

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 18, 2008.

Mayor Benton called the meeting to order.

Reverend Robert Coleman, Goodwill Presbyterian Church, gave the invocation.

The Pledge of Allegiance was recited.

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

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The next item on the Agenda was Approval of Minutes of the Regular Meeting on August 4, 2008.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve the Minutes of the Regular Meeting on August 4, 2008.

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

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**Mr. Michael Wood**, 18516 Ocean Mist Drive, Boca Raton, Florida, said he wanted to take this opportunity to introduce one of their newest team members for the Coral Square project, Tom Barlow. Mr. Barlow was the Chief Lobbyist for FPL for 23 years. He is trying to help them out with the New Market Tax Credit (NMTC) Program. Florida has not received its fair share of new market tax credits. \$16 billion was awarded from the Federal Government and Florida has received about \$15 million. That is less than 1/10th of 1%. Mr. Barlow has worked to help them call attention to that deficit. He has a letter here that has been sent to Henry Paulson, Secretary of the Treasury. Mr. Barlow worked with both the Democrat and Republican Congressional and Senatorial staffs to draw attention to it. The importance of that is, there is a \$125 million New Market Tax Credit application pending by Treasure Coast Regional Planning Council for projects to benefit, including the Coral Square Project.

**Mr. Tom Barlow**, 4751 Via Palm Lakes, West Palm Beach, Florida, said he really doesn't have much to add to what Mr. Wood said, except that the Florida Delegation is squarely behind this program and is indignant over the fact that Florida hasn't received equitable treatment under the new Market Tax Credit Program. That was to benefit the whole country and Florida has not received its fair share.

**Mr. Richard Wilson**, 1611 Surfside Drive, said he is here to talk about Mr. Beach's buyout. Mr. Beach has a contract now which is very generous. Mr. Beach hasn't earned any more than he has in place now. He has talked with some other City residents of Fort Pierce and they say Mr. Beach should get his current contract and nothing more. It is Mr. Beach who characterizes this incentive as early retirement. It is Mr. Beach who has declared that he deserves an incentive. What would the meaning of any contract with the City of Fort Pierce be if the Commission gives Mr. Beach his request just because he has the nerve to ask for it? Mr. Bergalis, one of the finest long-term City employees, and others have worked for 30-plus years, earned their 30 years, and did not ask for any incentive. Mr. Beach has worked 13 years, the past 3 years with the Deputy City Manager in position to help him coast to retirement. What about the Deputy City Manager? He started in mid-2005, in 2006 he requested and obtained a unanimous Commission approval for an across the board 11% salary raise for every City Hall employee. The 11% increase, along with the benefits that go along with the salary, has caused the City budget to balloon. Mr. Recor has shown his disregard for citizens by shredding documents to cover some personnel proceeding. There are also missing documents for the Harbour Isle waste situation. Some residents of Fort Pierce wonder why he is still here in any position? Why should the

Commission or citizens of Fort Pierce have any confidence in him running the City? He thinks the best thing to do is to terminate their contracts and let's get a fresh start.

**Ms. Carole Mushier**, President of South Beach Association, said she wishes to comment tonight on Agenda Items #19 and #20, the Citizens Parks Advisory Committee and Lisa's Kayak, Inc. to operate a kayak and bicycle rental business at South Causeway Park and the Manatee Center parking lot. As she understands from the last Commission meeting, the Citizen's Advisory Committee was to be charged with the task of studying the issues of vendors and parking in all City Parks and come back to the Commission with recommendations. Each Commissioner was to submit two names for the Committee with limited input from outside agencies. It was not to be a cast of thousands where nothing gets done because they can't assemble the people. Plus as groups get larger, each person feels their role diminish, resulting in absentees and delays. They had hoped they would have scheduled their first meeting by now. But on August 13th she was told some Commissioners had not even submitted names. This is a task force that should take six to eight weeks at the most to complete their task, not six to eight months as so many things do. With that in mind, they suggest that the Commission postpone any discussion on any vendors in any parks until the committee reports and guidelines are in place. Commissioner Coke has said not to let the tail wag the dog. She prefers not to put the cart before the horse. If the Commission feels obligated to consider the request for a three-month trial period for Lisa's Kayaks, then they respectfully suggest that South Causeway beach area be off the table until all renovations are complete. There are all sorts of heavy equipment and trucks at work across the area while trying to have some limited areas available for beachgoers. The new pavilions and bathrooms have yet to be installed, the old pavilions removed, the parking areas defined, and the pier over the overflow pipe installed. She doubts that the workers need one more thing going on out there. Someone has suggested that the Little Jim Bridge area would be a possibility - calm waters, lots of places to explore - and she believes the City owns the property and leases it out for commercial purposes. It sounds like a potential winner. Please remember if they plan to piggyback the County lease for any of the City parks, that the County lease is for kayaks only, no bicycles. Her Board and residents who they have canvassed remain of two minds regarding vendors in the beach parks. Even those in favor recognize the need for controls in place with the problems of parking and potential commercialization of public property.

**Ms. Arden Peck**, South Beach Association, Chairman of Beach & Parks Committee, said she was prepared as a private citizen to speak on Lisa's Kayaks, Inc. being allowed to set up in Jaycee Park on a daily basis. She killed two trees and went through two blue ink cartridges only to find out that the request was withdrawn. They have lots of beautiful blue sky pictures of that park. So much for early preparation. She would however like to further comment on the two remaining parks. They would all like to resolve this matter, but they need to do it judiciously. Causeway Park will be transformed into a new park, one which will go from chaos to structure. She submits that the behaviors of its visitors will change for the better also. The park should be allowed to complete its renovations and have a couple of months to shake down, get the kinks out, see where visitors are gathering, how the greatly reduced parking is working, and whether or not added restrictions are needed as to where boats can anchor, personal water craft can congregate and safely do their thing, and where folks can fish. She has already seen boats anchored, fishermen, and PWCs in that area. If they are allowed to continue using the beach area in this random fashion and if they allow Lisa's Kayaks, Inc. to set up in the middle of the beach, the health and safety of the beachgoers will be greatly compromised. As with Jaycee Park, there is no lifeguard. As to the Manatee Center, it too is crowded on the weekends. The Saturday she was there, there were only two spots left for vehicles and only one left for vehicles with trailers. As much as they might like to have kayak and bicycle rentals in their parks, they need to have the foundation laid, all their ducks in a row, all necessary governmental procedures in place, and the input from the Citizens Parks Advisory Committee before allowing any vendor, no matter how beneficial the product is, to set up in their City parks. If they do, then the tail is wagging the dog, they will always be playing catch up, and it will most definitely have a demeaning effect on the power of the appointed Citizens Parks Advisory

Committee. Lisa's Kayaks, Inc. current City Occupational License allows her to drop off, launch, and pick up at three City launch sites. Her current County lease allows her to operate daily from five County sites. She asks the Commission to continue with the City's current agreement until all renovations and restrictions have been satisfied in the Causeway Park, that all procedural steps are in place for both parks, and that there is input from the Citizen's Parks Advisory Committee.

**Mr. Richard Sinnott**, 1025 Jamaica Avenue, said he is here as a private citizen. First he wanted to tell the Commission, just in case they don't know, they have a fine public servant in Mr. Bob Frank over there in the Engineering Office. Mr. Frank is always very helpful when he calls in complaining about red lights and such as that. A real good guy, always calls him back, courteous, gets right to the point, gets it done. But what he is here to talk about is the proposed red light cameras he has read about in the newspaper. All he knows is what he has read in the newspaper. Just the other day the Tribune said that because of these Amendment #1 cutbacks in budgets, that 76% of the cutbacks will be in the Public Works Department. The story cited pothole repairs will probably be deferred because of these budget cutbacks. Bob Hood with the City says the quality and level of service will drop. At the same time they are talking about buying - according to the newspaper - something over \$1 million. If that is a typical estimate, it will come in at \$2 million or \$3 million before it is done for these cameras at red lights to record who goes through the red lights.

Mayor Benton said the cameras are free. That is with the proposal this group (Redspeed USA) has made. They would have to go out for proposals. But this would be no cost to the City. They would work with them where the cameras would go and they would split the cost of the tickets they would be issuing, which don't go against a license, with zero cost to the City. Don't believe the Tribune.

Mr. Sinnott said good. The other rumor was that in fact revenue from the tickets will be somehow split with this company. So the story that it was going to cost \$1 million plus to get in is inaccurate? The cameras are going to be free and the company is contributing this to the public good?

Mayor Benton said they would be splitting the cost with them.

Mr. Sinnott said okay, it is good to know that it is not going to cost the City a penny to do this. What about this little problem? Some cities and counties and whatnot have had this in place for more than 10 years. In fact, in San Diego a court has ruled against it and in Oregon a court has ruled against it. Because one of the problems is it takes a picture apparently of the tag of the car going away. Is that correct?

Mayor Benton said that is right.

Mr. Sinnott said so it doesn't get the driver. So what has happened, parents have loaned their children cars, loaned a friend a car. That person goes through and gets one of these tickets; and then the registered owner of the car has to go fight the system to the tune of \$600 or \$700 or whatever an attorney is going for these days, more than that for sure, to fight it. The question is due process. That is where the court ruled against it, on due process. The other thing that some folks are worried about is mission creep. He doesn't see that as being a factor in this particular case. But it seems to him that the argument is kind of weak, if the idea is that it is going to deter people from running red lights, then it seems to him they should have it at every single intersection there is including stop signs. But he would also suggest that the average driver doesn't know if his picture is being taken or not. He doesn't even know there is a car in front of him or behind him unfortunately. So as a deterrent, he thinks that is a specious argument. And if it is going to be that it makes investigations easier, that could be that it would make an investigation easier. But in the meantime if people end up with these tickets and the City of Fort Pierce and Lockheed Martin or Red Light, Inc. or whoever it is that does it, if they want to pay it, that is basically a

fundamental injustice for the people who are caught up unjustly. So the News Tribune needs to get squared away on this money thing, doesn't it? But they all should think about this. They already have cameras up and down at numerous intersections which are for traffic purposes like Bob Frank has explained to him. So he hopes they all think about it. However much money they spend, if they don't spend anything now, there has got to be money involved or it wouldn't be happening.

Mayor Benton said they are just going to be looking at it. There will probably be public hearings he is sure before they were to approve or not approve it. But it is their way of taking a look at something that works, maybe making the roads a little bit safer, and especially it sort of got their attention when it was free. Those days are coming.

Mr. Sinnott said the question should always be kept in mind, does it really work? In other words, what is the goal? Does it accomplish that goal?

Mayor Benton said for him it is making roads safer, because at a time when too many people are riding around talking on their cell phone...

Mr. Sinnott said wishful thinking. They are talking on the cell phone and they say three intersections down there is a camera, so they better not run that light. He doesn't think they are that far yet.

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The next item on the Agenda was Public Hearing on Application for **Conditional Use** submitted by Mike Kessler and Jay Kirschner to convert a single family residence into a professional use - **Kessler Law Office at 420 North 2nd Street**; said property zoned R-5, High Density Residential Zone.

Mr. Duane Yazzie, Development Review Planner, said following the procedures outlined in Section 22-76 of the City Code, the applicant is requesting a Conditional Use approval for the building located at 420 North 2nd Street to be converted from a residential dwelling to a law office. The property is approximately .17 acres. The zoning is R-5, High Density Residential. To the north, the zoning is R-5, as well as to the east and the south. To the west is zoned R-4, Medium Density Residential. This slide represents the Edgartown Historic District, which is one of six historic districts located in Fort Pierce. The red markers indicate which properties are contributing buildings within this district. 420 North 2nd Street is in fact one of the contributing buildings. The significance factor from the Florida Master Site file indicates the year of construction coincided with significant events such as the Florida Land Boom, which ended in the late 1920's. Because of the building's historic nature, this property went before the Historic Preservation Board on May 21, 2008. The Board voted to delegate authority to the Historic Preservation Officer to review and grant a Certificate of Appropriateness for renovations necessary for adaptive commercial reuse, which is an alternative action for revitalizing historic properties. From the aerial they can see the property and its orientation within Edgartown Historic District. The Historic Preservation Officer and the applicant agreed on minimal improvements to keep the historic integrity as well as accommodate current renovations for the conversion to a commercial use. These improvements are: The front porch will be closed in with windows with the theme of existing windows along the entrance; an ADA compliant ramp will be installed; and pavers will be removed along the hedges; additional pavers are being added to facilitate additional parking and greater access to the rear entrance; and a private staircase will also be reconstructed for a private entrance to comply with the Florida Building Code requirements. On August 18, 2008, 60 notifications to property owners within 500 feet went out. As of today, 24 were received. Out of those 24 - 21 approved, 0 opposed, 3 had no responses. All affected departments have reviewed the proposed Conditional Use and have approved it based on it meeting requirements of the City Code. At their July 8, 2008, Planning Board meeting, the Board voted unanimously to recommend approval of the Conditional Use. As the proposed Conditional Use meets the requirements of the City Code, Staff recommends approval of the Conditional Use.

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

**Mr. Michael Menard**, Cook & Menard Architecture, Inc., said they are the company working on this project. They are converting the home into a functional law office with minimal impact, which they think will be a great asset to the north portion of 2nd Street. It is the third house down from the Backus House, which has had extensive renovations just completed. They would like to enhance the neighborhood by fixing this one up as well. The Historic Preservation Board approved their enclosures which they are doing to match the exact front. They had the Pittsburgh Paints Color Designer from Cleveland, Ohio, come down and select colors for it. So they are trying to do it top-notch. It is for a local lawyer who has been here for 20 years.

Mayor Benton said great, he thinks they are going to do an excellent job. Keep up the good work. Mr. Mennard has a track record second to none.

Commissioner Becht asked who owns the property today?

Mr. Menard said Mike Kessler and a couple of partners.

Commissioner Becht said the tax records show a different attorney and Mr. Kirschner owning it. The application was in the name of Mr. Kessler. He is happy Mr. Kessler is finding a home. He was just curious as to who owns it.

Mr. Menard said Mr. Kessler and two other partners.

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

Motion was made by Commissioner Coke, seconded by Commissioner Sessions, to approve the Conditional Use submitted by Mike Kessler and Jay Kirschner to convert a single family residence into a professional use - Kessler Law Office at 420 North 2nd Street.

Commissioner Alexander asked who approved the pavers for this parking area? Did that come through the Planning Board?

Mr. David Carlin, Development Review Planner, said the City Engineering Department has approved additional brick pavers as well as the Historic Preservation Officer.

Commissioner Alexander said he might be out of place, but he has to say something, because they just denied another property owner to do pavers. The Planning Department never got back to him with the answer to that, but he won't hold it against them.

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

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Ordinance No. L-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 second and final reading and read by title only.

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

Commissioner Coke asked can Chief Baldwin tell her if they have made any progress in reviewing their recordkeeping for the existing officers, ensuring that everything they should have as far as pre-employment physicals is either in place, or they are trying to obtain them for those that are missing?

Chief of Police Sean Baldwin said as they are aware, there are a few medical exams that are missing. In some of those cases he doesn't know if they will ever be able to restore those records because of how old they are, some of them are 20 some years old. However, Lt. Christopher Bender in their Office of Professional Standards went through a very deliberate process to notify all of the officers where the records may be missing or that they needed to take steps to secure those records. He also went through the process of notifying every one of their employees that they needed to secure a copy of their medical exam, the ones that are in the file, for themselves because they may need it at a later time. They also conducted a staff inspection and audit of all of their records to identify any problems they may have. Since then they have implemented new policies that will ensure that it doesn't happen in the future. He thinks they have done everything they can do in order to avoid this.

Commissioner Coke said she appreciates that. The only point she would like to make, when they talk about having contacted the employees and told them they were missing something that they needed to get it, she hates to tell him she doesn't think it is the employee's job to have kept track of the records. At some place along the line they either did not collect them properly or store them properly, so she thinks the effort should be made by them to contact the physicians whenever possible to obtain those records to bring the employee's records up to date, so they don't have any more 8 to 12 hour Retirement Board hearings because they are missing a piece of paper.

Chief Baldwin said they have done everything they possibly could to recover any records they were missing. Unfortunately, some of these medical offices just don't exist any more. There are a few instances where the records just don't exist.

Commissioner Alexander asked a person could not be hired if he didn't have that, right?

Chief Baldwin said he can't tell him for sure 30 years ago. But he can tell him in the last 25 years there is no way that a police officer could have been hired and brought on the Police Department without a medical exam for two reasons: one is the City requires it and second is the Florida Department of Law Enforcement requires it. Even in the cases where a medical exam record was missing, they have a document that shows the medical exam was completed and signed off on.

Commissioner Alexander asked why can't they have some type of document in those folders stipulating that it was done?

Chief Baldwin said that is what they do. Unfortunately, that was quite the level of proof the Retirement Board needed to see in this case. He is glad it was able to be worked out.

Commissioner Alexander asked maybe it can come from the Mayor's office?

Mayor Benton said the Mayor can't make those rulings.

