

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 7:00 P.M. ON MONDAY, SEPTEMBER 18, 2006.

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 R. Duke Nelson; 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 Approve Minutes of the Regular Postponed Meeting on September 5, 2006 and the Minutes of the Special Meeting on September 6, 2006.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, and unanimously carried, to approve the Minutes of the Regular Postponed Meeting on September 5, 2006 and the Minutes of the Special Meeting on September 6, 2006.

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Mayor Benton issued a Proclamation in honor of Captain Joseph Wirthman upon his retirement from the Fort Pierce Police Department after 26 years.

Mayor Benton said he wants to thank Captain Wirthman for all the hard work he has given this City in the past 26 years. They are going to miss him. Working with Captain Wirthman for 11 years has been an honor, he has really been out there for the community. Good luck where he is going. Hopefully dealing with people shooting deer after dark and that type of thing will be a lot easier than some of the crime in Fort Pierce.

Assistant Chief of Police Sean Baldwin said he thanks the Mayor and the Commissioners for giving them a few moments here to honor Captain Joe Wirthman's 26 years of service to the citizens of Fort Pierce. They are going to miss him. He has a few things here he wants to give him - his retirement badge and a plaque he can hang in his office. Captain Wirthman is leaving the City of Fort Pierce to accept a position in Jefferson, Georgia as the Chief of Police. He has actually been up there the last couple of weeks working and getting things squared away. From what he understands he is enjoying it. Also, he wants to thank everybody who is here in the audience who came out to help them wish Captain Wirthman well and to send him and his family on their way.

Captain Joseph Wirthman said he thanks everybody. He is truly blessed with 26 years. He made a lot of friends. He learned a lot of things and he hopes to take all of that knowledge he learned from here up to Jefferson, Georgia. He knows they have a better home town now than when he started. He has seen Mr. Beach as he worked with the downtown merchants here and with everything going on; so maybe they can get together and do some things to help his city up there now do some growing like they have here. Again, he thanks everybody. He is blessed and he appreciates everything over the last 26 years.

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Mayor Benton issued a Proclamation in honor of Aleithe Nunez Alvarez for her heroic actions in saving the life of a child.

City Clerk Steele said Ms. Alvarez preformed a heroic action in saving a life of a 3 year old child from drowning. She is unable to attend tonight, but there is a Police Officer who will deliver this proclamation to her tomorrow.

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Mayor Benton proclaimed October 1-7, 2006, as "Public Power and Natural Gas Week." Mr. Bill Thiess was present to receive the proclamation.

Mr. Bill Thiess, Fort Pierce Utilities Authority, said on behalf of the Utilities Authority he

would like to thank the Commission for recognizing Public Power and Natural Gas Week. He can't overstate the importance of a utility to the community that it serves, particularly when it is a local public utility. He knows a lot of times their services may be taken for granted; but as soon as it is interrupted by a hurricane or some other phenomenon, people really appreciate what they do. He is here to tell them that they will work very hard to keep the lights on, the gas flowing, and working hard on keeping the cost down. He also wanted to remind the Commissioners and Staff that they do have the breakfast on October 3rd at the H. D. King Power Plant from 8:00 a.m. to 9:00 a.m. That is part of Public Power Week. They will have a presentation, an update on the Treasure Coast Energy Center, and also tied in with that the decommissioning of the H. D. King Plant.

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

Letter from James Hamilton, Azure Design and Construction Group, Inc., thanking Licensing & Permit Clerk Christine Kell for her help.

Letter from Mildred Smith expressing appreciation for assistance by Fort Pierce Police Officer Dean Ovshak.

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The next item on the Agenda was Ordinance No. K-441, Amending Chapter 22, Establishment of Zones, Sections 22-3 & 22-15; Designating the **South Beach Overlay Zoning District**. (First Reading - Postponed from August 21st)

City Clerk Steele said this Agenda Item was an Ordinance concerning the South Beach Overlay. Per a report from Deputy City Manager David Recor, there are substantial changes which require it to be sent back through the Planning Board and through the process and be re-advertised for Public Hearing in front of the City Commission. It is not advertised for a Public Hearing tonight, so therefore it won't be in public debate. If they wish to receive the report from Mr. Recor, that is all the Commissioners need to do tonight.

Mayor Benton said just so the public knows, it will be in front of the Planning Board. They haven't set the date yet, or have they?

Mr. David Recor, Deputy City Manager, said they have not formally established a date, although he identified a tentative schedule for the Commission in the report that was provided in their packet.

Mayor Benton said there will be plenty of Public Hearings on this. They just have to fine tune it and it has to go back through the Planning Board.

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The next item on the Agenda was Ordinance No. K-442, Amending Section 13-24, Excluding former employees receiving retirement benefits from membership in retirement system; and Creating Section 13-25.1, Relating to **Work After Retirement**.

City Clerk Steele said this ordinance for membership in the retirement system is being pulled from the Agenda tonight and will be advertised and come back to the Commission.

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City Clerk Steele said she would also like to make an announcement for Agenda Item #16 in case there are people here waiting. Item #16 is an Ordinance that concerns **Outside Storage in the Marine Industrial Zone**. It is being pulled from the Agenda. It will be re-advertised and come back in front of the City Commission probably the second meeting in October.

