them, from what he is looking at, there cannot be any sexual predators on the beach?

Mayor Benton said except for Harbour Isle.

Chief Baldwin said if they look at the area around Harbour Isle and some other areas there and in the very southern portion of the City limits on Hutchinson Island. That is because of licensed day cares that are present.

Commissioner Alexander asked they have no numbers of sexual predators or sexual offenders? They have none living on the beach now?

Mayor Benton said yes, they have them.

Chief Baldwin said remember, this does not apply to all sexual predators and all sexual offenders. He can describe the difference between a predator and an offender. But for the purpose of this discussion, a sexual offender is not defined the same way as the State has. A sexual offender in this ordinance is defined as somebody who has committed a sexual battery, lewd or lascivious offense, etc. against a victim less than 18 years of age. So they may have somebody who is classified as a sexual offender by the State, but will not fall under the exclusion from this ordinance.

Commissioner Alexander asked but they will be listed?

Chief Baldwin said they are listed with the State, yes absolutely. He also wants them to understand there are some additional sanctions that are placed against sexual offenders and predators who are on probation or on some type of community control; but those sanctions fall off as soon as those people complete their sentence. He believes the reason why the State Statute at 1,000 feet was passed initially... There was quite a bit of legislation introduced last year. One of the bills suggested that they just do away with all city ordinances and the State would take control over this issue just like they have with firearms. The discussion was about a 1,500 foot distance and some exclusions, like a 300 foot no loitering or prowling from areas where children congregate. Some of this gets extremely complicated.

Commissioner Coke asked if the County were to pass this and the City was to be in support of it, is she correct in the assumption that they cannot require that anybody who is residing in these zones to move? They can't move into the zone after they pass this?

Chief Baldwin said most of the ordinances he looked at only applied to residents who would move in after the ordinance was in place.

Commissioner Coke said everything says under 18 years of age. So actually they are protecting everyone who is 17 years and down? But the convicted rapist of a 21 year old woman, he can live wherever he wants?

Chief Baldwin said yes, he thinks she is correct. According to both Florida Statute and this ordinance, somebody who has committed a sexual offense against someone older than 18 years of age would not be covered.

Commissioner Coke said when the Chief says under 18 years of age, she is assuming that means 17 years old.

Chief Baldwin said correct.

Commissioner Coke said since legal age is 21, they should have statewide ordinances that say 21 or under. Because there are 18 and 19 year olds who are still in high school.

Commissioner Alexander said in school period, like college.

Mayor Benton said while he is looking close at this map, for folks at Harbour Isle, aren't they rebuilding a beach across the street which is a City park? So there needs to be another circle there. The folks in Harbour Isle are in luck if the County passes this.

Chief Baldwin said he is correct about that.

Commissioner Coke asked do they have a copy of the resolution from Port St. Lucie that they can just cross out their name and put in the City of Fort Pierce and present it rapidly to this Commission?

Chief Baldwin said he does have copies right here of the resolution that Port St. Lucie adopted.

Commissioner Coke said she would like it on their next Agenda.

Mayor Benton said he would agree.

Commissioner Becht said following the recommendation, so long as Mr. Schwerer doesn't have a problem with letting the County adopt a countywide ordinance that he can enforce, that would be his wish that they follow Port St. Lucie's lead with letting it be a uniform countywide ordinance.

Commissioner Coke said it was Mr. Schwerer's suggestion at the last meeting.

Mayor Benton said it appears that everyone is agreeable to have a resolution similar to Port St. Lucie's in front of them, endorsing the County's ordinance and asking the County to move forward. They have direction now, they can get this at the next meeting.

Chief Baldwin asked is Ms. Steele going to draft the resolution?

City Clerk Steele said she will take this and fix it up for them.

The next item was the Consent Agenda. Mayor Benton asked does any Commissioner wish to remove an item? (No items were removed.)

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

a. Approve travel and attendance by Commissioner Alexander and Commissioner Sessions to the **Florida League of Cities** Annual Conference on August 14-15, 2008 in Tampa; and authorize appropriation of funds for travel expenses.

b. Approve contribution of \$5,000 from the Police Department Law Enforcement Trust Fund to the **Police Athletic League** (PAL) to support crime prevention and education programs.

c. Award contract for GIS Consulting Technical Services to Geographic Technologies Group (GTG) in the amount of \$72,000.

Commissioner Coke asked does anybody know when they are going to have an update on how their meetings with the **Utilities Authority** are going about some consolidation of departments?