Commissioner Alexander asked why did they bring it before them if they can't make any ruling? Maybe Mr. Schwerer can answer that question. Something can go in that file stipulating that, right?

Chief Baldwin said the Chief of Police can provide documentation and testimony that a medical exam was completed. Unfortunately, they cannot replicate the medical records themselves, which is important in these cases.

Commissioner Coke said as long as they have updated everyone's file where those reports are missing with a sworn statement from Chief Baldwin or the previous Chief. Her concern is that they have those in place while they still have contact with the previous Chief.

Chief Baldwin said he will check into that and see if that is a possibility. Of course, he would have to verify it before he could swear to it. But he will check into that.

Motion was made by Commissioner Becht, seconded by Commissioner Alexander, that Ordinance No. L-34 be passed on second and final reading.

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

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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 second and final reading and read by title only.

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 Becht, that Ordinance No. L-35 be passed on second and final reading.

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

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The next item on the Agenda was William & Linda Nunn request 90-day extension of the Conditional Use granted to construct a Private Dock at 1807 South Indian River Drive.

**Ms. Linda Nunn** said she thought 90 days would be enough. She still doesn't have her building permit. Her builder is running behind because of weather problems.

Mayor Benton asked six months?

Ms. Nunn said it is hurricane season. She is thinking so she doesn't have to come back and bother the Commission, just to be safe. She should be done in 90 days, but she doesn't want to take the chance with hurricane season.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve a six month extension of the Conditional Use granted to William & Linda Nunn construct a Private Dock at 1807 South Indian River Drive.

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

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The next item on the Agenda was Mr. Bill Thiess, Director of Fort Pierce Utilities Authority, to present FPUA Annual Budget for Fiscal Year ending September 30, 2009.

Mr. Bill Thiess, Director of Fort Pierce Utilities Authority, said he has with him tonight Nina Hurtubise, their Director of Finance, and also in the audience is Darrell Drummond, the FPUA Board Chairman. (Mr. Thiess displayed slides during his presentation.) This is a capsule of the budget. On the top line is revenues estimating about a 9% overall reduction in revenues from the Fiscal Year 2008 budget. On the Operations & Maintenance line, from Fiscal Year 2008 to Fiscal Year 2009 budgets was a 4% reduction. The Amended 2008 budget, where they take a more accurate look where it will be at the end of the year, it looks fairly even here; but if they take off the depreciation and purchases for resale, which don't really reflect the operational costs, it is about a 4% reduction. On the Capital end, they are going from about \$48 million in Fiscal Year 2008 down to \$29 million in Fiscal Year 2009. That is about a 40% reduction. Total Revenues, they are looking at about \$131 million for Fiscal Year 2009, about a 9% reduction from the Fiscal Year 2008 budget. The total Operations & Maintenance Expenditures on the bar chart, the blue is purchases for resale and the green is depreciation expense. Overall they are about 4% from Fiscal Year 2008 to Fiscal Year 2009. But if they look below the blue and green bars, excluding purchases for resale and depreciation, and look at the top of the yellow bars, they are fairly flat across there. He thinks they average about 3.5% over four years going across these four years. He thinks that is a pretty good number, considering the cost increase they have had over that same four years. He has a couple of examples. The water and wastewater chemicals and materials used in the treatment processes have gone up almost 100% per year over the last four years. Copper is up almost 400% over the past five years. They have a lot of copper in their overhead and underground electric lines. Aluminum is another material they use as a conductor, it is up 71% over the past three years. PVC pipe has about doubled over the last four or five years. And just about all the steel and concrete

products they use have increased by 50%. So those represent a very large part of their cost on materials. Of course everybody is aware of the increase in fuel cost which affects them also, they have a lot of trucks on the road. So to hold 3.5% across that time period with those inflationary pressures he thinks is doing very well. This slide is another look at Operations & Maintenance expenses. This is split up by utility: Electric in red, Water in blue, Wastewater in green, Gas in yellow, Other in purple, and Electric Purchases for Resale is on top in brown. They put that up there just to kind of let them get a good visual picture of what is really driving the bus here. They have held their costs respectfully low. Over the last 12 years they have had 9% increases in their rates, which is the money they use to conduct their business. That is .75% per year. There is no other product he can think of that has gone up that little in 12 years. On the other hand, when they look at purchases for resale and look at what a large part of it is of the overall cost, that is what is really driving the bus here. From July 2007 to July 2008, due largely to rising natural gas costs, they increased the power cost adjustment \$36.00. They are hoping they get the curve going the other way and can reduce it this fall. But that \$36.00 makes the increases FPUA put on over the 12 years pale in comparison. There is a little bar chart showing the distribution to the City of Fort Pierce from 2004 through 2009. Back in 2007 was the distribution they couldn't make the 6% of gross and they had to calculate it based on the 40% of net revenues and that was at \$4.2 million. In 2008 last year, due largely to interest from income, they were able to make the full distribution based on the 6% of gross. That was right at about \$5 million. This coming year it looks like they are going to go just shy of the 6% figure and go into that 40% calculation, but it doesn't get hit near as hard as back in 2007. So the estimated Fiscal Year 2009 distribution is right at \$4.8 million. The Capital Budget, FY 2008 was \$48 million and FY 2009 was \$29 million, a 40% overall reduction in the budget. This slide shows the breakup of the Capital Budget over the past four years. The budget decrease after the initial cut in their capital budget, they cut another \$7.4 million. They cut everything they possibly could to get down to keep the rate pressure as low as they could as they moved forward. That \$7.4 million is mostly projects that either could be deferred, because the housing development kind of slowed down the growth and they can back off from some of those projects; but they also cut into some of their renewal and replace projects, which they really don't like to do, but they had to cut back on some of that too just to ease the rate pressure. That \$7.4 million was after the initial cut on the budget. They have a lot of the big projects are nearing completion in the Fiscal Year 2008. The Hartman Substation, that was required with the decommissioning of the King Power Plant. They had to beef up the Hartman Substation, a \$6.8 million project. That was a significant project. South A1A is a project they participated with the City, another big project for FPUA, and it is right at \$3 million for Fiscal Year 2008. Harmony Heights MSBU is a big project, but funded largely by the County, it is a \$3.8 million project. They have a small investment in that, a small contribution they made. It was small relatively, but it was he thinks over \$500,000. The last two are projects that are related to the future wastewater plant on Glades Road. The MWRP Deep Injection Wells, they could have held off on those, but two reasons why they did them this year. One was they got a grant from South Florida Water Management District. \$7.9 million is the kind of thing they either use it or they lose it, so they went ahead and used it on the deep injection well. That was a 50% match. So they built those wells with the FMPA contribution for well under 50% of the cost. Also the Force Mains associated with the Mainland (MWRP) Plant, they really need to get moving on those. The Mainland Plant is out there, but it is not far out there. It could go in 2014 to 2017, but they really need to have the plumbing in place. Again, they can get matching funds from South Florida Water Management District, a part of that \$7.9 million, to pay 50%. So they went ahead and moved on as much of that as they could to get that grant money. That is a good investment, even though it is a little early. Major capital projects in Fiscal Year 2009, they do have a couple of sizable projects still. Sunland Gardens MSBU is another good sized project, about the size of Harmony Heights, at \$3.6 million. Again, it is largely funded by the County through the MSBU process with a contribution from the Utilities Authority.

Commissioner Alexander asked when he is speaking of Sunland Gardens and Harmony Heights, what are they doing out there?

Mr. Thiess said those are both water service projects.

Commissioner Alexander asked just water, no sewage?

Mr. Thiess said no. Sewer in that area would be extremely expensive. When they did 26th Street, it was like \$15,000 per lot.

Commissioner Alexander said sewage anywhere is going to be... Isn't that one of the declining areas in the City of Fort Pierce, like on South 26th Street, where they had failure after failure?

Mr. Thiess said they haven't heard a lot of that from the Health Department. He is sure there are some systems that aren't working. But 26th Street got funded he thinks through CDBG money that the City obtained. If it hadn't been, that \$15,000 assessment would have been tough, even if it was financed for 20 years and put on the tax bill. That is something they certainly would like to talk about and they could certainly do it if they could find a way to finance it. At some point in the future, the best thing that could happen is the State mandates it and then backs it up with funding, but he doesn't think that is going to happen any time soon. The other project is South A1A. They are continuing that project this year and spending probably \$2.7 million on that project. So those are their three biggest projects moving ahead in Fiscal Year 2009. They are 100% committed to those projects. Just to give them a general idea of what is pushing a lot of the projects. Regulatory agencies, \$10 million worth of those \$29 million in capital projects are absolutely mandated by some part of the regulatory process, whether it is DEP, EPA, or the organizations that set the rules for electric distribution and transmission. The County is \$4.8 million. The City of Fort Pierce, they have \$1.4 million budgeted in City projects. And FDOT projects at \$3.6 million. Probably 25th Street and U.S. #1 are the biggest part of those projects. So that is \$20 million out of \$29 million. The other \$9 million in the capital budget is primarily projects that serve new growth and renewals and replacements. How will the Capital Budget be funded? \$16.9 million of funding is rates and that is about 58%. The Fort Pierce Redevelopment Agency will continue to fund the A1A project at they estimate about \$1.8 million this Fiscal Year. Capital Improvement Charges at \$3.3 million, that is about 11% of the budget. And the County MSBU process for Sunland Gardens is \$3.3 million, another 11%. Contributions made by developers at \$2.7 million. FEMA at \$781,000 and Grants at \$268,000. They get down to the total of \$29 million.

Commissioner Coke asked go back to Capital Expenditures, the City of Fort Pierce. Mr. Thiess has kind of confused her a little. He is talking about a Capital Expenditure of \$1.4 million. And then on the next slide he is showing the FPRA is going to fund \$1.8 million? Are they funding more than FPUA is actually spending?

Mr. Thiess said he doesn't have the answer off the top of his head.

Commissioner Coke asked the County projects were how many millions? And the County is only funding \$3 million of their \$9 million worth of projects?

Mr. Thiess said the \$3 million the County is funding is the MSBU out at Sunland Gardens. The rest of it is...

Commissioner Coke asked does Mr. Thiess know where this is going? When they are talking about projects the City wants done within the City limits, they always have to have at a minimum a matching contribution. But with A1A, they were told the FPUA does not have the money, so the City either pay for it or they are not doing it. So why isn't the County told the exact same thing?

Mr. Thiess said on City projects they generally fund it all. The major contributions from the City are undergrounding. There are two different ways to work it out, depending on the size

of the projects. On a lot of the projects, the City put in the conduit and poured the concrete, and FPUA would pull the conductors and set the equipment. They did that on 25th Street, Georgia Avenue, Orange Avenue, and a couple of others. On South A1A, that was a huge project. FPUA contributed the amount that would have covered the overhead to overhead relocation. The City contributed the difference between that and the undergrounding. So that is the two different ways they have approached that.

Commissioner Coke asked does he approach it the exact same way with the County when they want the FPUA to do a project?

Mr. Thiess said the County has never asked them to underground the utilities on a relocation project, so it is not an issue. They fund the water/wastewater. If they have storm water conflicts with their structure, they negotiate that.

Commissioner Coke said she knows for a fact that they contributed towards the sewer project they did out on 25th Street, the City did that, and it had nothing to do with undergrounding electricity.

Mr. Thiess said that was the one exception to the undergrounding. There was a contribution to the sewer project. But generally speaking, other than that one exception, FPUA has funded all the sewer, water, and wastewater projects on all the City projects in the last ten years. They appreciated the City's contribution on that one.

City Manager Beach said when FPUA does a project for the County, that is typically an MSBU the County has created, and they pay the Utilities Authority for the construction.

Mr. Thiess said that is one type of project. But they also do projects on County roads that are typically utility projects, like the City street reconstruction projects.

City Manager Beach said the same way the City requires that the U.A. relocates the utilities, the County requires the U.A. relocates the utilities, just as FDOT requires they relocate the utilities at the Utilities Authority's expense.

Mr. Thiess said right. An example is, South 25th Street was a County project. They spent close to \$2 million on South 25th Street. Midway Road is coming up as a County roadway project where they will fund the water and wastewater improvements.

Commissioner Coke asked does the County put any of the pipes or anything in for them; or are they just all on their own?

Mr. Thiess said again, putting in the conduit is an undergrounding thing. They don't participate in undergrounding projects with the County, at least they haven't yet. If the County has a desire to underground the lines on a County road, FPUA would probably try to work out the same thing they worked out with the City.

Commissioner Coke said she still didn't get an answer to why they have less in projects showing than they are showing the FPRA funding.

**Ms. Nina Hurtubise**, FPUA Director of Finance, said Mr. Thiess answered the question a little bit earlier. FDOT on South A1A, that is a huge project of about \$2 million. The reason the City's contribution is so large is because of the undergrounding.

Commissioner Coke said she understands that. But when they talk about City of Fort Pierce projects, they are showing \$1.4 million. On the next screen they are showing the FPRA is paying \$1.8 million.

Mr. Thiess said that might have been the way they divided the responsibility on the A1A project between the City and FDOT, because it is kind of a joint project.

Commissioner Becht said he didn't see the missing \$500,000 transfer from a couple of years ago in this budget. Where are they with that? They kind of left it to Staff and he doesn't know that Staff has punched through this yet.

Mr. Thiess said in the first place, they don't budget the transfer. The transfer is a calculation done after the end of the year based on cash. They did have a meeting last week with the City Manager and the City Attorney. They talked over some ideas that they might be able to move forward on. He thinks it is a little premature to discuss those tonight, but they are going to get something back to the City hopefully by next week, laying out a plan to move forward on that.

Commissioner Becht said next week, that would be wonderful. He would be excited to see that additional \$500,000. Several months ago they appointed a Citizens Utility Advisory Committee to review a host of issues associated with FPUA. One of those issues he thought was the U.A.'s budget and where that Committee might have some feedback on the FPUA budget. He did not see any comments from them in this packet. Has the Committee given him any comments on the budget?

Mr. Thiess said he attended that meeting as did Ms. Hurtubise. He think they made eleven motions, but none were related to the budget. They made motions on the...

Commissioner Becht said he doesn't care. What he wants to focus on is the budget. Let's stay on point and on task.

Mr. Thiess said no motions made on the budget.

Commissioner Becht asked have they seen the budget?

Mr. Thiess said they provided copies of the powerpoint summaries and provided copies of the entire budget he believes. The Committee never requested it, but they went ahead and provided it to them anyway. The Committee members were invited to the budget workshop, but none of them made it to the workshop either.

Commissioner Sessions asked where is the allocation for the actual unmarked funds, the reserve? Is that in the budget?

Mr. Thiess said he thinks the reserve funds show up in several places.

Commissioner Sessions said he doesn't see it.

Ms. Hurtubise said they do not budget those reserves. They are trying to build their reserves, not deplete them.

Mr. Thiess asked is he talking about the contingency?

Commissioner Sessions said but for budgeting, he would like to know what they have in their savings. In order to make projections for the future, they need to know what is in the bank. Is he correct?

Ms. Hurtubise said yes. On Pages 50 and 51 is their Balance Sheet. That is going to show the unrestricted cash, which she thinks is what he is referring to. On Page 50, under Equity in Pooled Cash and Investments. They are aiming for a 60-day operating cash. As of September 2007 they were only at about \$10 million. They are hoping to be at about \$15 million at the end of September 2008. They hope to make it up to \$20 million after that, but that is assuming a perfect world and they have a perfect crystal ball here.

Commissioner Sessions asked is there any particular reason why they want to get such an increase in their reserves in such a short period of time?

Ms. Hurtubise said because 60 days is the fiscally responsible number they have been aiming for, for a number of years.

Commissioner Sessions asked have they ever been able to accomplish that?

Ms. Hurtubise said no, they have not.

Commissioner Sessions asked is there any particular reason why they are set to accomplish it now?

Ms. Hurtubise said they depleted the reserves when they didn't raise rates when they should have years ago, so they are just trying to go back to where they should have been in the first place.

City Manager Beach said the FPUA's unrestricted cash reserves are what the City refers to as a fund balance. The City has a policy of a 10% fund balance, they want 10% of the City General Fund budget to be reserved in cash reserves. The Utilities Authority wants a 60-day supply of reserves. He believes what Commissioner Sessions is asking, why do they want a 60-day supply of reserves?

Commissioner Alexander asked it is mandated, isn't it?

Ms. Hurtubise said it is not mandated; but again, it is the fiscally responsible dollar amount to have.

Mr. Thiess said the bond rating agencies recommend 90 days. They have backed off considerably from that to 60 days.

Mayor Benton said the bond rating would be a lot higher.

Mr. Thiess said they have an A-minus bond rating right now. They would like to hold that. Obviously they can operate with 30 days. They had 30 days last fall and they are not much past that now. But if something really serious happened that interrupted their cash flow...

Commissioner Becht asked like a hurricane?