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Ordinance No. K-443 entitled, "AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, AMENDING SECTION 2-27, **REGULAR**

**MEETINGS**, TO CHANGE TIME OF REGULAR MEETINGS FROM 7:00 P.M. TO 6:30 P.M.; AMENDING SECTION 2-29(a), **ORDER OF BUSINESS**; AMENDING SECTION 2-29(c) AND 2-29(d), PROCEDURE - GENERALLY, SETTING OUT REQUIREMENTS FOR NOTICE OF APPEARANCE, AND REQUIRING AGENDA MATERIALS BE SUBMITTED TO THE CITY CLERK BY 12:00 NOON ON WEDNESDAY PRIOR TO THE REGULAR MEETING; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith, PROVIDING FOR AN EFFECTIVE DATE." was placed on second and final reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-443 in session and asked if anyone in the audience wished to be heard.

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

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, that Ordinance No. K-443 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-443 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

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Ordinance No. K-444 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **6880 GRAHAM ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2007; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Richard E. Wall)

Ordinance No. K-445 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **6791 TARO STREET**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2007; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Rodney Vannoy)

Ordinance No. K-446 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **1750 SOUTH KINGS HIGHWAY**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2007; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Florida Gaming Centers, Inc.)

Mayor Benton declared a Public Hearing on Ordinance Nos. K-444, K-445, and K-446 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 Nos. K-444, K-445, and K-446 be passed on second and final reading.

Those voting in favor of the passage of Ordinance Nos. K-444, K-445, and K-446 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

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The next item on the Agenda was Public Hearing on Applications for **Conditional Use & Site Plan** Review submitted by Ark Development/Southland LLC for the construction of a 250-unit **Southland Townhome** Project on the northeast corner of U.S. #1 and Southland Drive; said property is zoned C-3, General Commercial Zone, and R-4 Medium Density Residential Zone.

Ms. Kara Wood, Urban Design Administrator, said for clarity, these are listed as three separate items, but she would like to present them as one piece in the staff report since they are linked. The requested action, the approval of Conditional Use & Site Plan Applications and a Rezone and Future Land Use amendment application for a 250-unit townhome development. The location of the property is the east side of U.S. #1, north of Southland Drive. It is a 26.5 acre parcel, approximately 22.7 acres of the parcel is proposed residential and approximately 3.8 acres of the parcel is proposed for future commercial. The current zoning for the majority of the property is C-3, General Commercial Zone, with 3 of the total 26 acres zoned R-4, Medium Density Residential. Under the requested Conditional Use, the multi-family housing proposed must satisfy the standards for multi-family housing developments in the R-5, High Density Residential Zone. A rezone and future land use amendment is required as part of the site plan application to unify the property zoning. When the parcel was annexed in 1983, the front half along U.S. #1 was zoned C-3, General Commercial, and the rear half was zoned R-4, Medium Density Residential. In 1995, 9 of the 12 acres at the rear of the parcel was changed from residential to commercial. This left a remaining 3 acre portion against the east side at R-4 zoning. Currently the property still has dual zoning with 23 acres zoned C-3 and 3 acres zoned R-4. The applicant has requested that the 3 acres in the rear be re-zoned to C-3 and the land use amended to CG, General Commercial, in order for the parcel to contain a unified zoning and land use, which staff feels is most appropriate. The Land Use Amendment qualifies as a small scale amendment to the future land use map and staff will incorporate the changes into the new Comprehensive Plan. The Future Land Use of this parcel is CG, General Commercial, and RM, Medium Density Residential. In this proposal approximately 200 feet of the parcel along U.S. #1 is being reserved for future commercial development. This allows for the continuation of the commercial development pattern along U.S. #1 and serves to buffer the proposed residences from the activity along this major corridor. This pattern of development is consistent with the future land use patterns of the Comprehensive Plan on the east side of U.S. #1, designated Commercial General. The remainder of this parcel is proposed as Residential, which would be consistent with the St. Lucie County future land use designation of RH, Residential High, located across Southland Drive to the south. The proposed project is in conformance with the Comprehensive Plan. Under the requested Conditional Use the proposed development must satisfy the standards for multi-family housing in the R-5, High Density Residential Zone, with a density of 15 to 18 units per acre. The applicant is proposing a residential development of 12 six-unit and 22 eight-unit townhome buildings, resulting in a density of 11 dwelling units per acre. Each building will be two stories in height and each unit