City Manager Beach said they have a meeting scheduled early in August to start that discussion with the Utilities Authority. They have not set dates. The way that will probably occur is the initial meeting will take place between a few of the top management Staff. Once they set some parameters, they will start bringing in other members of Staff from both of the agencies to try to work through some of the issues. They should be able to get a response back within 60 to 90 days, once they start their meetings.

Commissioner Coke said she had talked months ago about starting a pilot **recycle program** down at the Farmer's Market. Can they get a report on that?

City Manager Beach said he thinks they sent something in writing after the last meeting, but he will get out another one.

Commissioner Coke said she didn't get it.

Commissioner Coke said for those who don't have the pleasure of sitting on the Retirement Board, they had many months ago an incident. To clarify for the record, the woman did not apply for benefits and she was not denied; however, she did show up with her attorney anticipating problems because her husband had passed away as a Police Officer, but he was not in the line of duty and she wanted duty disability benefits, which she was entitled to under the Florida Statute. The requirement was that there be a pre-employment physical. She is bringing this up because the Retirement Board spent 8 or 10 hours hearing this case. The woman got her benefits. They would have given them to her anyway except for the fact that the big snafu in all of this was, no one had a copy of this pre-employment physical. As the case progressed, they found there are 17 or 18 officers who would also be entitled to this benefit who do not have pre-employment physicals that they can find. She is not saying they didn't have them, but staff can't find them - the Police Department doesn't have them, the Human Resources Department doesn't have them. When the Retirement Board decided to go ahead and grant this woman these benefits, they asked that something come to this Commission to say they need to change how they are saving these records, storing these records, getting them off-site, having a checklist, so these people who are required to have that pre-employment physical. If they don't... One of their Captains doesn't. He knows they don't have it, but his doctor is right over there on South Beach. She asked if he has gone and gotten a copy in case there is ever a question. So she thinks some place along the line they need to get a tighter rein on that type of thing for the retirement system to protect their employees.

Commissioner Alexander said he remembers an employee who was a Department Head who didn't have a physical and he ended up having triple by-pass and the City had to pay that, right? Why is it they hire a person without a physical?

City Manager Beach said he is accurate about this Department Head having a triple bypass. He doesn't know if it is accurate that he never had a physical.

Commissioner Alexander said he did his contract, he sent it to HR.

City Manager Beach said one of the procedures they require of all new employees is a pre-employment physical. If this person did not have a pre-employment physical, that would be outside the scope of what their requirements are. Human Resources will not sign off on

paperwork until they go through drug testing, a physical, and so on. But understand, the physical is very cursory. They go in the doctor's office and he taps them on the back a couple of times and listens to their lungs and that is the end of it. He suspects it wouldn't detect a serious health problem.

Commissioner Alexander said he is not picking at Mr. Beach, but he just saw where he had an annual \$1,500 physical every year. Surely they would detect if he had something.

City Manager Beach said yes. That annual physical is designed to have him live long enough to retire. Yes, that is a detailed physical.

Commissioner Alexander said they are talking about their front line, people who are out there in front of all their safety and well being. And they don't have...?

Commissioner Coke said the employee had their physical, staff just lost it.

Commissioner Alexander said it goes through the cracks somewhere. Why is it not at this day and age of technology they can have just one disk for all the employees? What is he suggesting?

City Manager Beach said he would suggest that there is no reason that they should not have those physicals in their files. For them not to exist in the Police Department and not to exist in Human Resources is indicative of a serious problem.

Commissioner Coke said that is why she brought it up tonight. Because truthfully, their Risk Manager did his job very well. He said no, they should not pay these, because there was no pre-employment physical. And the finding of the Board finally was that if there was none, it was the City's fault. If there was one and they lost it, it was their fault. So they are going to pay it. But she is telling them, they brought in a whole slew of police officers who had their physicals and nobody can find them.

Commissioner Alexander said also that particular officer had the same physical the same day as two or three other hires, so that is proof in the pudding that someone is not lying about something.

Commissioner Becht said it is nice to be back. Colleen and the family visited some nice places. They came back Saturday and drove over the Citrus Avenue Overpass and saw the Indian River. It was a clear day - they could see the grass beds, they could see the boats on the river. This is a beautiful place to live and he is very happy to be back here. Sunday they were running across South Bridge and they saw five manatees that were in the water. It was so clear they could see them from the top of the bridge. So they really do have a very beautiful place they need to enjoy here. While they were away they got email correspondence concerning the **Sunrise Theatre** and the tremendous ticket sales they had. He would ask anybody who hasn't done so to check the schedule, because it is a very diverse schedule with a lot of things that should be of interest to everybody in the community.