Mr. Thiess said or two or three hurricanes. They need to have some deep pockets to do that. Looking ahead at things like a possible bird flu pandemic, if they had a cash flow interruption where people weren't making their payments, they still have to run the plants and provide the service. So that is where the 60 days comes in, with the cash they have they can run their utilities for 60 days, whether their cash flow is interrupted or not for natural disasters, acts of terrorism, or whatever. That is what they feel is a comfortable level.

Commissioner Sessions said he knows when the U.A. got the last rate increase, they pretty much based it solely on the ability to make capital improvements and that is what warranted the rate increase. What he is concerned about is, with regards to last year there was \$24 million set aside for capital improvements, but he doesn't see in their budget whether or not that \$24 million was utilized. And if any of it wasn't utilized, was it rolled over to the next year? He doesn't see anything to indicate that in this proposed budget. If they are justifying increasing rates due to capital improvements, then from year to year they need to know what money is being spent on the capital improvements, is his point.

Mr. Thiess said they don't finalize their capital budget until the end of the year. They can do a projection of their O&M Budget, which they have done until the end of the year, because their Operations & Maintenance occurs at more of an even rate. Capital is in big

jumps, depending on when the contracts go and when the payment occurs. The rate increases weren't solely based on capital improvements, they were based on rising costs of doing business. Whether it is fuel cost, material cost, contractor cost, it all plays a part in the rate increases, it is all funded by rates. Renewals and replacements were a big part of that. Renewals and replacements are in the capital budget, as are improvements to serve new growth. But it wasn't strictly capital improvements that drove the rate increases, it was everything, including Operations & Maintenance costs.

Commissioner Sessions said notwithstanding that, does he not see the importance of having the allocation so they can see what has actually been spent for capital improvements from one year to the next in order to make the determination as to what the capital improvements are?

Mr. Thiess said yes. They have it for the past years obviously when they completed 2007 and 2008, those years they have the total capital improvements; but they don't have the projection this year. Typically they spend less than their total capital budget. But that is all taken into account in the rate studies. The rate studies don't assume that... They give numbers to the rate consultant as far as their projected expenditures. If they fall short of that, it would be reflected in the next year's rate study and the accurate number will be shown. But there is no mysterious buildup of capital money that doesn't get spent and goes off into the reserve. Like Ms. Hurtubise said, they are at \$10 million in unrestricted reserve now, so they have only gone from \$8 million in October 2007 or January 2008. They have only gained \$2 million in unrestricted reserves in the past eight or nine months, so they are not making big headway on increasing those reserves.

Commissioner Sessions asked with regards to the voting requirement in order to approve or disapprove the budget that has been proposed, what is their authority in terms of veto power and what vote is required, and whether or not they can veto particular line items? Can they send it back if they get the vote, to revisit the proposed budget? What is this Commission's authority with regards to this budget and their veto power?

City Attorney Schwerer said let him read this one paragraph from the Charter. He believes it answers the question. This is somewhat different than the rate structure they approve when the FPUA comes to them for rate increases. Section 176, Paragraph 12 of the Charter says, "The authority shall also annually prepare and adopt a budget for the ensuing year and furnish a copy to the City Commission at least forty-five (45) days prior to the beginning of the next fiscal year." That is here before them with a transmittal memorandum of August 7th. It says, "If a four-fifths vote of the City Commission does not disapprove of any line item expenditures in said budget, or any amendments thereto within thirty (30) days of the date of submission to said City Commission, said budget or any amendments thereto shall be deemed approved as submitted." That means that the budget as submitted will be approved within 30 days unless the Commission by 4/5ths vote disapproves of any specific line item. The Charter then states, "The City Commission may not increase any amounts in the proposed budget or amendments thereto, but may reduce by a four-fifths (4/5) vote of the City Commission any line item in said budget or amendments thereto." Meaning they can't put more money in the budget, but they can certainly take it out by decreasing those line items. And this is the final option, it says, "The City Commission may by majority vote waive the thirty-day period for disapproval and approve said budget, or amendment thereto, by majority vote. Any expenditures disapproved shall not be authorized." So essentially they could also just waive the disapproval period so that it will shorten that 30-day period and this budget could be adopted tomorrow if they so choose to do that. But they have a 30-day period here within which to vote by 4/5ths on any one of these particular line items.

Commissioner Coke said she is sure this comes to no surprise to anyone that she will not be supporting the budget this evening. They have a question for two years now regarding the transfer. Six months ago she said don't bring her another budget until this issue is resolved. She has asked for things and she hasn't gotten them. Bottom line, it is not

resolved. She does not know what else it takes to get the message across that it needs to be resolved. But the first step for her will be to not support this budget this evening. Secondly, she has some major concerns. They spoke today and she appreciates Mr. Thiess's promptness in answering her questions, but she has some major concerns. They have a group of citizens, herself included, who still question the fact that they have utility rates going up and they have a power cost adjustment that could choke them all. She understands Mr. Thiess is telling her that is a direct pass-through cost. However, she can't call her boss and say her utility bill went up 6% because of the power cost adjustment, could she have a 6% raise? Because in the world she lives in, that doesn't happen. She has some concerns and she has expressed them and she knows several of them up here have. Everybody deserves a cost of living increase. She understand the FPUA employees got one this year. The City employees didn't. They talked about the possibility of some great cost saving measures by using economy of scale, combining some departments. She knows Mr. Thiess has met with the City Manager. Her concern is that the answer was no, they can't combine Finance Departments, and no, they can't combine Human Resources. She hears no, no, no, because everybody likes to have their own little kingdom going on. But they know who is suffering here - the taxpayers and the rate payers. She requested for a while that the U.A. look at some ways to cut what they are spending in operating expenses. They may be running a lean mean fighting machine. She understands now that the FMPA is going to be paying for the employees who used to be at the King Plant, which is a great thing. But this Commission bit the bullet and said they are paying an inordinately high percentage of employee dependent health care. She would have hoped that, as their sister organization, the FPUA would have followed suit. Because what is happening is that expense is being passed on to the ratepayers and the ratepayers have way more expenses than they can deal with. There is a whole number of things. Her biggest concern number one is, it has taken them two years and they haven't been able to resolve the transfer issue; and number two, she really just does not see any place in this document where they made a concerted effort to do something to lower their cost of doing business so they would not be passing costs on to the ratepayers. She sees they have cut expenses, she believes it was 4%; but they cut capital projects, which is what they give back to the ratepayers, by 40%. So she thinks it was very disproportionate where they had the cuts. Having gone through budgets around here for the last couple of months, she understands the theory when she hears from Department Heads that there is no more money and then a week later they come back and say they found this money. So there is money there. There is money there that could be cut. There is money there that could help grow the reserves. That would prevent the request for another rate increase. They might even find a way to help some of their citizens or ratepayers. But she doesn't think that a conscious effort was made to do all those things, so she cannot support the budget as submitted.

Commissioner Alexander said back to the expenditures, speaking of the wages that were increased. He is looking at a pie chart. Can Mr. Thiess explain to him what the Personnel Services and Fringe Benefits are? On Page 38, he is looking at 15% and 5%.

Ms. Hurtubise said they are just splitting up their revenues and showing this how they are spending it, this is how big of the piece of the pie. They can see the Purchases for Resale is 51%.

Commissioner Alexander said he is speaking of Personnel Services and Fringe Benefits. That would be 20% of their budget for employees, right?

Ms. Hurtubise said yes.

Commissioner Alexander asked does that include the raises for employees that they will be looking forward to?

Ms. Hurtubise said that does not include any raises.

Commissioner Alexander asked so the raises they got this year wouldn't reflect in this budget here?

Ms. Hurtubise said the raises that were received by the non-exempt employees back in October 2007, back all the way in the very first of this Fiscal Year, those are reflected in the amended budget. But this is a 2009 chart. There are no raises reflected in those figures.

Commissioner Alexander said he guesses she explained it to him, to the public really, because that is what he is concerned about. With that power cost adjustment, did they not have that on their bills last year? And they removed it from there and then brought it back?

Mr. Thiess said it was lowered he thinks two times in late 2006.

Commissioner Alexander asked so there has been a power cost adjustment for all the years Mr. Thiess has been here?

Mr. Thiess said it has changed many times since he has been here. The first significant lowering of it was in late 2006.

Commissioner Alexander asked why was it they hadn't done these rate increases over the years? But people who were paying those power adjustments only started paying attention to it when they started lowering it. They wanted to know why they are lowering it now and they didn't lower it yesterday?

Mr. Thiess said the power cost adjustment is the balance between what they get from their customers in retail sales and what they pay to their wholesale provider. If they are getting more from their retail sales than they have to pay for their wholesale power, they have an over-collection. If they get a certain level of over-collection, they start giving it back by lowering the power cost adjustment. If they are paying more for their power on this side than they are getting from their customers in retail, they start to get an under-collection, a deficit. That is when they have to raise the power cost adjustment to cover that deficit. So the net result of the PCA is to have zero in that balance over the long haul. They don't intend to collect money and keep money there. And they also don't intend to run a big deficit.

Commissioner Alexander said so the ratepayers don't look forward to any type of reduction whatsoever in their rates.

Mr. Thiess said on the power cost adjustment that only occurs if they get a break at the wholesale end, which would mean a long term decrease in fuel prices and the price of producing and getting that power to them.

Commissioner Coke asked for a point of information, can he tell her what percentage of utilities within the State of Florida - whether it is public, private, or FP&L - charge a power cost adjustment?

Mr. Thiess said he thinks they all do.

Ms. Hurtubise said they all do and those are all different percentages; because as FPUA does, they have a part of the power cost built actually into the rates. They have rates and they have power cost adjustment. Some of the power cost is built into the rates, so that is just a base. If they look at their rate comparisons, they can see all kinds of varying amounts for each of the municipal utilities as to how much of theirs relates to power cost.

Commissioner Coke said she read the Minutes from the FPUA's meeting last month. Normally they are some place in the middle as far as their rates; and they are no longer in the middle as far as their rates, they are up here as far as their rates plus they have this huge power cost adjustment.

Ms. Hurtubise said the power adjustment is a part of it.

Mr. Thiess said different utilities have a different amount of the power cost built in their base rate. But yes, FPUA did go toward the right; but he thinks they are going to be back toward the middle at some time. But it is all in how the power cost adjustment... If they hadn't made the reductions back in late 2008, they probably could have not given that money back, stayed way over-collected, and been still close to the middle of the pack now. But the decision that was made at that time was to give the ratepayers the immediate break when they had a surplus and give it back. Now they are playing catch-up for not having a surplus. But they will end up back in the middle because their operational costs haven't changed significantly with respect to the operational costs of the other utilities.

Motion was made by Commissioner Sessions, seconded by Commissioner Coke, to disapprove the Annual Budget for Fiscal Year ending September 30, 2009, as proposed by the Fort Pierce Utilities Authority.

City Attorney Schwerer said procedurally the issue of approving the budget or disapproving the budget is not something that is properly before the Commission. What the Commission can do with this budget is choose any line item they wish to veto and they must do so by a 4/5ths majority. They can't just disapprove the whole budget. They have to select the specific items. The Charter says, "If a four-fifths (4/5) vote of the City Commission does not disapprove of any line item expenditure in said budget, or any amendments thereto within thirty (30) days of the date of submission to said City Commission, said budget or any amendments thereto shall be deemed approved as submitted." So it automatically becomes approved as submitted within 30 days unless 4/5ths vote of the Commission disapproves of any line item. So they must select a particular line item to disapprove.

Commissioner Sessions said as the maker of the motion, he would like to amend the motion to include such line items as have been described.

City Attorney Schwerer said they can do that. Or they have another option. If they want to, they have 30 days to do this within, so they also may have another meeting to go through this very specifically if they wish to do so line by line, and if they can get 4/5ths vote for any particular line... So they have another option. Technically he doesn't think they are forced to do it tonight, he is just trying to point that out, if they feel compelled they have to do it tonight. They may have additional time because he thinks there are 30 days in August, correct?

City Clerk Steele said there are 31 days in August.

City Attorney Schwerer asked when is the first meeting in September?

City Clerk Steele said September 2nd.

City Attorney Schwerer said then they are within the 30 days because this was submitted to the Commission on August 7th. If they run that out to September 6th, then they are within the time frame for their next meeting. So they do have two meetings to do this within - tonight and the next meeting.

Commissioner Coke said she is sure Mr. Thiess has heard their concerns. Does he believe it would be possible for him to come back with a revised budget with some of the suggestions the Commission has offered here this evening? Or would he prefer they just come back September 2nd with the specific line items they wish to veto?

Mr. Thiess said they went through a great deal of trouble to do a workshop to discuss that kind of thing. They had their entire Staff there, all their Department Heads, their Rate

Consultant. That was the time to get together and go through the budget. He and Commissioner Coke personally had a discussion that the budget wasn't set.

Commissioner Alexander asked who? That was the time for him?

Mayor Benton said no, that was for everyone.

Mr. Thiess said the City Commission and the FPUA Board. It was the time for everyone to have their input.

Commissioner Alexander said he couldn't be there. He is saying that for a reason, because convenience to the Fort Pierce Utilities Authority, their urgency is not his urgency. Mr. Thiess said it was scheduled six weeks ahead of the workshop.

Commissioner Coke said she will tell him this - so long as he wants to bring it up yet again publicly - she was told by a member of his Staff the day before that the meeting was cancelled. By the time she came in the next morning and she got the message that they were sorry for the confusion, she had already rescheduled her day.

Mr. Thiess said it was never cancelled.

Commissioner Coke said she spoke with a member of his Staff requesting information; and they said they heard there were going to be two or three of them out of town, so as far as they knew the meeting was going to be cancelled. Anyway that is beside the point. She really doesn't want to get into who showed up at the budget workshop and who didn't. Her question to him was, does he believe it would be possible for him to revisit some of the items that they as a Commission have brought up this evening and bring them some suggestions on September 2nd; or would he prefer the City Commissioners do that?

Mr. Thiess said they are not prepared to revise the budget based on the general discussion they have had at this meeting tonight.

Commissioner Coke asked would the motion maker consider possibly postponing this discussion until September 2nd when they would each have a chance to bring back their proposed line item vetoes?

Commissioner Sessions said he doesn't have a problem with that. He has his outlined and ready to go.

Commissioner Alexander said before they go any further on that, didn't Mr. Schwerer say if they didn't respond to this within 30 days, it would automatically come to fruition in 30 days?

City Attorney Schwerer said that is correct. According to his calculations looking at the documents, they would have until their next meeting to address this before it would become approved by default essentially, the 30 day period. The 30 day period will not run out until September 6th. So the Commission could ask tonight that this matter be postponed and specifically placed on the agenda for their September 2nd meeting under the same heading as it is now, which is Consideration of the FPUA Annual Budget for the Fiscal Year ending September 30, 2009, and it will be before them that night for the exercise of their powers. They have a 30 day period to react to this budget is what he is simply telling them.

Commissioner Sessions said as a maker of the motion he would like to amend his motion.

City Clerk Steele said there is no motion per the City Attorney.

Mayor Benton said he doesn't need to make a motion. What he would ask is that whatever list is put together, as soon as they can get it to Mr. Thiess so he can go over it, so they can discuss how it would affect the Utilities Authority.

Mr. Thiess said he will be glad to do that.

Commissioner Becht asked when does Mr. Thiess's Board meet next?

Mr. Thiess said tomorrow at 4:00 o'clock.

Commissioner Becht asked how often do they meet?

Mr. Thiess said every first and third Tuesday of the month. So the next meeting would be the same day as the Commission's meeting, September 2nd.

Mayor Benton said the U.A. Board has approved the budget unanimously.

Commissioner Becht said where he was going with that is, if there are legitimate line item suggestions forthcoming from this Commission that would be put to them, it has to be put to the U.A. Board, because Mr. Thiess can't amend the FPUA's budget without going back to his Board. So he doesn't know how much lead time Mr. Thiess needs to get the suggestions for line item veto before he calls a special meeting of his Board; because he is going to have to have Staff review the suggestions and then convene the Board, and all that would have to be done before Tuesday, September 2nd.

Mr. Thiess said with all due respect, that was the intention of the workshop, to get that process on track.

Commissioner Becht said he understands and appreciates him saying that again. But that didn't work.

Mayor Benton said just because there is going to be Commissioners putting items down, it doesn't mean that everyone up here is going to agree to that. It is going to take a 4/5ths vote. So if two or three agree to it, that is not going to affect... It is tough for the U.A. Board to meet and discuss something that might not be supported by this Commission.

Mr. Thiess said he would think that this Commission would act on the budget as presented; and then if something happens with that, then they go back to the U.A. Board. He wouldn't think the U.A. Board would move on the suggestions by this Commission and Staff prior to seeing what this Commission does with the budget officially.

Mayor Benton said he guesses they will see what happens in 30 days.

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

**Mr. James Lynch**, Vice President of Boyle Engineering, said he is here in John Donahue's place, who couldn't make it tonight. They have Mr. Donahue's report he submitted for the meeting tonight. He is here to answer any questions they may have.