includes a one-car garage and driveway. The proposed development provides a public park with a gazebo and lake immediately inside the project entrance. Adjacent to this is the swimming pool and clubhouse where a school bus stop will be located. Sidewalks along both sides of interior streets connect to a clear network of pedestrian paths between the units and around the lake. The applicant is also providing sidewalks along their frontage of U.S. #1 and Southland Drive as well as a bike lane to the end of Southland Drive. At their meeting on June 20, 2006, the Planning Board requested and the applicant agreed to provide a vinyl-coated heavily-landscaped chain link fence along the canals adjacent to the north and east property lines as a visual and security buffer. On July 11, 2006, the Planning Board voted to approve this project with the following conditions: (1) Addition of a right-in deceleration lane to the project from U.S. #1 subject to FDOT approval; (2) The Fort Pierce Engineering Staff will contact the St. Lucie County Engineering Staff to confirm that the applicant can curb and gutter that portion of Southland Drive east of the project's entrance and will advise the applicant to incorporate this into their development plans; (3) All pedestrian paths within the development be linked to the lake paths to the east and west; (4) Slash pines be incorporated in as a native vegetation into the Landscape Plan; (5) The area around the dry retention between the buildings have more vegetative screening; and (6) A species of shrub along the fence be specified as one that will grow to six feet or higher. Regarding the first condition of the addition of the right in declaration lane to the project from U.S. 1 subject to FDOT approval, FDOT has concluded in an attached letter dated August 15, 2006 that the impact of traffic generated will not require off-site roadway improvements. Regarding the second condition of the design of Southland Drive, staff has contacted St. Lucie County Engineering again to confirm the appropriateness of a curb and gutter road section for Southland Drive. While the County is not directly opposed to the suggestion, swale drainage is the typical design for a rural local roadway as this is classified. If the roadway section is changed, the new design must still meet the requirements of County Engineering staff and the applicant must obtain a St. Lucie County right-of-way permit before construction. The curb and gutter design is a possibility, but the City's Planning and Engineering staffs have concerns about the loss of both drainage capacity and filtration if the swales are deleted. Staff concurs with the other conditions placed on the application in the Planning Board's approval. The proposed applications meet the requirements of the Code, have been approved by all affected agencies, and the applicant has addressed the Planning Board's concerns with additional documentation and agreed to the conditions as appropriate. Staff recommends that the City Commission approve the Rezone and Future Land Use Amendment Applications from R-4 zoning and RM future land use to C-3 zoning and CG future land use, and the Site Plan and Conditional Use Applications for residential development in the General Commercial Zone.

Mayor Benton said he noticed there are two dates on the front of the traffic study. One is August 2005, but it is stamped 2006.

Ms. Wood said she believes the applicant's Traffic Engineer is here to answer any questions about the traffic study.

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

Commissioner Becht said he will disclose he met with the applicant at least once, maybe more than that, regarding the project.

Commissioner Alexander said he also did.

Commissioner Coke said so did she.

**Mr. Philippe Jeck** said he is an attorney with Jeck, Harris & Jones, representing the applicant tonight. Before he gets started with his presentation, he has the Traffic Engineer

right here and perhaps he can address the Mayor's question and get that out of the way.

**Mr. Christopher Mora** said he is a professional licensed Traffic Engineer in the State of Florida. The reason for the discrepancy in the dates is the project Traffic Impact Study was originally prepared by himself and submitted in August 2005. As the project worked its way through the system here with the City, they were required to make subsequent submittals; and each submittal that came through then had to be re-stamped by the licensed engineer, which is himself. Every time an engineer stamps a set of plans, he has to put the date in which he stamps those. So as subsequent submittals came through, he thinks the most recent one was probably the later date that the Mayor spoke of, and that is why that later date and the discrepancy in dates has occurred.

Mayor Benton asked would the original numbers be the numbers? Are they looking at updated numbers; or some of the original numbers they are talking about for those roads a year ago?

Mr. Mora said the original numbers that were done for the August 2005 submittal are still in the report, those were not updated. However when they looked into the future at the build-out year which was 2008, they grew those at an annual rate of growth of traffic so they would be taken into account in the traffic study.

Commissioner Becht said on Page 13 of Mr. Mora's report, it states that the entire five-lane section of U.S. #1 in St. Lucie County south of Georgia Avenue in the City of Fort Pierce is over-capacity and operates at a Level of Service F. This is according to the year 2004. It has the initials ADT and he is not sure what that is.

Mr. Mora said that stands for Average Daily Traffic. Those are the average daily traffic numbers in that table.

Commissioner Becht said so utilizing average daily traffic counts from 2004, he has a Level of Service F for this section of U.S. #1 and it appears he was using FDOT standards from 2002. His specific question of Mr. Mora is, can he explain what Level of Service F means in regard to U.S. #1 and its intersection with Southland Drive both before and after this project is completed?

Mr. Mora said if they look at the table on Page 14, they analyzed this segment or link of U.S. #1 at four signalized intersections and they looked at these intersections in the 2005 which was the existing condition when they did the report. They also looked at the same intersections in three other categories.

Commissioner Becht said to interrupt him, he is less concerned with those intersections than he is the one that he mentioned which is Southland Drive. Because he can read the report - they have got failing at U.S. #1 and Virginia Avenue, failing at Edwards Road and U.S. #1, and failing down at Midway Road and U.S. #1. Mr. Mora didn't check Weatherbee Road, but he happens to know that Weatherbee Road and U.S. #1 is failing. So his question to him is specific to this project. Not to be argumentative with him, but he wants to know what Level of Service F means from him as a Traffic Engineer as it relates to the Level of Service on U.S. #1 where Southland Drive hits U.S. #1; and he wants Mr. Mora to expand on what it means as it exists today and what it will mean after he dumps another 1,300 or 1,400 cars a day on it. That is what he would like him to talk about.

Mr. Mora said yes, they did look at the intersection specifically of Southland Drive and U.S. #1. When they originally determined their links and intersections to be analyzed with the City during their methodology meeting, they talked about Southland Drive and U.S. #1. They looked at the existing volumes at Southland Drive and U.S. #1 and also the project traffic added on to Southland Drive and U.S. #1 in the 2008 project year. Those volumes, even with the project traffic added on, did not require any improvements in the form of turn lanes or traffic signalization.

Commissioner Becht asked what volume would trigger an improvement?

Mr. Mora said for turn lanes, there are specific criteria that FDOT - which is the maintaining agency of U.S. #1 - requires turn lanes to be put in. For right turn lanes, which had been discussed at the Planning Board meeting, that is in the area of 80 to 110 rights per hour. So if they can picture Southland Drive and U.S. #1...

