

MINUTES OF A SPECIAL 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 4:00 P.M. ON SEPTEMBER 12, 2007.

The Pledge of Allegiance was recited.

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

Commissioner Nelson said before they start, point of order. Is this meeting being televised?

Mayor Benton said he does not believe so.

City Attorney Schwerer said it is not being televised.

Commissioner Nelson asked why not?

City Attorney Schwerer said he does not know. The individual from MIS said it is not.

Mr. David Recor, Deputy City Manager, said this is a special meeting.

Commissioner Nelson asked do they distinguish between special meetings or any meeting when this Commission convenes to have them televised?

Mr. Recor said the Interlocal Agreement specified that the contract would provide for televising regular meetings and he believes two special meetings a year.

City Clerk Steele said workshops.

Commissioner Nelson said they need to correct that, in his opinion. They can do it now or later.

City Attorney Schwerer said no, they couldn't do that today. That is a subject of the Interlocal Agreement which the Commission can certainly take up at a regularly scheduled meeting if they wish to.

Commissioner Nelson said he said now or later, which means at another meeting.

City Attorney Schwerer said the word now is what he was focused on.

Commissioner Nelson said his interpretation was wrong.

Mayor Benton said he thinks they can agenda this. So instead of asking if certain special meetings are televised or not, if they are going to look at televising everything, that way they don't have any perception that they are doing something they shouldn't be doing.

Commissioner Nelson said they can discuss the details at another meeting. He just wanted to clarify.

The purpose of the Special Meeting was Request that the City Commission clarify and to the extent necessary reconsider the motion made on September 5, 2007, to deny the **Tentative 2007-08 General Fund Budget**.

Motion was made by Commissioner Nelson, seconded by Commissioner Alexander, to reconsider the previous action by the Commission relative to the Tentative 2007-08 General Fund Budget.

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

Mayor Benton said he will ask the City Attorney to explain why they are here today.

City Attorney Schwerer said he met with Mr. Bergalis shortly after the September 5th meeting of the City Commission at which time a motion was made which technically appears to deny the tentative budget. They went back through the record and it was pretty clear to them that while the Commission agreed with 99% of the budget, what they all really were moving to deny was the balancing of the budget by the \$475,000 transfer from the FPRA that the City Manager had approved. Putting that aside, their focus came to a head on the legal ad is required to be published by the Department of Revenue rules and the Florida Statutes in Chapter 200 (F.S. 200.065). That legal ad, which advertises their next two public hearings on the ordinance adopting the budget, is required to state that on such-and-such a date - which that date would have been September 5 - the City Commission adopted a tentative proposed budget. It also says a hearing or hearings on the final budget will occur on such-and-such a date or dates. They are not allowed to vary that language by Statute. The penalty for varying that language may be, although it is not automatic, certain restrictions on future revenues they may be able to get from the State. Rather than face that issue, it is Staff's recommendation to the Commission that they adopt a tentative proposed budget, the budget that was presented to them, with the caveat that they are absolutely allowed in the next two public hearings they are going to have to amend that budget as they see fit. They can have their public hearings on the ordinance, they can receive public input during that time when the ordinance on the budget is there, and the Commission certainly has the ability to do anything with respect to amendments of the budget. They are not tying their hands. Is he stating that correctly? That he and Mr. Bergalis are both recommending the Commission make a motion to approve the tentative budget as presented, subject to their right to amend during at least the next two public hearings, the first of which will occur September 17th and the second which follows on September 24th. That is their recommendation.

Commissioner Becht said what Mr. Schwerer just said contradicts what he has in writing. What he has in writing was that they would adopt a budget at a \$41,000,704 level, which is slightly different than what was proposed at their September 5th meeting. So which is it?

City Manager Beach said let him clarify that. That would be the \$41,000,704.

Commissioner Becht said so it is not what Mr. Schwerer said, it is what they read.

City Attorney Schwerer said he does not know what they are reading from.

Commissioner Becht said it was the memo sent to them by Mr. Beach (dated September 11, 2007), which is shown as being copied to Mr. Schwerer, that says they can do it at the \$41,000,704 level, which is slightly different. They can do what the written thing says or what Mr. Schwerer says? He needs to read the memo and tell him.

City Attorney Schwerer said what he needs to advise the Commission

is that they simply have to have a tentative budget. What that budget is, is certainly something that the City Manager or the Finance Director can advise them on. His advice is that they have to have a tentative budget approved. What that budget is, is certainly up for debate. Quite frankly, he can't tell them what that budget is himself.

Commissioner Becht said Mr. Schwerer clarified it to his satisfaction, that they can do what the memo says, which is to adopt the tentative proposed budget of \$41,000,704, which again is slightly different than what was proposed September 5th.

Mayor Benton said what was in question the other day was the \$473,000, he believes.