Commissioner Becht said his concern is that they have scheduled for later this evening items on the Consent Agenda concerning the Harbour Isle Roundabout and some of the expenses related to that. His questions are going to be involving the old agreement with the developer there. He doesn't know if they need for this gentleman to stay until later or if he needs to hear his questions now.

City Manager Beach said Boyle Engineering was not engaged in the roundabout design. That is a separate project from what Mr. Lynch is reporting on.

Commissioner Becht said but on the Consent Agenda is an item to accept Specific Authorization No. 6 proposal by Boyle Engineering for construction engineering inspection services for the Harbour Isle Roundabout Project on Seaway Drive.

City Manager Beach said what is proposed is that they be hired for the construction inspection. Boyle Engineering was not the designers of the roundabout. He may have misunderstood what Commissioner Becht said.

Commissioner Becht said he is wondering if they need him to stay until later. He is going to ask him to stick around because they may have questions that only he could answer later.

Mr. Lynch said he would be more than happy to stay.

Commissioner Sessions said this is saying they are going to have to redesign as a result of a conflict with AT&T with the duct bank. When it says redesign the plans, the first thing that comes to his mind is the actual cost, whether or not it is financially going to impact the project.

Mr. Lynch said AT&T actually is paying Boyle Engineering to redesign and will pay all the costs that would occur outside the original design. So AT&T is paying all the costs associated with that.

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City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 08-34

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, DESIGNATING **800 AVENUE C, 810 AVENUE C, AND 407 NORTH 8TH STREET** AS HISTORIC PROPERTIES AND A LOCALLY SIGNIFICANT SITE."

Mr. David Recor, Deputy City Manager, said before they get started, although David Carlin will be presenting this case to them tonight, he wanted to introduce Leslie Olson to the City Commission. She is the City's new Historic Preservation Officer. Ms. Olson served most recently on the City's Planning Board. She was formerly employed in the County. They are really glad to have Ms. Olson. She has already made contributions to the Department. The thing that sold him when he talked to Ms. Olson was that she said she will do the work of two people. So welcome to Ms. Olson, they are glad she is here.

Mr. David Carlin, Development Review Planner, said Mount Olive Missionary Baptist Church is requesting approval for a historic designation as a religious property which has derived its primary significance from its historic importance and contributions to the pattern of black history in St. Lucie County and the Lincoln Park community. The organizers of the Mount Olive Missionary Baptist Church were Reverend Benjamin Franklin James, Brother Robert High, Brother Felix Allen, Deacon Peter Steward, and Deacon William Lyons, to name a few. The women involved with the early development of the church consisted of Sister Fannie Stewart, Sister Lucy Mamie Jordan, Sister Sophia Deliphus, Sister L.J. Lissimore, Sister Alice Lyons, and Sister Lena Scott Bailey. The Mount Olive Missionary Baptist Church was one of the first black churches and one of the first Missionary Baptist churches in Fort Pierce, which origins can be traced back to April of 1903. The Mount Olive Missionary Baptist Church and grounds are located in an area that historically was the center of the black owned businesses. These businesses included the structure currently on the church grounds known as 407 North 8th Street, which was a black barbershop in the Lincoln Park area. Originally, 407 North 8th Street was a private residence. In 1942 a concrete block addition expanded the residence. This addition was used for commercial purposes. At some point after a 1992 Historic Property Survey, the residential portion of the structure was demolished. The neighboring sites owned by the church to the north and west were also designated to protect the relationship between the church, other buildings,

parking areas, and landscape features within the church's property. This one-story masonry vernacular religious building constructed circa 1954 is associated with the Post World War II period in Fort Pierce history and is historically significant in the areas of architecture, religion, and black history. Mount Olive Missionary Baptist Church has also been determined to be eligible for listing in the National Register of Historic Places under the criteria of architectural significance in local designation. Notable architectural features include the pilasters located at the corners, the steeple, the stained glass windows purchased in 1951, the medallions, and the bell, which was cast in the National Bell Foundry Company, currently located on a concrete pillar in front of the sanctuary. According to the church members, this bell was used to inform the community of funerals, community meetings, and church services. The number of tolls on the bell signified to the community the type of event or activity it called for the community to attend. On March 24, 2008, the Historic Preservation Board accepted the historic designation application from the property owner and set a public hearing for the proposed designation on June 23, 2008. After holding the public hearing, the Historic Preservation Board proposed the designation and recommended approval to the City Commission. As the site meets the standards and criteria specified in Section 22-36 in the City Code, Staff recommends the City Commission approve the Historic Designation for Mount Olive Missionary Baptist Church.

Commissioner Sessions said like this church, this is a very old City. As this church qualifies being designated as a historical site, could Mr. Carlin explain the benefit to that? What are the benefits of a designation as a historic preservation site?

Mr. Carlin said one of the benefits to having it designated is the types of improvements that it may be eligible for for any future improvements on the property. He thinks the bigger picture is the actual architectural and history and significance of this site to be designated in accordance with the provisions set out in the Historic Preservation Guidelines.

City Manager Beach said it provides protection for that piece of architecture.

Commissioner Alexander said knowing this church and Reverend Coleman and his family and all associated with it, that is the oldest section in the northwest section of town. Why isn't that area designated as historical?

Mr. Carlin said that is a very good observation. One of the things staff will be looking at with the new Historic Preservation Officer is to look at the area plans for some of the existing historic districts, but also to contemplate whether the boundaries and whether other areas should be included with that. So that is certainly something they will look into.

Commissioner Alexander said it was brought to his attention by their last Historic Preservation Officer. She even showed him the historical maps. They did do the church right down the street, Mt. Moriah Primitive Baptist Church. They do have another church, Greater New Bethel, which was originally St. Paul Church. They are talking about some years. He is concerned about the designation. He thought they had historic designation in the area.

Ms. Leslie Olson, Historic Preservation Officer, said she did drive through the Avenue D Historic District today pretty extensively and also drove past Mount Zion. He is correct, it is outside the Avenue D Historic District boundaries as of this time. She believes he is also correct that this is really one of the hearts of the historical areas of that community. She thinks it is really worth taking a look at changing those boundaries.

Commissioner Alexander asked would it be benefit to the community?

Ms. Olson said absolutely.

Commissioner Alexander said they don't want no heartaches where something can come along.

Ms. Olson said it isn't a benefit for the church, because the church is tax exempt. But one of the benefits for designating historic is that there is an ad valorem tax exemption for historic properties. So there are some real benefits to homeowners.

Motion was made by Commissioner Sessions, seconded by Commissioner Alexander, that Resolution No. 08-34 be adopted.

Those voting in favor of the adoption of Resolution No. 08-34 were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

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City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 08-35

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, CERTIFYING THE REAPPOINTMENT OF **MARJORIE HARRELL**, AND CERTIFYING THE APPOINTMENT OF **INUKA RHAHEED**, AS MEMBERS OF THE **COMMUNITYWIDE COUNCIL ADVISORY BOARD**; PROVIDING FOR AN EFFECTIVE DATE."

Motion was made by Commissioner Coke, seconded by Commissioner Becht, that Resolution No. 08-35 be adopted.

Those voting in favor of the adoption of Resolution No. 08-35 were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

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City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 08-36

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, DECLARING SUPPORT FOR A COUNTYWIDE ORDINANCE RELATING TO THE **RESIDENCES OF SEXUAL OFFENDERS AND SEXUAL PREDATORS WITHIN ST. LUCIE COUNTY**; ALLOWING SEXUAL OFFENDERS AND SEXUAL PREDATORS TO LIVE NOT CLOSER THAN 2,500 FEET FROM SPECIFIED LOCATIONS IN ST. LUCIE COUNTY."

Mayor Benton said he would like to thank the City Attorney for acting very promptly on this and getting it back. He guesses he saw the importance of how the Commission felt about this item.

Commissioner Coke said she thinks they ought to thank Ms. Steele too.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, that Resolution No. 08-36 be adopted.

Commissioner Alexander asked the existing residents they have, what kind of effect would that have on them?

Commissioner Coke said none.

Chief of Police Sean Baldwin said the ordinance as it was drafted, the way they reviewed it two weeks ago, excludes anyone who is already living in a residence, so it wouldn't apply to them unless they moved.

Commissioner Alexander asked how are they going to recognize the individuals they have in place? He knows the Sheriff posts it with pictures and all. But how are they as a City going to handle this?

Chief Baldwin said it actually works exactly the opposite. He has to prove that they moved into the residence after the effective date.

Commissioner Alexander said he is speaking of the ones who live there now. They are a danger. Not all of them, because they paid their dues. But if they were a sexual predator, he understands they don't change their spots. What is going to make this community safer with the individuals they have living here now?

Chief Baldwin said they will have to apply the laws as they have them. He doesn't believe they would be successful in passing legislation that forces people out of their residence.

Commissioner Alexander said no, he is not speaking about forcing. He wants to address the individuals who are living at a particular address across the street from a particular school. Would there be anywhere in the City of Fort Pierce?

Commissioner Coke said she thinks what they need to do is take a more proactive stance in educating people on the people who are already living in this community. She thinks this would be the first step. And then the next step is, maybe they can get a copy of how the Sheriff's Department notifies people in their community. These people are required to register their residency, where they are living. So she thinks if they move forward on the next step with that, it would be notifying the public.

Mayor Benton said under the current State law, there shouldn't be any predators living across the street from a school.

Commissioner Alexander said this says 2,500 feet.

Chief Baldwin said they are going from 1,000 feet, which is what the State law says, to 2,500 feet, if that is what the County adopts.

Mayor Benton said so right now there shouldn't be one living in close proximity of schools.

Commissioner Becht said to address what he thought was Commissioner Alexander's concern, anybody who is in the City now has to have registered their address with some law enforcement agency. So if they want to take advantage of being excluded from the new ordinance or if they want to be grandfathered into the 1,000 foot distance, not the 2,500 foot distance, they are going to have to show that they registered that address on a date before the effective date of this ordinance. As he understands it, they are required by law to register their address with some law enforcement agency. And the date they did that would either be before or after the ordinance. If it is before the ordinance, it is 1,000 feet. If it is after the ordinance, it is 2,500 feet.

Chief Baldwin said they do actively track these people, they do that now. They do it in cooperation with the Sheriff's office. They go out routinely every couple of months and actually make contact with anybody they are missing or lost track of to verify their information. FDLE actually provides some incredible resources for the community. They can log on and see anybody in their neighborhood. FDLE now has a provision where they can log on and leave their email address and they will email them a notification of anybody moving in and out of their community. There may be even more they can do into the future as far as monitoring these offenders.

Those voting in favor of the adoption of Resolution No. 08-36 were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

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The next item on the Agenda was Submittal of Applications for Appointment to the **Sunrise Theatre Advisory Board**.

City Clerk Steele said they have some applications in front of them to consider, and there will be a resolution on the next agenda.

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The next item on the Agenda was Submittal of Application for Reappointment to the **Police Retirement 185 Board**.

City Clerk Steele said they have an application in front of them for consideration, and there will be a resolution on their next agenda.

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The next item on the Agenda was City Commission discussion on proposed **Referendum to Annex Sheraton Plaza**.

Ms. Anne Satterlee, Assistant to the City Manager, said she wanted to provide the Commission with an update. Back in June they met with several key leaders in the Sheraton Plaza area to begin soliciting petitions to hopefully garner the 51% that they need for a referendum for the idea of annexation into the City of Fort Pierce. Since that time, they have had two informational meetings with the community. They have also had two informational mailings that went out to the folks that live there in the community. As of August 13, 2008, they have garnered 106 petitions in support of annexation into the city. That is out of 432 actual property owners that would have to be solicited in favor of the annexation. This follows under Chapter 171 of the Florida Statute for a referendum of annexation into the City of Fort Pierce. The question they have before them tonight is whether or not they would proceed. Their legal counsel has advised her that they must have the 51% of the property owners in favor of annexing in order to place it on a referendum ballot. They were trying to attempt to do this for the November general election, because they do not have a City election and they could split the cost with St. Lucie County. However, they still have the 106 petitions that are in favor; and they can continue to collect more responses, hopefully in favor, and have their own referendum at a later date, not necessarily this November.

Commissioner Becht said the memo that he is looking at is dated July 1, 2008, from Ms. Satterlee to Commissioner Alexander. At that time she said 385 property owners and tonight she said 432.

Ms. Satterlee said it is 432. Some were tax exempt and there was a couple of different scenarios. But that would be the accurate amount.

Commissioner Becht said as of August 13th, she said they have 106 petitions that are signed.

Ms. Satterlee said that is correct. And those have been verified.

Commissioner Becht asked does she have any ideas on how, other than the efforts she has already done, they can try and get another 116?

Ms. Satterlee said they could do several more mailings probably. It is her understanding today that the Property Appraiser has sent out new TRIM notices, which will be beneficial because they will have the new assessment in there with the double homestead tax exemption. Hopefully that would give folks some incentive to solicit in favor of the annexation.

Mr. David Recor, Deputy City Manager, said the last informational meeting they had for the residents actually took on a much different tone than the first meeting. Those that participated in the discussion were overwhelmingly in favor of annexation. Inasmuch as he

also gathered six individuals that volunteered to assist the City in obtaining the necessary signatures. Staff rallied them and they volunteered to go door to door. So he thinks there is momentum there and they can continue to move forward with this. Tonight was simply to let the Commission know that they are up against this deadline and obviously they are not going to be able to meet that target for a November referendum. But they can continue moving this forward and tap the momentum for the neighborhood residents that are willing to do a lot of the legwork it seems. As he mentioned to Commissioner Sessions this afternoon, there are probably a handful of additional petitions that are out there, between what they may have as well as this group of people. But certainly there are not 100 plus additional petitions out there today.

Commissioner Sessions asked how precise are they with the land owners? As Commissioner Becht pointed out, there was a discrepancy with the numbers. One time it was 389 and now it is 432. Are they definitely sure that they have the correct inventory now as to the number of landowners out there?

Ms. Satterlee said yes, they are. That was at their first run at this with the mailing. There are also a lot of not-for-profit entities out there, such as the City has some properties there; and of course, she would think they would be in favor of it. Those would be some of the Housing Authority properties. Some of those factored in as well.

Commissioner Alexander asked how do they go about with the Housing Authority?

Ms. Satterlee said they already have those under agreement currently.

Commissioner Sessions asked is that in their total number?

Ms. Satterlee said yes.

Commissioner Sessions asked with regard to these petitions becoming stale if they postpone this, is there a time frame that these could become stale?

Ms. Satterlee said she would like tonight to have some direction from the Commission as far as a date that they would like to have as many of these completed and brought back to them. She will defer to Mr. Schwerer as far as any stale date. But those would have to be reconfirmed again that they are still the property owners at the time, she would believe.

Mayor Benton said the City has an election next November, so that would probably be their next shot at this. Two Commissioners come up next November, so that would be a reason to bring people to the polls.

Ms. Satterlee said that is correct.

City Attorney Schwerer said if they are discussing the issue of whether or not the petitions that these folks have signed become stale, he would have to research that issue. He thinks Ms. Satterlee is correct, he is not sure there is a very specific time frame in the statute. But as long as they can confirm within a reasonable period of time... He is not sure if a year is reasonable, but they will research that. As long as they can confirm that ownership has not changed, depending upon the wording of what they signed, he thinks they might be able to use those that have already signed as long ownership remains the same.

Commissioner Sessions said he thinks she wanted some direction as to a targeted date.

Ms. Satterlee said that would be helpful, yes.

Commissioner Session said next November, the next City election.

Mayor Benton said that would be the earliest and quickest. He does not know what the deadline is to get it into Gertrude Walker's office, maybe it would be within the year that they have been mailed out. It depends on how quickly they can get a response that they can ask the Supervisor of Elections to put something on the ballot.

Ms. Satterlee said that would be fine. There are certain legal requirements that they have to proceed with, advertising and that type of thing, and a report that has to be filed with St. Lucie County.

Commissioner Becht said they have another option - a Legislative Annexation. As they are making the rounds with all of the County Commission wannabe's - and there are a lot of them, up until August 26th anyway - each of them should endeavor to impress upon the candidates the importance of the annexation process to the vitality of Fort Pierce. If they can do that now before these people get out to the County and adopt a County attitude, he thinks they have a better chance of negotiating a legislative annexation with the County and then going up to Tallahassee. Let's not forget that as they make their rounds.

City Manager Beach said on a related subject, they received the most recent population estimates from the Central Florida University and they have Fort Pierce's population up beyond 44,000 now. That is a result of that massive annexation program that they instituted last year.

Mayor Benton said he has been asking that question to the candidates. He is wondering if they would like for him to send a formal letter to the League of Woman Voters and to the Chamber of Commerce? Because he has watched some of the debates and some of the questions really do not affect Fort Pierce, but this one really would. All they are asking the County to do is what they did for Port St. Lucie years ago. It could be a formal question just so the Commissioners and the residents know how they stand.

Commissioner Becht said he does not have a problem with that. Because they are bumping into these wannabe's regularly, he thinks they have the ability to educate them on the importance of this. It is important and it does not harm the County. It allows Fort Pierce to plan its growth and to deal with its growth and not inherit problems that are a result of poor County design.