Commissioner Becht said his headache is, he has a failing road. It is not Mr. Mora's fault, but the Level of Service is F and it fails, and his traffic report says he is going to put another 1,399 cars a day on that road. He didn't make it fail, but he certainly isn't making it any better with putting another 1,399 cars on it. The specific question he has is, what triggers an off-site improvement? With 1,400 cars on it, it doesn't make it any better; but it doesn't make it go from F to a worse F.

Mr. Mora said they looked at it two ways. First of all they looked at the intersection specifically of Southland Drive and U.S. #1. That intersection, even though they added future traffic on to it, did not fail by and of itself. They looked at possible remedies if it had failed such as a traffic signal and additional turn lanes. None of the thresholds for those items were met.

Commissioner Becht said he just answered his question. The intersection is not failing. The Level of Service on the road is failing.

Mr. Mora said exactly. On U.S. #1 the Level of Service has exceeded... Level of Service F is the worst possible Level of Service. Once they reach LOS-F, they cannot get any worse than that. But what they did is they looked at these four key intersections along U.S. #1. Because when a roadway fails, the congestion points are the signalized intersections. Those are the constriction points because they don't have 100% green time. They have to stop that traffic, so it typically ques up from there. But what they did is they looked at these four key intersections and they looked at the existing conditions; and then as they grew that traffic out into the 2008 build-out year and added the project traffic on, even though it is an additional 1,300 or so vehicles per day - that is the per day volume - they could actually by making some signal timing changes and tightening up and making that timing at each of these four intersections more efficient, they could actually reduce... If they look at Page 14, that number to the right of the Level of Service letter is the seconds per vehicle of delay. If they look across from 2005 into 2008, the rightmost column is 2008 plus project traffic plus re-timing, by making the signal timing more efficient they were able to reduce the overall delay of vehicles at the intersection even though the volume has increased.

Commissioner Becht said for the benefit of those who are trying to follow him without a report in their hands, he did come up with an idea. Mr. Mora says with a comprehensive signal re-timing effort that they could improve operations at these intersections today, which is something they are going to look at with their own staff. One of their Planning Board members is an engineer, Tom Knott. Tom Knott asked at the Planning Board meeting if the City could make this Southland Drive intersection as it exits west on to U.S. #1 a right turn only exit point onto U.S. #1. They have that situation at least on one road in Fort Pierce at Savannah Road. Sometimes people adhere to it, sometimes they don't. But he would like Mr. Mora to comment on whether they think that is a good idea or a bad idea.

Mr. Mora said it certainly is a restriction that they could put on there. It is often used by municipalities and counties if they have a traffic safety problem, a pattern of accidents from people pulling out and making that left turn. Oftentimes when they get heavy traffic on a main street such as U.S. #1 and traffic trying to exit, as that traffic ques out, if they don't have adequate gaps in the traffic on U.S. #1, they may start to take chances and that is when they can develop an accident problem. But in a situation such as U.S. #1 where it is open five-lane roadway and they have that center...

Commissioner Becht said let's talk specifically to Southland Drive. Is it a good idea or a bad idea to limit this to right turn only?

Mr. Mora said he would not recommend it unless they have that demonstrated safety problem. They have an open situation on U.S. #1. They can pull out easily. The future traffic is not going to cause a problem by that traffic pulling out onto U.S. #1. However if the situation presented itself and it became a safety problem, they could always put up a no left turn sign and restrict that traffic from turning out.

Mayor Benton said while they have the traffic expert up here, he is glad Commissioner Becht asked those questions. But to him, when it comes to LOS-F and when he looks at Virginia Avenue to start with and then south to Midway Road, those are the areas they are talking about. Midway Road, the County right now is rebuilding that because it is failing. Edwards Road was reconstructed not too long ago; and at rush hour, in his eyes, it is failing. He just doesn't know how they can justify 1,300 more cars a day on a failing road.

Mr. Mora said one thing they have to keep in mind is, all 1,300 vehicles... When they did these analyses, they are talking about peak hour times, the afternoon peak hour which is the heaviest hour of the day. They have to remember all 1,300 cars are not going onto the roadway all at once, but are spread out throughout the day. So when they get to the PM peak hour, the heaviest hour of the day, that 1,300 is reduced down to about 127 vehicles added on to U.S. #1 during the peak hour by Southland Homes. Now they are not all going north or south. In fact their distribution model that is included in the report shows that about 56% of that traffic will come and go from the north on U.S.# 1 north of Southland Drive and the remainder about 44% will go to the south. So when they spread it out and that traffic begins to spider web through the system and turn off onto side streets and so forth, the impact as they get farther away from Southland Homes decreases. So it may sound threatening at first with 1,300 daily cars; but when they break it down, 127 in the peak hours and 56% to the north, it actually gets down to a much more manageable number. They have determined that by making signal timing changes, these intersections can not only handle that traffic, but actually improve over the existing year 2005 operation.

Mayor Benton said this is in a best case scenario. He has seen his numbers in here, his projections as far as the different intersections from Virginia Avenue to Midway Road. They are looking probably at a retirement community, he would expect. He guesses they would be aiming toward golf courses or restaurants or something. He doesn't know how they come up with those numbers, but still he just doesn't know how they could justify putting that type of traffic. And they do have literally hundreds more units that have been planned between Southland Drive and Midway Road now that will be entering that same roadway. That is his concern. He is sure they will probably hear it tonight from the public.