Commissioner Nelson said something else the City Attorney mentioned varies with what was put in the memo from the City Manager. He said they can adopt or modify it as they see fit. Does that allow them to move it up or down or as is or what? As they see fit, he is asking if they can go up or down or stay as is?

City Attorney Schwerer said he is not sure they can go up because the millage rate is fixed and the roll-back rate is fixed by the last hearing they had. What he meant to say was, the tentative budget they are approving is subject to amendments on the first and second readings. If they amend upwards so that they have to then increase their tax rate, he does not think they are going to be allowed to do that. But they are certainly able - again he would rely upon Mr. Bergalis on this - to cut matters from the budget and make amendments in that respect.

Commissioner Nelson said he should let Commissioner Coke talk now in terms of her frustration. She talked the last time about it. He shares a lot of those frustrations she has. They put out certain guidelines in this last meeting they had and to some extent those have been followed and to some extent those have not been followed. He is not convinced they explored all of the avenues that were available to them to arrive at this current figure. They indicated certain things to be done and certain things they didn't want done. But he thinks they propose in this case the cutting of two or three spaces. He is not sure that he wants to do that, even though he is not opposed to it. He is not sure that all avenues have been explored to allow them not to do that. He yields at this time to Commissioner Coke who has some points he thought were appropriate.

Commissioner Coke said she wishes she knew exactly which points Commissioner Nelson is referring to. She thinks everybody here is well aware of her level of dissatisfaction regarding her famous saying that poor planning on their part does not constitute an emergency on hers. Yet here she sits in an emergency situation. She would hope that they can at some juncture today put that behind them and move forward with the understanding that they will not be in this position again next year, that they will have budget hearings in a more timely fashion and begin approaching the problems so that they have the opportunity to think outside of the box and come up with some truly creative ideas rather than creative financing. Regarding what they are being asked to do this afternoon, she really has a couple of points she would like to make. Number one is, could Mr. Schwerer clarify, this Commission as a body has the authority to do any line item veto as the majority of them see fit?

City Attorney Schwerer said his understanding of this Commission's

powers is when a budget is presented to them, in the adoption process of that budget, they would have that power. If they found the budget unacceptable and if three of them are in agreement, they certainly could eliminate items from that budget in the adoption process.

City Manager Beach said he would like to expand on that a little bit. It does not just apply to the next two public hearings. This is a year around event. This Commission has the ability to consider line items within their budget around the year. So it is something that is always within their capability to deal with.

Commissioner Coke said along those same lines, she noted in the memo they received that although the changes they requested are not available, those will be available for their September 17th budget hearing. They have kind of changed things, gone back and forth several different times. She for one would like to have those changes by Thursday, so that she has the opportunity to go over the budget again and to insure her understanding of the changes from the last presented budget versus what is actually in the budget, that she is fully understanding it properly. She does not want to read a cover sheet without being able to go back and look. They need a system of checks and balances. She thinks that is part of what her job here is. The last point she has to make today is, she does not know exactly what the review process is, she knows at the end of every year they are brought an amended budget, things that have changed and expenses that have gone up or, on rare occasions, decreased throughout the year. They are given an amended budget at the end of the year to approve. She really does not feel comfortable with that. She would prefer if they are making a change to the budget on a monthly or quarterly basis where things are being overspent... If someone is just spending more of their budgeted amount of money in January or February, and it is anticipated that their expense will not exceed what was budgeted, she does not have a problem with letting it run throughout the year and average out, so long as it averages out within the budget. She does however have a problem with getting to the end of the year and all of a sudden they need another \$750,000 for health care or they need another amount. Whatever the changes are that they are being asked to approve at the end of the year that exceed the budgeted amount that they approved at the beginning of the year, she would like to know that those changes are being made on an on-going basis. She does not want to hear that they moved it from Line A to Line B. She would like to hear Department ABC overspent capital improvement, but they are going to give them another \$200,000. She does not like hearing about it after the fact. Just because there was a pile of money that didn't end up getting spent where they had budgeted it, to move that money around without their approval does not give her the level of comfort that she feels she needs in the budgetary process.

Commissioner Alexander said he does not want to seem like he is confused today. But his question is, they are here today for a tentative budget of the \$41,000,704, or are they here for the \$473,258? It was said if they tentatively set it at \$41,000,704 that they cannot raise that to the \$41,473,962, right?

City Manager Beach said let him clarify that. What the City Attorney was saying was that beyond a certain date they do not have the flexibility of increasing the ad valorem tax revenues and that is accurate. However, if there are other revenue sources that can take them beyond whatever figure they set, they absolutely have the ability to exercise that and to increase it.

Commissioner Alexander asked what is he requesting today - the \$41,473,962 or the \$41,000,704?

City Manager Beach said \$41,000,704.

Commissioner Alexander asked is he saying they can take that up with an amended budget at any time during the year?

City Manager Beach said that is correct.

Mr. Recor said just for the Commission's information, staff is planning on providing a revised budget on Friday of this week in advance of the meeting on Monday.