Mayor Benton said that was his intent, to get a letter in to the different groups that meet with the candidates.

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The next item on the Agenda was City Commission discussion on **Parks Advisory Committee**.

City Manager Beach said this is on the agenda because at their previous Commission meeting they agreed to place it back on this Commission agenda date to try finalize it. There was some expressed urgency as to getting these appointments to the Parks Advisory Committee. What he is hoping is to remind everybody this evening if they have not turned in their names - he knows several of them have turned in names - please get the names to staff and they will get this committee working.

Commissioner Sessions asked is Lisa Fasnacht interested?

Ms. Lisa Fasnacht said yes.

Mayor Benton said get with the City Clerk tomorrow to submit the names.

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The next item on the Agenda was Consider proposal by **Lisa's Kayak Inc.** to operate a kayak and bicycle rental business from South Causeway Island Park and Manatee Center/Seven Gables Parking Lot.

Mayor Benton asked Jaycee Park is out of the picture, right?

**Ms. Lisa Fasnacht** said yes. She is a resident of South Hutchinson Island. They should have discussed Lisa's Kayaks proposal on the last Commission meeting; however, that did not happen due to City error. She asks tonight that they discuss it and vote on it and go ahead and give her approval to start with South Causeway Park and the Manatee Center on a three month trial basis. As far as the South Causeway Park, there is no work that is done on the weekends and also in the area that is blocked off for the beach is not affected by any heavy equipment regardless of the day of the week. Again, this does not in any way affect any parking issues anywhere.

Commissioner Coke said she is going to state clearly she is probably one of those people that is on the wrong side of this, because she believes they need this type of thing in the City. Ms. Fasnacht has been operating for a year and a half, and obviously she is making a living at it, and she has managed to do that without taking up waterfront space and having a physical location. So her question is, why does she have such an urgency? If she has been doing it this way for a year and a half, why not another sixty days until they can get a recommendation from this committee on how to handle this? This is all public property, it is owned by the public. And although she thinks there is a need for this type of thing, her concern is they have to be fair. They can't just say okay, Lisa came and asked first, so they are going to let her do it; and then the next ten people that want to do the same thing, they have to say no to. She thinks they really need to set up that system in place that is going to ensure that they have been fair to everybody that wants to do kayaks or bicycles or ice cream or hot dogs or whatever else. So she is not really sure what the urgency is. If they are setting up a committee and they are moving forward to find a way to regulate this, why put the cart before the horse? Why does she want them to act on this so urgently tonight?

Ms. Fasnacht said there are a couple different reasons. Number one is, this should have been dealt with on the last Commission meeting before there was ever any mention of a committee. Number two, as a business, she needs to be more in the public eye.

Commissioner Becht said he has met with her a couple of times. He told her that unless something came up at a meeting, he did not see a reason why she should not be allowed to proceed. And he still does not see a reason why they cannot accommodate what she wants and accommodate what other people want as long as everybody is willing to compromise. As he listened to the comments (Comments from the Public) about waiting on the trial program, there was some merit to that. But what he thinks they might miss if they do not proceed with the trial program, in tandem with the committee that they are setting up, is they have the opportunity - if they properly constrain her - to have real world experience with what this means. At the same time they have a committee trying to deal with it in the abstract. He would rather have the committee dealing with it in the real world than just in the abstract. Particularly if she understands that at the end of three months they may completely shut her down because it just is not working. The other thing they obtain is, they will know what this might be worth; because at the end of this process, it is his thinking, that this is a money-making operation for the City. She is going to be able to make money for herself, but she is going to pay something to the City for the privilege of using the park improvements that they have created that draw the crowds that she is going to do business with. So they are both going to provide a service to the public with the kayaks. And he thinks based on some of the comments he has heard about Causeway Park, he would like her to consider just limiting this to kayaks for the three months to see what happens. He does not know how they adjust her hours or days of operation. He does not know if they are actually doing construction work on the weekends or not. As he is driving by there on Saturdays and Sundays, he has not seen a whole lot of construction work. So one of the concerns about them having too much going on there could be addressed if she is not doing business during the week. Another reason why he wanted to do the three month trial is, if they start it now, they are talking about September, October, and November; and his assessment is that would be one of the slower times as opposed to

waiting until the winter when all the winter residents are down here and they really have a mess on their hands trying to figure out how do they want to do this. Part of this process is, how does she want to do this, how does it makes sense for her, and how does it makes sense for the City as the owner/operator of the park, and how does it makes sense for the public? He is willing to take the risk on a three month pilot program in tandem with the Parks Advisory Committee. He now understands that she will probably be on the committee speaking from the perspective of a vendor. So they can get real world dialogue that will probably be heated and sincere and emotional, but real world dialogue on how are they going to do this. He does not know how they are going to do it. So he would like to proceed with it.

Mayor Benton said he has met with Ms. Fasnacht. This came to him a long time ago, he thinks Commissioner Coward in the County was the one that asked him to take a look at her operation. She is working in a couple of County parks now. He has touched base with a couple of the County Commissioners and has heard no complaints. In his opinion, she has been in front of them, he thinks this is the third time, to give it a shot. One of the tasks of this new committee will be take a look at this ongoing operation for this three month trial period. If it works, fine. And if it has issues, then that committee can come back and say so. Maybe they should be charging and there should be a fee schedule. They might have to go out for proposals because other contractors or business people could see this and want to also compete. To him, it is worthy of giving it a shot. Especially going into the Fall, he does not think they are going to see huge crowds over at the Causeway Park as things cool off a little bit and when the kids are back in school. At the Manatee Center there is no fishing tournaments that he knows of this Fall, or if there is, there are only a couple. So he thinks it would be worthy to take a look at it and hopefully recommendations come back from a trial situation.

Commissioner Becht said he does not know what if any constraints they need to put on Ms. Fasnacht in responding to the issue that was raised about the construction at Causeway Park. He thinks that is a legitimate issue. And he does not know what works for her in terms of restricting her operation so they are not butting heads with...

Ms. Fasnacht said in her proposal she suggested that she work on Fridays and Saturdays as far as the setup location and tear down when the day is done. So they are just talking about Fridays and Saturdays.

Commissioner Becht asked she would not be working on Sundays?

Ms. Fasnacht said no.

Commissioner Becht asked she is planning on renting the bikes or not?

Ms. Fasnacht said she would like to. But she can hold for 90 days if that is what has to happen.

Commissioner Becht said part of him wants to see what kind of demand there is for bicycle rentals by letting her take the financial risk of putting it out there and seeing if she is renting bikes or if she is not renting bikes. He told her before that he is conflicted by allowing her to compete as a mobile business with somebody that might be land-based. But he is not aware of anybody that is land-based close to the parks at the present time. He would like to have the service, but he would really like to have it land-based with making her pay rent and have bunches of employees and all that stuff. But that does not appear to be possible right now.

Commissioner Coke said she knows that last year there used to be a place on the beach that rented bicycles on the corner of Binney Drive and Seaway Drive. The hardware store did it for awhile. Quite frankly she saw the bicycles sitting out there day after day, she does not think she ever saw them move. But that is beside the point. She has a real problem when they are looking at Causeway Park. They all go by there on a fairly regular basis and

that beach is packed wall to wall. Her concern is, it is one of the few beaches that is very safe for kids to go and their parents are there and it is shallow water. Ms. Fasnacht is looking at taking up... The tent is 8-foot by 8-foot. Then she is putting stuff on the outside of it. So they are talking about 15-feet of beachfront. She would have less of a concern - and she said this the last time - if it were back off of the beach, not limiting public access to the water. Because if Ms. Fasnacht is there, mom and dad that come down with their fold-up chairs that want to watch the kids playing on the beach, she has taken up fifteen feet that then cannot be utilized by a family.

Ms. Fasnacht said first of all, it is a total of twelve foot is what it would be. There is way more than enough beach there for all.

Commissioner Coke said maybe she has not been to the Causeway Park recently. Because she is here to tell her that sometimes on Friday, Saturdays, and Sundays that they would be lucky if a skinny fish could make it up on the sand. There are people wall to wall, right next door to each other. If everybody feels that a three month trial basis would be a good thing, she could go with that. But she cannot support giving up area right there on the beach and taking it away from their residents.

Commissioner Sessions asked how long of a stretch is that?

Mayor Benton said going from almost Chuck's Restaurant all the way to the County boat ramps.

Commissioner Coke said it is a long stretch, but it is the most popular beach spot they have.

Commissioner Becht said he is going to guess about 200 yards.

Mayor Benton said being it is a trial period, he would imagine that if there is some grave concerns from the public, they can always cut it off.

Mr. Bob Hood, Director of Public Works, said Commissioner Becht is probably pretty close to it. They are going to try to safe up the area to the east of the boat ramps that has been eroding into inlet, so that is not going to be available. If they go out there now, they will see that they put an asphalt curb up and have reworked the entrance and exits, so it has diminished some. He is sure if it is the desire of the Commission and the Citizens Parks Advisory Committee to find space for Lisa's Kayaks, they can work with her to do that.

Motion was made by Commissioner Sessions, seconded by Commissioner Becht, to approve the amended proposal from Lisa Fasnacht for Lisa's Kayak to operate a kayak and bicycle rental business from South Causeway Park and Manatee Center/Seven Gables House Parking Lot on a three month trial basis.

Commissioner Becht said it is a trial basis. He does need her to work with the public, he needs her to work with staff, and he needs her to work the committee that they are setting up that she apparently is going to be on. They are trying to figure out if they can do this and how they can do it. It will be an evolution of how they do it.

Ms. Fasnacht said that is fine.

Mayor Benton said please work hand in hand with Mr. Hood over there, because he keeps their parks running.

City Attorney Schwerer said so they are clear here, the procedure for this would be... The County does a lease type arrangement which is really more of a license. Staff has proposed a license agreement which is going to be on a standard form - it has

requirements for insurance, indemnification of the City, and such. What he would want them to understand is that tonight's vote does not simply give her the license to be there. Their next meeting they will have a license agreement incorporating what they are talking about and her proposal before them, hopefully with some input from Mr. Hood and his staff on the specifics to be voted on at that time, so that her license would go into affect once that occurs. They will endeavor to have that by their next meeting.

Mayor Benton asked will that be on the Consent Agenda?

City Attorney Schwerer said unless there is discussion, yes.

Mayor Benton said they can pull it for discussion if need be.

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

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The next item on the Agenda was **City Manager request consideration of Revised Early Retirement Proposal.**

City Manager Beach said at their August 4, 2008 meeting he made a proposal to the City Commission to consider his early retirement. There were a number of questions that were generated by that proposal and he has attempted to answer them in his August 13th memorandum that is in front of them today. What they see are a number of columns. The first column addresses what was originally proposed. The center column is what is proposed tonight. The far right column is what his existing Employment Agreement provides for. In addition, this revision includes an effective date of September 30, 2008, as opposed to January 2009. He wrote them a memo previously that outlined the reasoning and the thinking behind this concept and what type of opportunities this opened up for the City of Fort Pierce to restructure the City Manager's office and hopefully recognize some significant and important savings over the next couple of years. The actual document in front of them for action is not his memorandum, it is the document entitled Second Addendum to Employment Agreement. That document attached to their memorandum has been altered as of about 4:00 o'clock today because of new information and it is sitting in front of them right now with that change highlighted in yellow. What that change says is "Whereas, in the event that the retirement contributions shown in Attachment A are insufficient to meet the actuarial requirements of the City's retirement system and additional contributions are required, Beach shall be required to contribute that amount solely from his funds." He believes that addresses the concern that was expressed about the impact of this on the retirement system. He would encourage their serious consideration of this. He is available to answer any questions that they may have.

Mayor Benton said they have been discussing this for a couple of weeks now. It has been amended. Mr. Beach has had a chance to sit down and talk to everybody up here.

City Manager Beach said he has talked with most folks up here. He does not know that Commission Alexander had an opportunity to go through this most recent revision, as he was unable to contact him.

Mayor Benton said they have all been over this many times, so he would entertain a motion if there is one, so they can get down to business and get the city back on track.

Commissioner Becht said he thinks they need to flush out and flesh out what they have done here. Initially he was disappointed in staff that they did not have the information, in his opinion, that they needed to make an intelligent decision on this at the last meeting. The benefit of them not having that is the perception that this was a rush to judgement he thinks has been somewhat diluted because they have had an additional two weeks to flush things out. He would like to make sure that this information is out there for those that are

watching this. Mr. Beach has an existing contract with the City; and that contract provides for a severance package, even if that contract is not renewed. There was some folks that had called or e-mailed or written him, asking why don't they just let the contract expire and then they do not have to pay him any money. They did not understand that the way management contracts are written in governmental entities. To give the managers some autonomy from political pressures, they are given a severance package. The number that he needed at the last meeting was what is the dollar figure cost to the City. Understand, there is a cost to the City and there is a benefit to Mr. Beach. He is not going to get into the benefit to Mr. Beach tonight. He does not need to, because he knows what it is. The cost to the City is truly the important number. The addendum to the contract, when they go through all of the math, costs the city an additional \$29,381 in order to incentivize Mr. Beach to take early retirement. There is a cost to Mr. Beach in taking early retirement, in that if he worked out the balance of his contract, he would pick up additional percentage points for his retirement package and he may pick up additional compensation, although he does not think so. It is a negotiated thing. The change in the contract that they got at 4:30 today was, in his opinion, the result of a change in the actuary's position. He got an e-mail, he thinks he got it Friday, from the actuary, which he read to say that there was no cost to the City for the retirement portion of Mr. Beach's plan; and then today he got a different e-mail that said that may or may not be true. The actuary was beginning to sound like a lawyer, so they did not get a straight answer from him. So Mr. Beach or someone has modified the contract to say that if there is any additional cost to the City, that Mr. Beach will meet that cost, not the City. He thinks they have done their job in identifying what the cost to the City is for the early retirement. That cost is again, for those that do not know... This is the cost over and above the severance package. That cost is \$29,381. Mr. Beach has risen, in his opinion, through hard work, enterprise, and ingenuity to the top of the food chain here in the salaried employees at the City. So his severance package may be somewhat large to those folks that are not at the respective top of the food chain in their organizations. Rather than get into that, he wants to focus on what does it cost the City in order to ask Mr. Beach to take early retirement. Mr. Beach has figured out that this balances out with what he is trying to achieve. They have identified the cost. There is no cost to the City for the retirement plan. Depending on how they go, they may end up eliminating the Deputy City Manager position. If they eliminate the Deputy City Manager position, that package is probably is \$140,000 to \$150,000 a year. There would be immediate cost savings to the City if that is the route they ultimately chose to go. He does not have a problem with moving forward this package. They have the ability to move into new management. He is not committed to any particular direction with that. As they move into new management, it would be his hope and his expectation that they clean the slate with any perceptions about cronyism at City Hall, and they advertise the City Manager position through a national headhunter and move forward to see what happens there. If Mr. Recor chooses to put his name into that hat, and he hopes that he does, he feels confident that he will measure up in a national selection, as he already has. And they will move forward as the will of this Commission is.

Commissioner Alexander said he knows Mr. Beach has a contract with the City of Fort Pierce. Why are they not abiding by that contract? If they are doing an addendum to the contract, he does not know why, because it was specified in the contract. He does not know if Mr. Schwerer had anything to do with the one that they had the first time; but surely if their signature went on it, he had something to do with it. His question is, why are they not abiding by the contract that they have existing?

Mayor Benton said he had lunch with Mr. Beach and made an offer to him because he was looking for a way to cut the top. In that discussion he sort of offered something like what St. Lucie County was doing when it came to retirement compared to the years they have in. What it comes down to is, the first offer was not close, and he knows it was not something approved by this Commission, it was something that he was having lunch and discussing with him. At a time when they are going to be having a tougher financial year next year, he would rather see the ability to take some money from the City Manager's office and put people out on the street working, which they could. That is where this started.

Commissioner Alexander said he has the upmost respect for the Mayor and Mr. Beach both. But if Mr. Beach's contract came to a deadline in July, that was during the time they were doing these budgets and everything else, why was this not mentioned? It went right past him, right over his head. He knows he is not the only one because they all sit up here with egg on their face because no one said anything to them in June or the beginning of July. Maybe that is for Mr. Beach. When they sat down to speak about his early retirement, why was his contract not brought up then? He assumed that he knew it?

City Manager Beach said he is not sure what he is leaning toward. The fact that his contract renews every July of each year does not negate the twelve months severance provision that he has. If the Commissioner is thinking he could have advised him that in July he would not renew his contract and there would be no contractual requirement for the twelve months severance, that is just not accurate. It still has a twelve months severance.

Commissioner Alexander said he knows they had the twelve months severance pay there. But it was done in July, then they would not have all this in September that they have to pay him to be here. That is a job for someone else in this City of Fort Pierce. That is his concern.