Mr. Hector Arias, City Engineer, said he heard the engineer talking about the re-timing of Virginia Avenue and U.S. #1. He sure would like to have that information in the very near future so they can analyze that. It has to be approved by FDOT. They do not know whether this can be done or not. So if the Commission approves the project, they shouldn't be banking on the fact that they can re-time those intersections. He just wanted to make that clear.

Mr. Mora said he would be happy to provide that.

Mayor Benton said in the couple of years that he sat on the MPO he never heard of changing the signal timing to offset the traffic problems.

Mr. Arias said they are getting with FDOT sometime this week or next week about the re-timing process, but it is not easy. Virginia Avenue has a lot of traffic. He cannot guarantee if they approve this project it is going to work out with re-timing.

Mayor Benton said if they cut the timing on the secondary roads like Virginia Avenue, they are going to back stop past Oleander Avenue back to Sunrise Boulevard.

Commissioner Coke asked it is her understanding that Ms. Wood was talking that FDOT said they would not approve a right hand turn lane at this point in time?

Ms. Wood said FDOT said it wasn't necessary.

Commissioner Coke asked is the developer giving the right-of-way so that later on when FDOT says yes, they do need that, they will already have the property available?

Ms. Wood said as far as she understands, the only way to make that happen within their property would be to have a right-in deceleration lane into the commercial parcel entering here for example, if they were to enter the residential portion from the commercial portion.

Commissioner Coke said she feels certain that at some point in time FDOT is going to come back and say that they actually do need that. What she is concerned with is, she doesn't want to go ahead and create a problem and all of a sudden they need right-of-way to make a road improvement and they have to buy it from somebody.

Ms. Wood said right, certainly that wouldn't change over time because of this development. They are putting all that they are putting on this portion of the development; and then when they develop the commercial portion, that is when they would need a way to get into the commercial portion. There is not going to be any additional residential or anything down Southland Drive because it dead-ends into a canal and there are already residences there.

Commissioner Coke said they had a discussion earlier about curb and gutter along Southland Drive. She was saying that the County said they really would not permit that?

Ms. Wood said no, the County didn't say they wouldn't permit it. The planners for these projects design them according to what are the standards for these roadways. This is a rural local roadway which requires swale drainage.

Commissioner Coke said then she guesses maybe somebody needs to redefine rural to her, because they are talking a road that intersects U.S. #1. So could somebody tell her how they can define that as rural?

Ms. Wood said these are County road standards. All she can tell them, that is how they define it and that is the design standard.

Commissioner Coke said she has a problem with that. And she also has a problem feeling that eventually somebody is going to come along and say they need a right hand turn lane here. And if they haven't made the accommodations for it at this point in time, if that commercial piece doesn't ever get developed or gets sold off or any one of a dozen other things, if they haven't made a requirement now for the property they need for that turn lane and curb and gutter, she has a great deal of concern that later on they won't be able to ask could they have that property now for curb and gutter and a right hand turn lane. If they are moving forward with this, she would like to at least see the easements necessary for those two road improvements included here.

Commissioner Alexander asked just to keep from being confused, are they speaking about a right turn lane on Southland Drive; or are they speaking about a decelerating lane off U.S. #1?

Commissioner Coke said off U.S.#1.

Commissioner Alexander said that property to the south of Southland Drive doesn't belong to this group of people. That would be someone else's property, wouldn't it?

Commissioner Coke said no, but the piece of property that is east of their development is what they will be eventually developing as commercial.

Commissioner Alexander asked is he reading this wrong? They do have a turn lane onto U.S. #1 - two turning lanes, a southern and a northern turn lane on their properties?

Commissioner Becht said he is reading it correctly.

Commissioner Alexander asked so this property to the south of them, it has nothing to do with a decelerating lane because that is ownership of someone else, right?

Commissioner Coke said yes. But she thinks the original suggestion from the Planning Board was to have the lane along this commercial lot that is not being developed at this juncture.

Commissioner Alexander asked to decelerate into the western portion?

Commissioner Coke said the commercial part.

Commissioner Nelson said in his discussion with this developer and his representative, he raised this same question relative to the right-of-way and possibly landscaping and/or sidewalks along that corridor. He thought he left with the developer saying they would address that issue in a very positive way. Has Mr. Jeck forgotten their discussion along those lines?

Mr. Jeck said absolutely not. He was just waiting for an opportunity to speak. There have been a number of questions and he guesses he will stick with the current one and then go back to the Mayor's question. As Ms. Wood pointed out, this is a dead-end street with no other development that is going to go on coming down that street other than what is there now. There is a Toyota dealership taking up a big chunk and then a few apartment buildings with 11 units and then there is a dead-end canal. For all foreseeable future, there is no expectation there will ever be any more traffic. So the traffic counts in terms of making that right hand turn, he doesn't think are reasonably expected to ever be much different than when this project is fully built out. What the FDOT has told them is, that does not justify a right hand turn lane off of U.S. #1 onto Southland Drive. Now the discussion at Planning Board about that right hand turn lane was centered around making it in to Southland Drive, not bringing it up into the commercial. They were asking whether or not a turn lane should go into Southland Drive and they said let's see what FDOT has to say about it. After that Planning Board direction, they went and asked FDOT what do they say about it? And FDOT told them no, it doesn't make sense to them to put that turn lane there. On the issue of improving Southland Drive, they are dedicating an additional five feet to allow both a left hand and a right hand turn from Southland Drive onto U.S. #1. The question was asked about whether there should be a left hand turn there, whether it should be right only, and Mr. Mora addressed that he didn't think it was necessary unless there was some safety hazard that was unapparent at the present time. His client is willing to do whichever the Commission prefers. They have a left and a right turn, that is the way it is designed so it is the maximum. And if they choose only to have only a right turn, they are perfectly comfortable with that decision, although their experts all tell them that is probably not necessary to have right only and the better condition is to leave a left and a right turn lane. On the question about the guttering and curbing of the street, he just wants to make it clear that what has been agreed by everybody is the curbing and guttering of the street up to their first entrance which is located where that little roundabout traffic circle is. The discussion about curbing and guttering that is at issue is what is necessary further east