Commissioner Coke said she will point out to Mr. Recor that their Agenda packets go out on Thursday during the week when they have a Commission meeting on Monday evening. So their packets will be going out on Thursday.

Mr. Recor said he understands.

Commissioner Nelson said he notes that Mr. Recor, in the absence of the City Manager, put out a memo regarding how they got to this present status. He thinks it is amplified somewhat by Mr. Beach's memo dated September 11. He is concerned, as he indicated earlier, about laying off of people. He is concerned they have not explored all of the options they have. He looked through the budget in a very cursory fashion, the latest document they got. He looked at the number of vehicles in there for Public Works and the Police Department and a few other areas. He also looked at the health and insurance thing. He questions the health insurance issues. He thinks it relates to the possibility of the union situation and negotiation and all that. He looked at each department and they have quite a bit of money in there for health insurance spelled out.

Now everybody knows what the health insurance is going to be as opposed to what the wages are going to be when they go to negotiate with some of the bargaining units. But more than that, if they look at capital outlays particularly for vehicles in both Public Works and the Police Department, there are a lot of vehicles. So he is thinking if they look at it real closely, they might have been able to see their rolling stock is in pretty good shape and they aren't going to buy any more brand new vehicles this year. They have some pretty good vehicles out there. And they might be able to survive a little bit and not be required to lay off people. He says that because he is concerned about the organization of Fort Pierce city employee structure. They need to send a message out there saying that they take care of their people. And at the last moment with a budget crunch they not go through the last-hired and first-fired concept and lay these people off. If they were to do some things to the last inch of what they can do to retain those people, he thinks they would be in better shape as far as developing loyalty and developing pride and family relationships in their organizational structure. Taking care of those people when they reach a certain age or have been here a long time is very important. So he is basically opposed to this idea when there are other avenues they can take. They gave people an 11% raise last year. So if they were to run a computer model and find out whether they can reduce the salaries of some of those people 2% or 3%, they might be able to find the monies there. They have the capacity to do that without too much fanfare. He spoke to the City Manager and the Deputy City Manager about this. They have the computers to do it. He does not have those figures to tell him that this is in fact possible and

feasible. If they were to take 2% of the payroll and cut it back, would that really affect...? He thinks every employee they have here is really happy and pleased with the fact they raised their salaries last year by 11% in most cases. In the present budget he is seeing where people are getting from \$2,000 to \$8,000 raises, some of their top level employees. So he is concerned about that.

He is concerned they are not digging into it deep enough and exploring all the avenues available to them. And if they were to ask these various Department Heads what can they sacrifice, can they really do without this vehicle? They might be surprised at what they get.

Because they need to send an idea out there that they are taking care of their employees and laying them off is the last thing they want to do. And laying them off in this environment today can be possibly catastrophic with the insurance and taxes and all this stuff going up with the families out there and he is concerned about that.

Commissioner Alexander asked is there something Commissioner Nelson knows that he does not know about that is going on in the City?

Commissioner Nelson asked what does he mean?

Commissioner Alexander said about someone being laid off.

Commissioner Nelson said he looked at the memo that Mr. Recor sent.

Commissioner Alexander said for the information of the public, he might not have got that memo. But it seems as though Commissioner Nelson is aware of something that he is not aware of, is someone being laid off.

Commissioner Nelson asked can Mr. Recor refresh them on that, what he is talking about?

Mr. Recor said he had discussed individually with each of them the methodology in which they have reached the \$473,000. A number of them had requested copies of how they reached the figure.

Mayor Benton said they had the discussion the other day, he thinks he and Commissioner Alexander said if they took a look at neighborhood policing through the FPRA, jobs would not be touched. But Commissioner Nelson, when that discussion took place, was buying in that jobs... He is sure next year, how do they get around it? People will leave and probably won't be replaced, because next year is going to be a lot worse than this year.

City Attorney Schwerer said the stated purpose of this special meeting is to reconsider the motion (on September 5th) for the sole purpose of adopting a tentative budget. He respectfully requests they withhold discussion of what that budget may or may not look like until the next public hearing. This is a debate they are certainly entitled to have. If they could delay that until they public hearing on September 17th, that would be more appropriate; because the stated purpose of this meeting is solely to reconsider the vote. They are certainly within their rights to be discussing this, but just not at this time. Perhaps Monday night and then the following meeting would be the time to have this matter thoroughly discussed.

Mayor Benton said they have two Public Hearings to do that. They need a motion to approve the tentative budget. At what figure, the \$41,000,704?

Commissioner Coke said she believes if they take that \$41,473,962

less the \$473,258 that they instructed Staff to cut, they get a general budget figure of \$41,000,704.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve the Tentative 2007-08 General Fund Budget at \$41,000,704.

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

There being no further business, the meeting was adjourned at 4:30 p.m.

Adjournment.

ATTEST:

CITY CLERK

MAYOR COMMISSIONER