Commissioner Coke said so long as they are all voicing opinions. First of all, she wants to thank Mr. Beach, because she believes over the thirteen years, not that they all have agreed all the time, but for the most part he has had a great vision for this City and they are very pleased with him. Not talking out of turn, but they have all spoken with Mr. Beach. Her concerns with this, number one is she was very concerned that the retirement system would not be self-sustaining actuarially to be able to handle this. She had the good fortune to be able to contact their actuary today and get dollar amounts, which she then passed on to Mr. Beach because he has not been able to get them from the actuary. She is pleased to know and be able to inform the retirees that this will have no effect on their retirement or their retirement system as a whole. She had a lot of people calling with concerns about that. She had a couple of different concerns with this as presented to them. The first concern is in the verbiage. The contract as existing calls for a twelve months severance of annual salary and health insurance, which it works out within \$50 to what they have written here which is annual salary, FICA, Medicare, and retirement. She is not comfortable at all with the nomenclature put to that amount of money. She thinks they should stick with what was in the contract which was health insurance, dental, and annual salary. Number two, as much as she thinks they ought to thank Mr. Beach, she thinks four or five years ago when they raised his severance package from six months to twelve months, she thinks that they were being very generous then. She thinks that they have now come across some severe economic times. And when they talk about the difference of economic impact of being \$30,000, they are talking \$30,000 could buy a new police car. And that is as it is written. She would put to them that it is \$30,000 plus then they have whatever expenses they have incurred. She said jokingly to Mr. Recor they do not know what this actually costs them because every time she calls Mr. Recor or Mr. Schwerer or Ms. Johnson, everybody is working on this. So she thinks they need to find a middle ground this evening and move forward on it. She wants to in the worst way do it in a very positive manner. She kind of feels that her vote is not going to count too much this evening because she has already said what she was willing to do. She was willing to do twelve months, it works out to the same dollar amount; but she cannot label it as FICA, Medicare, and retirement, it is just not acceptable to her. Unfortunately although she wants to be able to support it, she was hoping they would get a compromise. If she was saying 12 and he was saying 14, they could compromise someplace. There has been no compromise to any of the suggestions that she has brought up to make it more palatable to her.

Commissioner Sessions asked initially it was fourteen, wasn't it?

City Manager Beach said it was initially 14, then it went to 13 plus 9, and then it went down to 13. It may be helpful with Commissioner Coke to simply put a dollar value on it. The

calculation, doing it the way she wants to do it, is actually more than the calculation that he has, so he is fine with that.

Commissioner Coke said that is if he uses the 13 months. And it is real close if he goes with the 12.

City Manager Beach said it is not far off. Again, the proposal in front of them is this. He respectfully asks them to approve it. He absolutely does not know what else to say.

Commissioner Sessions asked he would be more amenable to 12? Is that the only difference? Because the allocation is what it is in terms of the money.

Commissioner Coke said she would be very happy if they could take that \$134,000 and add the health and dental, which does come out a little bit more, rather than the FICA, Medicare, and retirement. That is what they committed to him in the contract.

Commissioner Sessions asked that is more money though, isn't it?

Commissioner Coke said the second part of that is, it is 12 months rather than 13 months.

City Manager Beach said his request is that they stay with the 13.

Commissioner Becht asked can they put dollar figures in? Because the addendum to the contract, he is basing his support for it based on the memorandum that he got. Is Mr. Beach comfortable that he can plug into a motion to approve the second addendum by using the figures that he has given them?

City Manager Beach said absolutely.

Motion was made by Commissioner Becht, to approve the Second Addendum to the Employment Agreement, modified to reflect that the 12 month severance pay under the pre-existing Employment Agreement would have been \$167,986.09, and that the total cost of the Second Addendum to the City over that severance package will not exceed \$29,381.

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

Mayor Pro Tem Coke asked can he restate that motion in English?

Commissioner Becht asked Mr. Beach did he understand the motion?

City Manager Beach said he did. But he thinks it is more important that the record is accurate, that the record understands the motion. Instead of using the \$169,006 figure as the base, he would use the \$167,986? That is what he understood.

Commissioner Becht said what he is trying to resolve is the total cost to the City over and above the severance package.

City Manager Beach said he understands that. What that will be is that figure they see.

Commissioner Becht said \$29,381.

City Manager Beach said that is correct.

Commissioner Becht said that is how he can support it, that is the cost over what it would be if they just severed the contract as it exists today.

City Manager Beach said that is acceptable to him.

Mayor Pro Tem Coke said she did not follow the motion.

Commissioner Sessions asked could he repeat it?

Commissioner Becht said what he is trying to do is exactly what he said earlier, but he will try to state it more clearly because he is apparently confusing at least two of them. What they are here tonight to vote on is a Second Addendum to Employment Agreement. What he is trying to do is narrow his vote to what is the cost of the Second Addendum to the City. The cost is \$29,381. And they have in his opinion effectively boxed Mr. Beach into that is what it is.

Mayor Pro Tem Coke said no. With all due respect, the cost as proposed is \$169,006 plus \$29,381.

Commissioner Becht said he understands where she is confused. In the memorandum they have dated August 13, 2008, there is a 12 month severance pay per existing Employment Agreement, and that has a dollar figure for that cost of \$167,986.09. He is moving to approve that portion of that, which is his understanding of what Mr. Beach has today without them doing anything, and he would have moved that they approve the Second Addendum with an additional \$29,381 to incentivize him to retire early.

Commissioner Alexander said they have a contract. So why are they incentivizing him to retire? If they just drop this contract as is, then what is the incentive? Mr. Beach is being paid for what he does. He has done a good job and he applauds him for that. But they are talking about taxpayer dollars.

Commissioner Becht said to respond to that, because in order to take advantage of the severance pay, three of them would have to vote to terminate his contract. That is not what is before them tonight. Although his discussions with Mr. Beach is that could be brought up at any time, he is not in support of that. There are other things involved with this that will enable them to, in his opinion, get a fresh leadership at the top. He did not say better, he said fresh. They have almost fourteen years with Mr. Beach at the top. He thinks fresh in this atmosphere has its benefits. He thinks there are a whole lot of other things that are accomplished that are intangible to the City by doing this. That is why he is in favor of it. But it is obviously a pretty controversial subject because he is sure their phones have been ringing off the hook.

Mayor Pro Tem Coke said she is going to repeat that she does want this to work out in a pleasant manner. One thing that she thinks they all need to take into consideration is the fact that by allowing this to go in as a lump sum - because it will cost Mr. Beach a lot of money - towards the actuary and the retirement system, what they have enabled here to happen is for this money to increase his retirement benefits that he will get for the remainder of his life.

City Manager Beach said which is going to be brief if they do not get through this.

Mayor Pro Tem Coke said she is really happy to be able to do that for him. But her concern is that she cannot support 14 months. She can support the 12 months. She thinks the big advantage that they would be doing here is because 12 months as written, were they to at some juncture in time terminate the contract, the monies that would be paid out over the next 12 month time frame to him would not accrue towards his retirement. If they can move forward with this, although he might end up with a little less cash, it will be made up in a years time frame. She just wants everybody to be aware of the fact that they are doing more for him in actuality than the \$167,986 or the \$169,006 plus the benefit thing. They are allowing that money to be paid in a lump sum, which raises his retirement by some \$1,100 or \$1,200 a month.

City Manager Beach said which is why this works. This is why this is an effective process for making this happen. If this were not the option, it simply would not work for him. So he thinks the way they have it set up, he is not sure what their dollar figure is, but somebody needs to put something out there that they can get...

Mayor Pro Tem Coke said they already have a motion and a second. In her way, she is apologizing to him for not being able to support it. She wanted to support it, but she can't support...

City Manager Beach said if there are three votes for it, he will forgive her.

Commissioner Benton said he just wanted to let everyone know that Mr. Beach is paying \$71,900 in taxes once he gets this check. So he will be walking away with just a little more than half of it. That is some of the details that Uncle Sam will be doing well.

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

MOTION FAILED DUE TO LACK OF A MAJORITY VOTE.

MAYOR PRO TEM COKE RETURNED THE GAVEL TO MAYOR BENTON.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, that they pay Mr. Beach the 12 month severance package almost per his existing Employment Agreement, which would be his annual salary plus his health insurance, plus his dental; and that they allow it to be paid in one lump sum and carry forth into his retirement.

Commissioner Coke said in essence it is the same motion that Commissioner Becht made except for they are paying 12 months instead of 13 months.

Commissioner Sessions asked that places them as opposed to \$29,381 as far as the City's cost is concerned to be what?

Commissioner Coke said it would be this \$167,986, but that would already include the FICA, Medicare, and retirement. So the addendum that would be added on to it would be less.

Commissioner Sessions said he can support that motion. As far as what they had previously on the table, he felt that it was justified in terms of what Mr. Beach has done for the City. They have come quite a ways. When he looks back at where he started envisioning the changes that he wanted to see happen, especially in his district with Avenue D and how it has improved in that area, he thinks they have come a long way. Mr. Beach, along with Ramon Trias who is no longer here, they had visions. Visions that he could not see. But these individuals placed that vision in his mind and he worked real hard in order to make some of these accomplishments that they see in terms of his particular district. But the timing is just bad in terms of where they are economically in terms of the City. He thought about this, they are sending a message out when they look at the extra money, the \$30,000 that Mr. Beach initially had proposed, he just does not think it was good timing in terms of the message that they are trying to send out to the public that they are in dire straits. He thinks they should lead by example. And he does not even think Mr. Beach wants to leave in that particular position, because he has left a legend in his mind. He hopes they can get the support of the motion that is made and they can move on to big and better things within the City.

Commissioner Coke said for clarification, now that she did have time to operate this little calculator, it is \$146,284.10.

Commissioner Becht said he is terribly confused. The City Manager has an existing contract. Can she explain to him if she changed it? And if she has changed it, how has

she changed it? If she has changed it, they are going to need the City Manager's agreement to changing the contract.

Commissioner Coke said no, she has not changed it. Under Severance Pay, Paragraph 8, it says severance will be paid when employment is terminated as defined in Paragraph 7, the city will continue to pay Beach's annual base salary for 12 months after that and his life insurance and major medical. So what she has done is taken the amount that they are showing here as annual base salary, plus his health insurance and dental, and the motion would be to pay him that. The other expenses that are listed here are expenses the City will incur, but the City will be paying the government the FICA and the Medicare, and paying the Retirement Board the 10% of that. So the expense to the City is still the \$167,986.09; but the difference is they are going to pay to him in a lump sum, which will increase his retirement. What part of her rambling would like some clarification on?

Commissioner Becht said he is going to let the City Attorney address whether that is a change in his contract. And if it is a change in his contract, can they change the contract without his approval?

Commissioner Coke said she did not mean to change his contract. She meant for them to offer him a retirement proposal. That is what she was looking to do.

City Manager Beach said let him help them out here. If they would vote on that proposal, he will go from there, he will evaluate it and see how it works. As soon as he can completely understand it, he will...

Mayor Benton asked how can they do this tonight?

City Manager Beach said if they vote on it, once he evaluates it, it will be final.

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

City Manager Beach said it will take some time to digest this, but he will get them an answer very early.

Mayor Benton said he feels that Mr. Recor needs to be sent a message also. He knows Commissioner Becht was talking about doing a national search. But Mr. Recor came to them over three years ago; and in his opinion, and he thought everybody sitting up here, that he was hired not only to be trained but to fit the position when Mr. Beach retired or left.

Mr. Recor has fit that position very well. Fort Pierce is a unique community and it takes a while to learn Fort Pierce. He thinks Mr. Recor has done an excellent job. Mr. Recor has a family. He really thinks they should send him a message that he needs to stay on. Right now he is meeting with people on a weekly basis that want to bring business to this community and he needs somebody at the table. They need Mr. Recor to be working and not thinking about whether he is going to have a job or not. Mr. Recor has more than 100% of his confidence and he works with him almost every day. He would hope this Commission would consider an agreement Mr. Recor can put together. He knows Mr. Recor has talked to everyone about a legal contract. He would like to see it brought back at the next meeting. He would like to hear from the other Commissioners on how they feel so they can send him a message, he deserves it.

Commissioner Sessions said he would like to see a proposal from Mr. Recor, certainly.

Mayor Benton asked can he ask the Commissioners to make it a point between now and the next meeting to sit down with Mr. Recor and discuss his proposed contract so they can have something in front of them? Even if Commissioners feel that it is a temporary thing, he needs an answer.

Commissioner Alexander said yes.

Commissioner Becht said for the record, he has met with Mr. Recor a couple of times at least and they have talked on the phone. He just thinks the unfortunate way that this has gone down, that a clean start with Mr. Recor standing toe to toe. They all know he went through two or three of these things and he came out on top, if not all three of them, at least two of them. So he is not worried about Mr. Recor measuring up. He just thinks they need to go through the process. He does not know if there is anybody else here that wants to go through the process. It is \$15,000 to the City, but he thinks they are going to get employee confidence and they are going to get public confidence if they go through it.

Mayor Benton said he remembers when they looked for a Police Chief. Commissioner Sessions was here at the time. They spent about \$20,000 and they did not hire that guy. The FPUA spent he does not know how many thousands of dollars and hired Mr. Thiess. So it would be one thing if Mr. Beach had not trained Mr. Recor for this position. He thinks they all have confidence in his abilities, from running the Planning Department to speaking to the Legislature to interacting in local government. Mr. Recor has done an exceptional job. Commissioner Nelson had brought him a copy of the 40 resumes from two years ago in Vero Beach. Like many times that he has seen, everybody wants to move to Florida to retire. He just thinks they need to send Mr. Recor a message and send the community a message that they have full confidence in him. He works for them. They answer to the community. But he bets if they took a poll out there, everyone that has worked with him, it would come back in a very positive form. His addition to his pay, that was the City Manager's call. The City Manager saw that he had abilities. He is doing three jobs now.

Commissioner Coke said first of all, she did not come prepared this evening to discuss this. She has met with Mr. Recor. She questioned him why it was not on the Commission Agenda. So her mind is already spinning between the FPUA budget and Mr. Beach. So she is not really prepared to get into a lot of that. Up front she told Mr. Recor the same thing as she told Mr. Beach up front. Her preference would be to give him a contract that would allow him to work out the remainder of Mr. Beach's contract as a trial basis thing; and three months prior to July, they would look at it in April and see. That way they are there in an interim basis because the position he is at to move into another position is a whole different thing. It gives them enough time to vet out are they going to be happy with him, is he going to be happy with them. The same as she has argued with Mr. Beach many times over the years, she has argued with Mr. Recor. Are these arguments that she can overcome and move forward and want to work with on an annual basis? She is not going to know that until he is sitting in that office. That is what she told Mr. Recor. Again, she really did not come prepared to discuss that in depth this evening.

Mayor Benton said all he is asking is that between now and their next Commission meeting, if everyone here would sit down with Mr. Recor. If he could put together something they could agree to, but they need to send a message.

Commissioner Coke said some time they need to get beyond all of this. All Mr. Recor and Mr. Beach and everybody else over here has been doing is working on this.

Mayor Benton said they have been doing more than that.

City Manager Beach said that is not accurate. There appears to be the perception that there is not much going on here at City Hall. But he would really like for people to recognize the level of activity that takes place in this building on a daily basis. All this is, is extra. This what they are dealing with right now is on top of the normal work load.

Mayor Benton said they just need to clear it up because there is a lot of opportunities that are coming to Fort Pierce right now and they need to get focused.

Commissioner Alexander said that is what his concern is, not the fact that it is the lack of work being done in the City of Fort Pierce, but he has a concern when he sees City of Fort Pierce running businesses out of Fort Pierce and it is not just business friendly. He has a problem with that. They need to rectify that.

Mayor Benton said that is where they need to get some communication going. He does not want to go into details, but he has met with several groups that want to bring businesses here and they are looking for stability.

Commissioner Alexander said he is looking for jobs.

Mayor Benton said these are hundred of jobs. But they are looking for a stable city. That means they have to have a City Manager that they have confidence in coming to the plate and bringing stuff to everybody at this Commission. Please sit down with the Deputy City Manager in the next couple weeks and see if they can straighten this out so they can run this city the way it needs to be run.

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The next item on the Agenda was Interim Planning Director to advise of Approval of a Minor Amendment to the Site Plan for **Coral Square Shoppes** at 3006 South U.S. #1.