from that point. Because there is so little traffic going on there, there is little need for curbing and guttering. The discussion is let's just leave the swale that is there and use that as the curbing and guttering. His client doesn't care, he will do either way and is happy to do either way. They are happy to make the approval conditioned upon whatever the City and County decides they would like. As they reach consensus either way, they are happy to do either way. For them, it is not an issue. Just tell them what they want and they will do it. On the issue about traffic generally on U.S. #1, it is a busy road that whole length. He doesn't think that it is in the City's best interest to shut down any development on U.S. #1 or anything that impacts U.S. #1 from now and into the future. That is a moratorium. He doesn't think that is really what they want as far as economic development for the City. If they look at this specific project, it actually is a downzoning. What they are asking for is a downzoning on the traffic impact of this site because this is basically a C-3 site and they are asking for a conditional use for a residential project which will generate far less traffic than if that whole project is built as it is used by right as a C-3. So in a sense, already they are proposing something that will reduce the traffic impacts of the development that is allowed by right on that site. The other thing they are doing, reducing the amount of traffic, is they are not going anywhere near the maximum density here. They are building bigger units on this site that is reducing what they could build, which is reducing the amount of density from what could be a maximum of 15 to 18 down to 11 to reduce the traffic impacts. He is going to sound redundant here but he just wants to make sure the point is made, that 127 trips at maximum rush hour is what they are talking about coming out of this project and being disbursed both north and south. To him, as far as a minimal impact on U.S. #1, that would be an insignificant impact given the total volumes there. He believes that this project is addressing traffic issues in a very responsible way to allow some development to go on.

Mayor Benton said he disagrees with Mr. Jeck, because when he sees to the south specifically going into Port st. Lucie where they have made all kinds of improvements, he doesn't believe their MPO has money in their budget or the County MPO has money in their budget for any improvements north of Midway Road right now. When he sees the level of capacity there, he is one of those people who doesn't believe build first and then fill this room up to complain that the roads are already worse than LOS-F. They were worse than LOS-F when they allowed this development to be built. What does he tell people when it is unsafe to travel on these roads? But he has seen the road improvements to their south. He believes infrastructure first, then development. And by no means he is not saying they can't develop their land, but also there is no law saying they can develop it until the infrastructure is in place to those numbers. His opinion.

Mr. Jeck said respectfully to that opinion, he would just defer to what their experts tell them. Their expert traffic engineer tells them that with proper signalization they can actually improve the Level of Service even after this project comes on line, and he has made the recommendations on how to accomplish that.

Mayor Benton said right, and all of these experts have come from South Florida where traffic is literally at a standstill. He has seen what has happened in St. Lucie West in the last ten years. He has these same experts telling him to let that happen here. Common sense tells him no.

Mr. Jeck said if there are no other traffic questions, he would like to proceed with the presentation. He would like to spend a few moments going into a little bit more detail about this project and the site plan and point out what its attributes are and why this would be a welcome addition to the City of Fort Pierce. (Mr. Jeck displayed a drawing.) This is a color rendering of the landscape plan and site plan for this project. It is a current one. It is not the one in their packet because this one reflects the changes that the Planning Board recommended and that they agreed they would do, so this a little bit more accurate. The changes that this shows are some additional sidewalk connections in the project that the City Planning Board requested. In particular, making connections to the big walkway around the main center lake. The other change this shows is that the retention areas are

anticipated to be wet. Originally it was not clear to either them or their experts whether or not they would be wet or not. The latest analysis by their engineers tell them they anticipate those will be wet, so those are shown as wet as opposed to previously when they were shown as dry retention areas. The project shows quite a bit of amenities for a project this size. The amenities that are going to be added are complete path interconnection for bikes as well as pedestrian traffic all throughout the project, creating multiple meeting spots to take advantage of the water features on the project. As they can see on the left to the right of the main lake there are some squares and then in the southwest corner is the main amenity area that consists of a gazebo out in the lake, a pool, and a very large 5,000-plus square foot clubhouse. Now since that clubhouse has been put on that project, it has been redesigned actually to make it bigger than it is shown there. He has an elevation showing the front view and a side view of that clubhouse that is quite large. The idea was, and he thinks the question was raised, is this going to be a retirement community? The client is not sure exactly what the market will be, but their expectation is that it probably will be retirement and not families. That is their best estimate of this market in this particular location. So what they have done to accommodate that is, they have a large porte cochere with a drive through so people can get out of their cars. Actually it will also serve as a bus stop area if necessary if there are children in this area. The floor plan shows a u-shaped interior structure with an open but covered courtyard in the middle. On the left side is going to be a large gym over 1,500 square foot. Over to the right side is a general meeting area with kitchen facilities. And there is a little room off to the far right corner, a billiard room. It opens up to the pool and to the lake to provide a complete kind of leisure amenity for the anticipated residents. The clubhouse is located close to a utility sport field recreational area to the south of the clubhouse, which is about 75 feet by 200 feet, that can be used as a play area for the children as well as another amenity that the adults may want to use it for. There was a concern about the safety of children playing in that field. They have agreed to put in a concrete wall along the entire length of Southland Drive, which will also serve as some safety for the use of that field.