Commissioner Alexander said he should have called in and found out this information, but he remembers communications about Hibiscus Park and their drainage with severe problems over there in that area. He thought they as a Commission took Hibiscus Park as a special interest because they haven't spent money in that area. His concern is, why they are coming up the day before hurricane season or rainy season and have those individuals in peril? He doesn't know what they passed about that area to put money in that area. They didn't do the drainage? No one has communication about Hibiscus Park?

City Manager Beach said the Commission authorized about a \$350,000 design contract and that design is underway as they speak.

Ms. Tracy Telle, Assistant City Engineer, said she believes that the 90% complete drawings have been submitted to their office.

City Manager Beach asked does that include drainage work?

Ms. Telle said drainage work also.

City Manager Beach said let them get him a written report on the status of that.

Commissioner Alexander said he thinks they should respond to that resident or constituent in that community. Is he the only one that remembers? He thought it was addressed to Mr. Beach.

City Manager Beach said it could be in his in-basket.

Mr. Bob Hood, Director of Public Works, said he believes Commissioner Alexander is referring to a letter that was written to him and the Commissioners by Agnes Brooks. That is not Hibiscus Park, that is another area of town (**Pinecrest Estates**). Hibiscus Avenue is what he is referring to. That also is being looked at, but it is a different area.

Mayor Benton said also they have some problems over there in Oakland Park. They thought they had straightened it out since the rebuilding of 7th Street, but they found out they still have a problem there. He thinks it was Beach Court. Also they had another one down on Indian River Drive where they always had problems before in front of the Harbor Federal building. Mr. Hood was telling him that when they put the armor along the Indian River out there, they covered up the pipe. So they have now uncovered that pipe and it should be working. Hopefully that will relieve that problem, because he couldn't even get through it with a 4-wheel drive, it was that bad.

Commissioner Alexander said one other announcement he wants to make concerning **Sheraton Plaza** annexation. They have a meeting coming up on Wednesday, August 6th at 6:00 p.m. here in City Hall. He just wanted to make sure they made that announcement because he thinks they almost got what they were asking for. He got there late, but still there were enough. He thinks they ran the Chief away from there, did they not?

Chief Baldwin said no, he thinks they were looking for Commissioner Alexander and Commissioner Sessions.

Commissioner Alexander said there was a lack of communication. He got a memo in his package reminding him about a meeting. He was there, but it was after everybody else. So they extended the deadline. He just wanted to make sure the community is aware of that date for another meeting. He doesn't think it just needs to be Commissioner Sessions and him. It is going to take three votes to make that possible.

Mayor Benton said they won't see the Mayor there because Mayor Enns went to Orange Blossom Estates, where he grew up with a lot of friends, and it wasn't pleasant.

Commissioner Alexander said they would be surprised about the people who want that communication with the City of Fort Pierce.

City Manager Beach said they will have Staff here Wednesday night for that meeting.

Mayor Benton said some people just have a problem with more government; and he sure is not going to push it on somebody if they don't want it.

Commissioner Alexander said he would be surprised about the ones who do want it.

Mayor Benton said he wanted to let everybody know there was a workshop with the County so the County could listen to how a **health clinic** has been working in Port St. Lucie, because the County is looking to move forward with it. He believes they got the go-ahead to look really close at the numbers and maybe go out for an RFP. During that, folks from Fort Pierce Utilities Authority and the City of Fort Pierce staff were there. Mazella Smith and David Recor was there. It sounds like a great way to save money and give their employees a better health program. It could be very close to City Hall possibly. Because if they add the U.A. and the City and the School Board and the Fire District, they will have the amount of numbers that would really bring the cost down. The County is looking at opening their first clinic in the old Sam's building on South U.S. #1. When the numbers come, they will see them. But if they need it, the City has 30,000 square feet in the parking garage where they could probably put a small clinic in. The good thing about this is employees don't miss a day or half a day. They set a time up and they are allotted a 20 minute time with that doctor. They are right there. There is no wait. Prescriptions are taken care of, he thinks 150 prescriptions. So it really saves. Port St. Lucie has saved that much money and the County is talking about a savings over three years. He thought the number was \$7 million?

Mr. David Recor, Deputy City Manager, said yes.

Mayor Benton said he told them Fort Pierce was much interested in hearing more about that and partnering with them. So hopefully they will get some details.

Commissioner Alexander said maybe they can follow the Fire District. They have their own doctor who does physicals. It is just a suggestion, because obviously it worked.

There being no further business, Mayor Benton declared the meeting adjourned at 9:45 p.m.

Adjournment.

ATTEST:

CITY CLERK

MAYOR COMMISSIONER