Mr. David Carlin, Development Review Planner, said the applicant is requesting approval of a Minor Amendment to the Site Plan by constructing an additional 15,600 square foot retail building. In addition, the parking configuration for the subject development has been modified pursuant to the new parking ordinance for large retail shopping centers. The C-3 zoned parcel is located on the east side of U.S. #1, north of Edwards Road. The original Site Plan was approved on July 2, 2007. On June 16, 2008, the Commission granted a 6-month extension to the Site Plan so the Minor Amendment process could be completed. The original Site Plan specified that six buildings will be constructed, totaling 165,577 square feet of floor space. Four of the new buildings will be situated in the general location of the former shopping plaza, while two of the new buildings will be constructed up towards the front along U.S. #1. The new 15,600 square foot building will be located towards the north property boundary. This will bring the total size of the development to 181,177 square feet. On February 4, 2008, the City Commission approved the change to the City's parking requirements for large retail shopping centers. City code requirements were modified such that shopping centers which exceeded 50,000 square feet would require one parking space for each 250 square feet of gross floor area. This change resulted in a reduction of the required number of parking spaces, since the City code originally required one space per 200 square feet of gross floor area. Based on the new code requirement, a total of 643 parking spaces are required for the subject development, and 651 are provided. The new building will extend to a height of 26 feet and complement the existing architectural style which complies with the Design Review Guidelines. Access to the new building will not result in any change to access or modifications to the existing development, which consists of two entrances. The southern project entrance will serve as a one-way entrance for traffic to enter the development just north of Edwards Road. The northern entrance will serve as the primary access point. It will allow for full turning movements and signalization, with dedicated deceleration lanes for vehicles traveling northbound on U.S. #1. In addition, an existing driveway entrance located on the north property boundary will be closed for improved traffic flow along U.S. #1. A traffic study conducted by Kimley-Horn & Associates indicated that 655 existing PM peak hour trips were generated by the development. Based on the new size of the development, a total of 695 PM peak hour trips will be generated. This results in a net new number of 40 trips that will impact U.S. #1, which currently operates at a Level of Service F, which is below the City's adopted standard, Level of Service D. As such, the applicant is satisfying concurrency requirements by paying a proportionate fair share contribution in the amount of \$7,813 for the improvement of U.S. #1 at the intersection of Virginia Avenue. Section 22-58 of the City Code allows administrative approval of a Minor Amendment which does not change the use or character of the development, increase the coverage or height by more than 10%, reduce open space or increase impervious coverages by more than 10%, or increase

density or the number of dwelling units. The proposed amendment meets the criteria specified for a Minor Amendment. In addition, the City Engineering and Public Works Departments, the St. Lucie County Fire District, and the FPUA have all reviewed and approved the amendment based on it meeting the requirements of the City code. The City code indicates that a Minor Amendment shall not become effective until the City Commission has been advised of the Planning Director's administrative approval. The Department of Planning has approved the Minor Amendment to the Site Plan for the Coral Square Shoppes.

Commissioner Alexander said he knows they ask all the developers to help with the City's recreation. Have they spoken to these individuals about it? He met with them. It is a fine project and beautiful for the City of Fort Pierce. But it is crunch time now. Has staff discussed anything with them about a proportion to the...?

Mr. Carlin said outside the scope of the required fair share contributions for concurrency, no other discussions have ensued for other off-site contributions.

Commissioner Alexander asked is it just Alexander that is asking these questions?

Mayor Benton said if they were looking at a condo with 150 units and lots of people. But because this is a commercial business Fort Pierce needs that will provide jobs. They have had a hardship with the Brownfield issues, which the City has helped them out with. It is mainly getting retail and creating jobs in Fort Pierce.

Commissioner Alexander said he is fine with that. But when they speak to others that come before them, he just wants them to be welcome to the City of Fort Pierce, but still they have needs too. He knows they did it on the properties they approved over there on Okeechobee Road. That was a medical building, wasn't it?

Mayor Benton said he knows they have done that. Is that the one on Okeechobee Road that is for sale?

Commissioner Alexander said they recently done it to warehouse individuals down there. He is just doing unto others.

Commissioner Becht said as he understands, the Commission does not even vote on this. Mr. Carlin is just advising them of the Planning Department's approval.

Mr. Carlin said yes. Also, the applicant has indicated they have also contributed to the St. Lucie County Fire District for additional contributions.

Commissioner Coke said but that doesn't concern her at all.

Commissioner Becht said what Commissioner Alexander has raised is an issue that he is hopeful will be codified as they go through the LDR's. And it won't be iffy or subjective, it will be real clear. But for an administrative minor site plan change as they are going through tonight, he does not know that this is the time.

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The next item on the Agenda was Chief of Police report concerning the **Ellis Substation Expanded Hours Pilot Program**.

Chief of Police Sean Baldwin said he and his staff are going to help them through the process of evaluating the pilot program for extended hours at the Ellis Substation. Some months ago, they decided to do a pilot project that would extend the hours of operation from Monday through Friday, 8:00 to 5:00, to seven days a week. The Substation is now open currently from 8:00 a.m. until Midnight. They have some statistics they have tracked.

Captain Gregory Kirk, Fort Pierce Police Department, said this program actually began on May 18th with the expanded hours. He knows Commissioner Sessions was concerned about the community being aware of the expanded hours giving them access to the substation. To clarify the steps they took, a news release was provided to all local media outlets. Their Public Information Officer published an article in The Hub (in the Fort Pierce Tribune). Slides were run on TV 27. Public service announcements and staff interviews were aired on local radio, which included Stations WFLM, WJFP, WPSL, and a Hispanic radio station (Lagigante Radio). Also, they had a reverse telephone system that called the community in their target area, which was from Delaware Avenue north, in the northwest section, which described to them the expanded hours and the service they provide to the community. They have a slide showing the breakdown of the actual calls. Surprisingly, over a 12-week period they only had 104 tracked calls. A total of 8 Call-In Reports. That means somebody called in on the telephone and spoke with the Duty Officer. There were 7 Walk-In Reports. Totaling 15 reports generated over this 12-week period. In reality, if they break down the actual workload - typing up a report - they paid \$1,300 per report. Next is Telephone Information, which was provided on 11 occasions. They had 58 Walk-In Information reports documents. In other words, somebody walked in and asked how do they file a report, or they need directions somewhere, or they may have a civil question about a title on a car, or something along those lines. So on 58 occasions over a 12-week period, they provided just general information to the public. There were 5 Officer Complaints. There were 8 Referrals. That would be to different services such as DCF or others in the community. There were 7 Miscellaneous. That would probably be using the restroom or going to the water fountain. He told them to document every person who walked through the door. That cost them \$19,669.70. And it was 747 overtime hours. So it is up to the Commission of course whether or not they want to continue this, which would require them to hire additional employees.

Commissioner Coke asked the Substation activity totals he has given, are those all during the extended hours, not during normal hours?

Capt. Kirk said just extended hours. If they were to come into the substation during the day, it is quite busy. They take continuous reports, have continuous walk-ins. The expanded hours over the expanded time frames, the Duty Officers became quite bored.

Commissioner Alexander asked the new community service group that is coming in, where are they going to be located?

Capt. Kirk said they are going to be located in the northwest section of town.

Commissioner Alexander asked are they going to be coming out of the substation or the main station?

Capt. Kirk said they are going to be coming out of the main station, but they are also spread at the Avenue I Substation as well as the Beach Substation. They are spread out in order to provide appropriate service.

Commissioner Alexander asked the officers on the beach, weren't they already there?

Capt. Kirk said yes, they have an officer that is assigned daily to the beach as a Zone Officer. But they also have a Crime Prevention Officer that is now assigned to that office that the Fire Department provided to them with a desk, a phone, a restroom - quite a nice office.

Commissioner Sessions said when he talked about the measures to try to promote this or get the word out, he noticed when he called the non-emergency number after hours at the Main Station, there was no roll-over to the Avenue D Substation or even an announcement to let those individuals know after hours that they have a substation open and available where they can take care of business, or at the least a roll-over line to the Avenue D Substation. Another thing that came to his mind while he has been observing this situation

is the lighting around the Avenue D Substation. It appears that it is still closed. In order to let the public know that a business is open at night, it is apparent they have to light the place up to let the people know, because if it is not lit up, it appears that it is still closed like it was initially.

Capt. Kirk said he has periodically gone by the substation and has given specific instructions to the Duty Officers to make sure those lights are on inside as well as outside. It may be the tinted windows that gave him the perception that they are closed. But it is lit up like a Christmas tree when he pulled up on several different occasions. So he is not too sure what Commissioner Sessions is referring to. If he referring to the Sergeant's office, they close those blinds.

Commissioner Sessions said the outside. Is there any difference now versus when it was closed? From the outside, any lighting?

Capt. Kirk said absolutely, yes. That lobby is lit up like a Christmas tree. The outside, the lighting has always been there for security purposes.

Commissioner Sessions said they don't have much lighting, because it appears to be the same way now that it was before. Another thing - and this is a fact he does not think they can measure - is deterrence with regards to that substation being open. He does not know how they are going to measure that. But bottom line is, in order to cure the cancer, they put the cure right in the core of the cancer. Obviously they all know that is a problem over there in that area in terms of crime and the crime rate. So how do they measure the deterrence? Do they put a dollar figure on that? Can they put overtime on that to justify not keeping that open? They have a station over here on U.S. #1 and there is no crime over there. He doubts very seriously that is deterring the crime over in the most infested area, which is over in his district.

Chief Baldwin said they are not going to argue with him that there is some value and there is a lot of sentiment in the community that they want that substation to be open, there is no question about that. Is there some value they can't measure in terms of these numbers and statistics to have somebody sitting there and having the lobby open, whether it is until midnight or 24 hours a day? There absolutely is, no doubt about that. They are simply just providing the Commission with the facts they got from their pilot program. Now this is the Commission's decision to make. As he stated when they talked about this 12 weeks ago, it is an issue of funding and priority.

Commissioner Sessions asked doesn't he think it is a little premature though? He thought it was 16 weeks as opposed to 10 weeks.

Chief Baldwin said they will go another four weeks. But the problem is, he has to schedule all of this for a presentation on the agenda. To do that, he has to turn it in two weeks early to get it on the agenda and calculate the statistics so he can bring it back to them in four weeks, but it is only going to be another two weeks worth of data. So he does not know how much more helpful that is going to be. They will continue to run this for the 16 weeks they were asked to do it, no question about that. It is just, does he keep running it past the 16 weeks for another two or three weeks while he gets it back on the agenda? Or does he stop and then bring it back to them? He told them he would bring this back to them after 12 weeks with this data. If they don't think they have enough data to make a decision, he will continue going for another three weeks and adjust this however they feel he should adjust it. He really does not want Commissioner Sessions to think they haven't been trying to make this work. He would really not mind having somebody sitting at that substation 24 hours a day and he would not mind being able to provide the same service at their main station. He will take all the help they can give him.

Commissioner Becht said that means money.

Chief Baldwin said if they can come up with the money, he will take all the help they can give him - whether it is sitting at the station, out in the street, or whatever it is. He is getting the feeling Commissioner Sessions is defensive about this. That is not their presentation. The Commissioners asked them to do something, they have taken a look at it, and they are presenting them with the facts. Unfortunately, they have to make a decision whether or not they can afford to keep doing this.

Commissioner Sessions said he is not so much defensive as he is an advocate of it. His constituency, he was elected to public office to protect their safety and well-being. Crime is a top priority for him. It doesn't matter whether they are north, south, Hutchinson Island, Avenue D, south of the City limits, or north of the City limits, eventually it is going to impact the whole entire area. He just feels that it is imperative that they have something where the problem is to deter the problem in order to prevent the problem to keep going on as it is in terms of the crime rate in this area.

Chief Baldwin said he appreciates their partnership in that. As they know, he is sworn to the same mission.

Commissioner Becht said they get a monthly report from the Police Department. Can the Chief, with GPS or some kind of data, chart a zone? The deterrence is the thing he would like to see. He thinks it may be quantifiable if the Chief can tell them where he thinks there is a zone of influence with the station being open. He does not think that is necessarily a circular pattern, it may be along Avenue D east and west of where the substation is. But they got incident reports before they had people in there during these hours. Aren't the incident reports by date and by location?

Chief Baldwin said yes, they can map this out. They can show the Commissioners the 12 weeks before this pilot program compared to the 12 weeks during the pilot program. But he does not know that is fair though, to be honest. Because the 12 months before this pilot project they still had people working out of that substation. They have officers coming and going from that station 24 hours a day.

Commissioner Becht asked how much trouble is it going to be for him to compile the data?

Chief Baldwin said it would take a couple of hours work from an analyst. He would be happy to provide it.

Commissioner Becht said he would like to see it. And he does not care to choose the zone, the Chief can tell him what zone he thinks it may have some influence on. He would like to continue it for at least the 16 weeks, that is what they had committed to. And bring back the deterrence data.

Chief Baldwin said he will map out criminal offences in that area for the 12 weeks prior compared to the 12 weeks of the pilot program. They may be able to get 14 weeks worth of data. He will also do the same for calls for service, because that may be even another indication there.

Commissioner Becht said whatever the Chief thinks is relevant. He is trying to get relevant data. His feeling is that there is a deterrence there, but he wonders if the data backs that up. So bring them the data and then they will make a decision.

Chief Baldwin said he just wants to stress to the Commissioners that he agrees there may be a deterrence there, he just does not know if they can prove it. He will give it every shot.

Mayor Benton asked is there is any way they can do a follow-up on these reports and this information when they came in? How many arrests were made or crimes prevented? It is one thing if somebody is coming in just to sit down and chat. But if they had valid information where a follow-up put some bad guys behind bars, that is what he needs to

know, that by doing this they have cut crime down on the street and put some bad guys away.

Commissioner Alexander said he wants to emphasize that there is 10th Street, 14th Street, and 13th Street gangs terrorizing their neighborhoods. He says their neighborhoods because they have to ride up and down the streets, whether they are riding in their private vehicle or their unmarked vehicle, they are subject to the same. He has some concerns with those gangs and they are right in the vicinity of that substation - 10th Street, 14th Street, and 13th Street. If the numbers would be compiled including them, fine with him.

Chief Baldwin said at the chance of getting in trouble with the Florida Department of Law Enforcement, he just reviewed their crime statistics, which haven't been released publicly. Their crime for the first six months of 2008 is down 2.2% compared to the same period the year before and that doesn't sound like a lot. But it is down for violent crime - which is where they are suffering from their gangs - 8.9%, which is absolutely incredible. And there is no doubt that is a continuing result of their partnership with the community and their application of some modern policing strategies that are specifically targeting the gangs in their community. Everybody realizes the economy is slipping and that does bring some threat with it in terms of crime. He appreciates the Commissioner's concern about the gangs, but they are actively pursuing that. He understands they need more information. He will reschedule this for the next agenda with some maps and some additional information. If Commissioner Sessions has any ideas of what they can do in the interim to improve the productivity here, he will be happy to listen to him. He has made a few notes here and will make sure that stuff is taken care of.

Capt. Kirk said he will follow up on the lighting issue Commissioner Sessions was concerned about as well.

Commissioner Sessions said light that place up like a Christmas tree. Let the whole City know, this is where crime stops, right here.

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The next item on the Agenda was Discussion on proposed Agreement from **Redspeed USA Corporation** for Traffic Law Enforcement System.

City Manager Beach said this was a Budget Workshop agenda item they had a few weeks ago (July 24, 2008). The impression of that company was that the Commission had authorized moving forward with this with their company. At the staff level, there has been some discussions about the necessity of RFP's and other technical processes. It is being presented to the Commission tonight for them to give direction to staff as to whether to move it forward as far as the Request for Proposals process and so on.

Commissioner Becht said he was hoping Mr. Schwerer would have read this 22-page agreement with addendums which are incomplete actually.

City Attorney Schwerer said he did not read it.

Commissioner Becht said he skimmed through this as a City Commissioner, not with any other hat on. But he thinks Mr. Schwerer is going to have some heartburn when he reads through it as the City Attorney. Everything comes with a price. This free red light system comes with a price and it is hidden in some of the details in here. This is a six year contract and they would have to make a six year commitment to it. Rather than get into the details of this one, he would prefer to do an RFP and is all in favor of doing an RFP. But this thing, before they have Mr. Schwerer go through it, they need to do an RFP. He would be in favor of an RFP, because that is really the only direction staff needs tonight, right?

Mayor Benton said right. Everyone agree to an RFP?

Commissioner Coke said yes.

Chief of Police Sean Baldwin said he has been working on this for about two months and he wants to propose something to the Commission. An RFP takes an incredible effort on staff's part because they have to do specifications. It is just an incredible effort. He would suggest that there are some basic questions that need to be answered before they get to that point; and that is, is it legal and is it feasible for the City of Fort Pierce? His suggestion is that they task their Police Chief and their City Attorney with providing them the information they need to make those determinations. Once they have made the determination that it is legal and that it is feasible for them to do this... He says that because of the contradiction regarding the use on State roadways. They need to make those determinations. They will bring that back to the Commission. They can probably do that in 30 or 45 days. Once they have made a decision that it is legal and feasible, and if the Commission wants to do this, then they will move forward with the RFP, if that is acceptable. If not, they will do an RFP and work out the legal issues afterwards.

Commissioner Coke asked they can have it by the second meeting in September?

Chief Baldwin said that he does not believe is 30 to 45 days.

Commissioner Coke asked what about the first meeting in October?

Chief Baldwin said absolutely, they can get it done by then.

Mayor Benton said he saw the urgency at the Budget Workshop.