Commissioner Becht asked can Mr. Jeck show him on the diagram where the concrete block wall will be? Because he said along the entire length of Southland Drive and he doesn't think he is going to wall off his commercial property.

Mr. Jeck said the entire length for the project, from here to here. It stops for the emergency exit. Along the easterly and northerly boundary lines, the Planning Board recommended that a vinyl fence be constructed along with landscaping that is at least six feet high. The applicant has agreed that is a good idea. It protects residents from whatever dangers may lurk in the canal that is along both of those boundary lines. The landscaping and the vinyl fence will also provide an attractive hedge field for those sides of the project. Another interesting feature of this project is, unlike a lot of projects that do minimum parking, this project requires one and a half parking spaces per dwelling unit and they have two, one in the garage - they have provided garages with these townhome units - and one in the driveway. In addition there are 44 visitor parking that are scattered on every road balanced throughout the entire project. In addition to those 44 visitor parking, there is another 7 visitor handicap parking spots. So there is a total designated spots in here of 51 for visitors.

Commissioner Nelson asked does he have a picture reflecting where those parking spaces are going to be? He is specifically concerned about the ones that are in a garage and the driveway.

Mr. Jeck said yes. For the parking spaces that are for the residents, they have a rendering of what a building will look like and the parking space for a resident will be inside the garage. This is an example of the garage. The second parking space will be in the driveway to the garage.

Commissioner Nelson asked so they have a one car garage and one car is going to be

parked in the driveway, and the half car which is required by code is going to sit behind that car? So when a person in their full parking space in the closed garage wants to get out, he has to move the half car that is blocking him in.

Mr. Jeck said Commissioner Nelson is right, that is what will happen with this design. Alternative designs of open parking lots with no garages would avoid that problem, but he doesn't think would nearly be as satisfactory to a resident as being able to garage one car and park the second one next to it. The problem is, this project is very dense compared to a single-family residence, and they don't want to take up all of the area with parking.

Commissioner Nelson said what he is alluding to is the fact that people are going to need storage space and most people are going to have a minimum of two cars. They are not going to cut the car in half and give one to his neighbor, so they are going to have two cars, one of which is in the garage and one which is blocking the one in the garage by being parked in the driveway. They can solve that problem by making a two-car garage. Of course, that cuts down on some of their density. If he were buying that, speaking on behalf of the buying public, he sure would be pushing for that type of amenity as opposed to having one car blocking the other car in the driveway.

Mr. Jeck said there is no question in his mind that a two-car garage would be better than a one-car garage for just about anybody. However, the price that would cost would result in this project being priced out of where the intended pricing point is.

Commissioner Nelson asked what is the current proposed price range?

Mr. Jeck said starting at \$250,000 per unit. He mentioned storage. These units are rather large. These are 1,800-plus square feet under air and they all have closets in the bedrooms. There are three bedrooms and two and a half baths with the possibility of going to four bedrooms as an option in a locked area, and the end units actually have three baths. It is two and a half baths for the three bedrooms and it is three baths with a four bedroom possible unit. So they are very large units and 24 feet wide, when the average unit that they see in what has been approved recently in the area as their competition is only 20 to 21 foot wide. So the units are bigger than what is normal, which is the reason that drove down their density on this project. They made bigger units, less of them, drove the density down, and produced what they thought was going to be a very saleable unit.

Commissioner Nelson said he doesn't want to detract from his presentation, but he wanted to horn in on the parking requirements. He thinks Mr. Jeck discussed that adequately for him.

Mr. Jeck said another way to address the parking issues is the client's foresight to add 51 additional parking spaces sprinkled all throughout the project.

Commissioner Coke said now she is getting a little confused. They talked about this being retirement, in which case three or four bedrooms is probably a bit excessive. Then they talked about it being a family oriented community, in which case three or four bedrooms is great. However, most people who move in with young children, those children grow up to be teenagers and they all have cars. So now they are looking at a three or four bedroom townhouse. Mom has a car, dad has a car, two teenagers have cars, and they have two parking spaces and four cars.

Commissioner Nelson said one and a half.

Commissioner Coke said no, there are two - one in the garage and one in the driveway. So there are two parking spaces, but four or possibly five cars.

Mr. Jeck said that is a possibility for basically any project. Again, he thinks the way the client has attempted to address it is to provide, not one and a half spaces per unit, but two

spaces per unit plus an additional 51 spaces, which is far above and beyond the code requirements to help address that situation. And the market, again the client is not sure exactly what the market will be, who is going to be the best buyer for this. The expectation is a retired couple, but it could be some families. They just have to see how the market plays itself out. His client has gone way over and above and beyond what the code requires. Code requires basically 164 trees for this project. The client has actually shown a landscape plan and has committed to doing over 1,200 trees. The reason for that is in part because of a mitigation requirement; but still the end result is that the tree count is extremely high. It is going to be a very thoroughly landscaped and tree development. Actually that kind of concludes his discussion of the project. He will go for any further questions of the Commission.