Commissioner Sessions said he wants to voice his opinion. He just does not believe this is going to have a positive impact in terms of potential visitors and tourists in this area. They are going to put themselves out there as Fort Pierce, this is the City where the cameras are on every intersection and the cameras will determine with or not they get a ticket. They are just sending a message out there when they are trying to attract tourists and visitors to their area. The thing is, this is somewhat of a pilot program for this company. It would be one thing if the surrounding cities had something similar; but Fort Pierce is going to stick out like a sore thumb. He is just not a proponent for making more regulations and infringing upon the day to day operations of individuals unless it is warranted to protect their safety and well being. Face it, they considered this for purposes of a financial plus in order to add some financial backing to the City, not so much to protect the citizens themselves. So he just does not feel that this is something they want to get into. He does not think they want to send that message out to people that they are going to make more regulations again. He just does not feel comfortable with this.

Mayor Benton said he wants to make it clear that he is not doing this for money. He is looking into it because there are so many people out there that run red lights, because they are on their cell phones or something else. He drives a big vehicle for that reason, because he has seen too many bad accidents. People don't take driving seriously today, they don't realize when they get in their car they have a loaded gun. Too many people have been hurt and killed. If this will slow that down... He would appreciate going into a community that has a sign that says "Welcome to Fort Pierce - We Have Cameras". They want visitors here that are going to be law abiding, not people going way over the speed limit and running through red lights. As somebody with a family, that is something he has always considered, safety is number one.

Chief Baldwin said he is asking them not to make a decision at all. Let him gather the facts and sort through the sales pitches, so they can base their decision on facts. He has seen studies that support this in terms of safety and refute it in terms of safety. He has to sort through those, which are real empirical studies that can guide them. Fort Pierce is not the only jurisdiction doing this around the State. He can tell them that this has got an incredible amount of attention in other jurisdictions. His understanding is that Palm Beach is in the process of doing it right now. True, Port St. Lucie and Vero Beach is not, that he knows of.

But if they will give him until the first meeting in October, he will present them with an analysis that lays out the facts and then they will have facts that they can make a decision from. They may come to the same conclusion. He will see if he can address that, but he does not know if there are any studies that deal with the tourism. Certainly the privacy issues is one of the concerns this type of things raises.

Mayor Benton said they will wait for his report. A lot of people thought, after this discussion took place, that those cameras that are sitting on the traffic lights on U.S. #1 are already doing that. But no, those are there to see people waiting for a light so the light changes.

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

Commissioner Becht said he would like Consent Agenda Items 25(a) and 25(b) (**Harbour Isle Roundabout**) pulled for discussion.

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

c. Accept the five top-ranked firms to provide **Professional Engineering Services** for the City on an as-needed basis project by project: Kimley-Horn & Associates, Wantman Group, Engineering Design & Construction, Culpepper & Terpening, and McMahon Transportation Engineers & Planners. RFP #5833

d. Approve Florida Department of Environmental Protection, Florida Recreation Development Assistance Program (FRDAP) Project Agreement for reconstruction of **Kimberly Bergalis Park** and acceptance of matching funds reimbursement from FDEP in an amount not exceeding \$135,611.00.

e. Approve Florida Department of Environmental Protection, Florida Recreation Development Assistance Program (FRDAP) Project Agreement for construction of the **Jetty Park Project** and acceptance of matching funds reimbursement from FDEP in an amount not exceeding \$135,611.00.

f. Accept State of Florida Attorney General **Victims of Crime Act (VOCA) Grant** to the Police Department in the amount of \$41,150.00.

g. Approve Police Department purchase of **Ammunition** from Florida Bullet, Inc. in the amount of \$32,070.00. (Sole Source)

h. Approve Police Department purchase of **Holsters, Magazine Pouches, and Tactical Light** from Law Enforcement Supply in the amount of \$34,746.94. (Edward Byrne Memorial Justice Assistance Grant)

i. Approve Police Department purchase of **Firearms and Ammunition** from Global Guns & Hunting, d/b/a OMB Guns, in an amount not to exceed \$65,522.00. (Edward Byrne Memorial Justice Assistance Grant) Bid No. 5944

j. Approve Police Department purchase of **Vehicle Consoles** from D & R Electronics Company Limited in the amount of \$27,420.00. (Sole Source) (FPRA Innovative Community Policing Grant)

k. Approve Police Department purchase of fourteen X-26 Advanced **Tasers and Equipment** from DGG Taser & Tactical Supply in the amount of \$14,850.50. (Sole Source) (FPRA Innovative Community Policing Grant)

l. Approve Police Department purchase of Digital XTL 2500 Mobile Radio Equipment for fourteen patrol vehicles from Motorola, Inc. in the amount of \$30,035.00. (Sole Source) (FPRA Innovative Community Policing Grant)

m. Approve Police Department purchase of Training Program from Police Law Institute for monthly legal updates and reviews in the amount of \$16,355.00. (Sole Source)

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The next items considered were Items 25(a) and 25(b), which had previously been removed from the Consent Agenda: Accept proposal by Dickerson Florida, Inc. for construction of the Harbour Isle Roundabout Improvements on Seaway Drive in the amount of \$1,120,331.14 (Ref. Bid No. 5799); and Accept Specific Authorization No. 6 proposal by Boyle Engineering for construction engineering inspection services for the Harbour Isle Roundabout Project on Seaway Drive in the amount of \$84,200.00. (Ref. RFQ No. 5457)

Commissioner Becht said they have waited so long for it to happen, to get this far, but he has a few questions. The dollar figure in there for Dickerson at \$1.1 million for the roundabout is more than the amount pledged by the developer by \$600,000. Who picks up the tab for the \$600,000?

City Manager Beach said if they do not pursue the developer for the extra money, then the City would pick up the tab - either through the stormwater management utility, because a great deal of that has to do with stormwater management issues, or charging it to the Fort Pierce Redevelopment Agency as a part of their project.

Commissioner Becht said as he approves this, he wants to make sure they are intending to and doing everything humanly possible to pursue the developer for the real cost of this.

City Manager Beach said he will let the City Attorney address that. That discussion has occurred.

Commissioner Becht said he would not want to make a motion on a consent agenda item to do anything that jeopardizes their chances of making full recovery from the developer.

City Attorney Schwerer said this is a fairly complicated legal issue. He thinks what they are going to end up with is a situation whereby the developer's position is that this Commission authorized the development based upon a very specific developer contribution toward the right of way improvements, very similar to what one would expect on a fair share type of arrangement under Chapter 360. In other words, it was estimated cost of the improvements at the time it was approved and that money was put up in the form of a letter of credit. It is going to be difficult to advance a position, both legally and factually, that the developer is going to be responsible for the increased costs. He does not want the Commission to believe that is a sure thing or even perhaps a more than 50% chance. They do have a Letter of Credit out there that backs the developer's obligation. It is for a very specific amount. Before this contract is executed by the City, he has already advised the City Engineer - they had a meeting with the City Manager and Deputy City Manager - concerning how they have to approach things with the developer. The developer is under the legal obligation to design and construct this roundabout.

Commissioner Becht said that takes him to his second point. If the City is picking up another \$84,200 with Boyle Engineering, why are they doing that instead of the developer doing that?

City Attorney Schwerer said he thinks the reasoning behind that - and he doesn't want to speak for the City Engineer's office - but there were conversations between the developer's representative and the City Engineer that the City could go ahead and take it as a project of their own, and the developer would pay his fair share in accordance with the previous... In

other words, the developer under the theory that he only pays for that amount, would not undertake the entire project.

Commissioner Becht asked is there anything special they need to do in a motion to approve these items to preserve their ability to pursue the developer?

City Attorney Schwerer said it would be subject to entering into such legal agreements as they need from the developer at this point in time, or bring it back to the Commission. If they believe that there is a real need to charge the developer here based on his earlier agreement, staff has to bring it back to the Commission, because he does not think they are going to be able to charge over and above that amount. If they want to approve it tonight subject to the City entering into legal agreements to have the developer contribute his money to this construction project and go on, they can probably do that. If they want to ask for additional funds from the developer, staff is probably going to have to take that back to the Commission. There is very specific development orders out there for this project and there is very specific legal agreements they entered into years ago.

Commissioner Becht said his concern is, he does not believe he was a voting member at the time this was approved; but he thinks there are three people up here that may be a little surprised that the cost of this is not going to be shifted or was not already previously shifted to the developer. So there are a couple of things that need to happen here. One, he will move to approve these two subject to trying to do whatever they can to capture money from the developer. But as they create these development orders and development agreements in the future, he would ask staff to be a little... He is just concerned that this was not captured. And he has the benefit of 20/20 hindsight.

City Attorney Schwerer said the Commission needs to understand, when he recounted this with the City Manager's office, his memory was jarred by that discussion when he pulled the file out and went through the series of events. The Deputy City Manager was not even here at the time, but he thinks he grasped the concept. Staff advised against accepting the original proposal for a price specific for that very reason. But that was at the same time the developer was pursuing the City for CRA credits back.

Commissioner Becht said \$20 million. He was there for that.

City Attorney Schwerer said whatever. The bottom line is, this Commission made a conscious decision to ask this developer to pay this much towards this project. They denied him CRA contributions or whatever else he wanted. That was the will of the Commission at the time. He is not saying they took \$648,000 and that is in lieu of the CRA contributions. But that was a conscious decision by the Commission. Staff recommended against taking a specific amount and just putting him on the hook; but this Commission said no, they will take that amount, lets move forward.

Commissioner Coke said it was not this Commission.

City Attorney Schwerer said it was the Commission in place at the time. Not that it was a bad decision, it was a decision that needed to be made. But the legal documents that were drafted at the time reflect exactly what that previous Commission had done.

City Manager Beach said he thinks it would be incredibly risky to try to go back six or seven years in his mind and reconstruct everything. This project has been going on a long time. He would strongly encourage them not to condition moving forward with it on resolving this with the developer. What he would like for them to do and what he recommends they do is move forward with this, and at the same time get legal staff to move forward with negotiations with the developer's attorneys to find a solution to this. That is the action he would suggest.

Motion was made by Commissioner Becht, seconded by Commissioner Sessions, to accept the proposal by Dickerson Florida, Inc. for construction of the Harbour Isle Roundabout Improvements on Seaway Drive in the amount of \$1,120,331.14 and to accept Specific Authorization No. 6 proposal by Boyle Engineering for construction engineering inspection services for the Harbour Isle Roundabout Project on Seaway Drive in the amount of \$84,200.00; and task the City Attorney to move forward with the Developer to seek reimbursement.

Commissioner Alexander said they have done other roundabouts. What was the hindsight of the Commissioners to a roundabout versus a traffic light?

City Manager Beach said it was just design issues, making it a more attractive, appealing, and functional intersection.

Commissioner Alexander said it will cost them \$600,000 for appealing.

City Manager Beach said actually it was going to cost the developer that.

Commissioner Alexander said he will go along with that. But what is the difference between a traffic light and a roundabout?

Mayor Benton said a roundabout keeps traffic flowing.

Commissioner Alexander said right. That roundabout right down there is very dangerous because the traffic does not obey the yield sign.

Mayor Benton said they don't obey red lights either, that is why they are looking into traffic cameras. But this was what the Planning Department recommended at the time. He sat down years ago with several engineers, wondering if they could change that. And it was a big no.

Commissioner Sessions said no developer in his right mind, especially when the market has bottomed like it is now, is going to come forward and volunteer to give an additional double what he originally agreed to do. He does not know whether or not they are justified in even expecting him to do something like that. Here is a developer who made an investment. When they look at what is going on over there, he is not getting his money's worth. He does not believe he is going to volunteer to put forth that extra money for a roundabout that they originally had agreed upon. If it was for that exact amount it would be one thing. But to expect him to come forward and reach some type of compromise, he thinks they are just smokescreening.

Commissioner Coke said they are still collecting taxes from that.

Mayor Benton said back when they went to get money to reconstruct A1A from the State, they got \$12 million. That was a push from him. But at that time, that was the estimated cost, like this roundabout was \$600,000. None of them in their wildest dreams ever thought it would take that many years to permit rebuilding a street. This has been insane. It is because of State agencies. The State could be that other developer that hasn't anted up the difference between the \$12 million and the \$19 million that it is going to cost now. So between the State and the developer, the City really got burned on this one. He thinks they have all learned a lesson. When they are dealing with State roads and easements, it just was a nightmare. And it is still not finished. When are they going to start? He is afraid to ask that question, because it will probably be in January when everybody is down from up north.

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

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Commissioner Becht said they have a Budget Workshop coming up in the Commission Chambers on August 28, 2008. He had asked Mr. Beach if this was planned to be **televised**. He though all meetings in this room were to be televised. He was advised it would be at the will of the Commission.

Commissioner Alexander asked what is the cost?

Commissioner Becht said he has no idea. He does not know if it is extra or if it is covered by their standing contract.

City Manager Beach said he does not know the answer to that either.

Commissioner Becht asked is there anyone else who wants it televised, or is he the only one?

Commissioner Coke said no, she requested it for the last two or three.

Commissioner Sessions said yes.

Commissioner Alexander said yes.

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Commissioner Becht said there is a wide variety of candidates running for a wide variety of offices that are placing **political signs** in their fair City. It seems that half of them have not bothered to slow down long enough to either read or have their campaign aids read the restrictions on political signs inside the City of Fort Pierce. There are signs on City right-of-way, signs on County right-of-way, signs on railroad right-of-way. He does not know how to address that. He is wondering if they can task the City Manager to perhaps send a letter to everybody on the ballot, with a copy of the ordinance addressing political signs. In that fashion, if they also choose to pursue having somebody pick the signs up that are improperly put out, then they would be able to say they had at least sent them a letter.

Commissioner Sessions said he thinks Mother Nature (Tropical Storm Fay) might take care of a lot of that. Staff circulated a message that they had to pick up all of the signs within the City today as a result of the tropical storm. So most of those signs will be taken up. He has noticed a difference.

Commissioner Becht said his concern is, the signs are in places they really don't belong.

City Manager Beach said Code Enforcement staff is already on top of that. When there is an election, they routinely send the ordinance to the campaign people. Then, if they don't get a response, they send another letter saying they will start collecting the signs that are illegally placed by such and such time. Unless he is mistaken, that process is underway. So staff is doing just what Commissioner Becht is suggesting.

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Mayor Benton said last Thursday, Congressman Mahoney joined with them to announce that there were more than five contractors who bid at or under budget for the **Federal Courthouse** and they hope to have a signed contract by the end of September and they hope to be breaking ground in October. They are keeping their fingers crossed and saying their prayers.

Commissioner Becht said he had lunch with ex-Mayor Dannahower today, who asked where they were with the abandonment of Atlantic Avenue. He does not know, but he would hate to think that would hold up the...

Mr. David Recor, Deputy City Manager, said it is being processed by the Planning Department.

City Manager Beach said he thinks the Federal Government actually submitted an application some time ago to process that abandonment. It is underway.

Mr. Recor said it may have already been to the Planning Board on their last agenda. He recalls seeing some reports on it. It is in the system under review.

Commissioner Becht asked could he email him an update on that?

Mr. Recor said he will tomorrow.

Commissioner Alexander said he just wants to be assured, that being a Federal Courthouse, that they are going to have some local people as subcontractors.

Mayor Benton said that is in the contract, they are required to have so many subcontractors and so many minority contractors. Staff at GSA in Atlanta gave the credit for getting this contract to the City of Fort Pierce, St. Lucie County, and the Economic Development Council working together to get the word out to over 21 contractors that could submit with that \$40 million bond that had to be put up. Last time there were two. This time there were 21. He wants to thank Tony Barnes (Purchasing Director). For the contractors, in this building they had over 75 show up locally. There was a meeting in Orlando and also a meeting in Miami. It is on track. Staff deserves a real big thank you for getting the word out.

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Mayor Benton said he would ask each Commissioner give the City Manager a call to set up a time to discuss the EDC. He has had three different meetings with Mr. Larry Pelton of the **Economic Development Council**. There are several businesses that would like to call Fort Pierce their home, but there is a lot of details in between and some real positive things. One is up to 200 jobs in three years. So it is very important that they get this information out, because they might be asking for some things they might have to talk about, but it is not something they can talk about in the paper.

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Mayor Benton said they received two check from the Florida Department of Environmental Protection. One is \$135,610 for the **Jetty Park** and the other one is \$135,610 for **Kimberly Bergalis Park**. It is grant money. He thanks Christa Razem (Grant Writer/Administrator) and staff for getting those grants.

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City Commission Budget Workshop on Thursday, August 28, 2008, beginning at 9:00 a.m. in the City Hall Commission Chambers, 100 North U.S. #1, Fort Pierce, Florida.

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Monday, September 1, 2008, is Labor Day Holiday in the City of Fort Pierce. All City administrative offices - with the exception of the Police Department Public Safety Services, the City Marina, and the Indian Hills Golf Course - will be closed. There will be regularly scheduled garbage and/or trash collection on that day. The City Commission meeting normally scheduled for Monday will be postponed to Tuesday, September 2, 2008.

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There being no further business, the meeting was adjourned at 10:20 p.m.

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Adjournment.

ATTEST:

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CITY CLERK

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MAYOR COMMISSIONER