Commissioner Coke said earlier he mentioned retention areas and then later on referred to the retention areas as lakes. She knows that is a big thing that they do in developments - the retention ponds, they call them a lake. Can he tell her what provisions have been made to ensure that these retention ponds have water in them at all times and don't become swamps?

Mr. Jeck said they are just going by what their civil engineers are telling them, whether they think that retention area will remain wet or dry. They said in their professional judgement their expectation is it will be wet, but they are not 100% sure. So it is kind of hard to give a guarantee of whether it will be wet or dry.

Commissioner Coke asked so they haven't made provisions with a pump or a well or anything to keep that as a wet retention area?

Mr. Jeck said the direct answer to Commissioner Coke's question, there is no provision for any pumps to keep them wet; but his client has just advised him that South Florida Water Management District, in their preliminary analysis of the project through their permitting, stated that it is their expectation it will stay wet.

Commissioner Coke asked is this group going to have a homeowner's association established?

Mr. Jeck said yes, it will have a homeowner's association which will have the responsibility for maintaining all of the amenities including the stormwater system and will be charged with the authority to levy assessments among the residents to be able to pay for the maintenance and proper care of those.

Commissioner Coke asked will they also be charged with maintaining the retention areas?

Mr. Jeck said yes.

Commissioner Coke asked in his depiction here, she would assume there are street lights up and down the streets?

Mr. Jeck said yes, there are street lights throughout the streets.

Commissioner Becht said they have heard a couple of comments from the Commission already on the parking issue. He is not sure there is anything they can do about the traffic issue. The lakes he thinks they might be able to do something, but that would require action through South Florida Water Management District, because if they are going to make sure there is a constant source of water they are going to have to get that re-permitted and that could be six months to a year and they may not give them the permits. But he wants to talk about the property around them. Because one of his headaches is that he doesn't think they have as many options as he was hoping they would have. If he understands it correctly, the property to their immediate north, even though it is a road on the aerial map, it is not a public road, it is privately-owned by High Point.

Mr. Jeck said he has an aerial so they can see what they are talking about. He is looking to see which one of these two exhibits they can use to most clearly depict the area. Here is the site and this is the road that Commissioner Becht was referring to that enters into the High Point area. They have is the Southland Townhomes project, then they have an active drainage canal which is wet, and then after the drainage canal is a private road leading to the High Point project.

Commissioner Becht said the significance of that is that they would have to enter into negotiations with a private property owner to use their road. It is not a public road they can readily access. The canal to the east, even if they could bridge it, all they are doing is going straight into High Point. Then the property to the south is already developed; and he doesn't know where they can go south to connect with any road that is going to take them out to U.S. #1 or anywhere else. The point of all that being is that unfortunately the most logical ingress/egress point for this project is Southland Drive, unless they are willing to consider splitting their commercial tract. And with all the money they spent on the design and they haven't had staff comment on that... But right now he is not sure what would be gained with splitting the commercial tract, because then they would have residential traffic running through the middle of that commercial tract. So he is not sure what is gained and he still has the same problem when they get out to U.S. #1. When they try to turn left, he can have the head-on collision between somebody who exits on Southland Drive going north and somebody who exits the middle road going south. So he is not sure what is gained there. That is the traffic issue that he was trying to comment on for the Commission's benefit. This parcel is unique in that situation. They can't go east, they can't go north, and they really can't go south. It is a dead-end road, they have to go out to U.S. #1. He wanted to clarify with the record his understanding that there is not a public road that they can get to north of them.

Mr. Jeck said that is correct.

**Ms. Marcia Baker** said this looks like a very interesting project, as many of the projects lately have been. She has had a serious concern about the housing projects that are being developed and have been approved and that are in the pipeline. Her first serious concern is there is no set aside for affordable housing, which is to her mind an essential thing. Secondly, with all the questions about the impact of traffic studies, there has been no impact on tax studies. She thinks it is very important and in fact urgent that as a component of any study on any development, the impact on the assessment of equal properties in the area is considered. If they have a project that increases the average assessments by 15% or 20% or 30%, and the non-homesteaded properties increase in their taxes thereby, then they have the screams and yells that they have been getting from all over the County. And they have these problems which are created not by the people who have been living in their homes maybe part time. Maybe they are snowbirds. Maybe they are investors who have rental properties. They are being forced out of their properties by the high taxes and the high taxes are being created by the higher assessments. The higher assessments are being created by the developers who are developing properties at the highest possible price for sale. Now somewhere along the line there has to be an impact statement equal to the kind of traffic studies that are being done on the affect of taxation.

**Mr. William Clancy**, President of Savannah Condo Association, said getting down to traffic, as it stands now they cannot get out of their development in the morning and they cannot get in it at night. When he was totaling up here, they have 250. They just went from 212 to 536, and there are 980 planned for the trailer park next door to them. High Point is like 1,500. That is 3,266 homes. Where is the traffic going? When they talk about experts, he was on Planning and Zoning in the City of Miramar for ten years. The traffic experts created one of the most hazardous intersections, not just in the State of Florida but in the country, Pines Boulevard and University. He doesn't know where they are going to

go. As far as the parking goes, they have that situation right now between The Lakes and the Preserve, the same plan. Go there at night and zigzag down the street, everybody is parked all over the place. They do have parking for them, but nobody is going to walk to their house.

**Mr. Charles Grande** said he is speaking to the Commission as a member of the Planning and Zoning Board for the County. He sat on that Board for about seven years now and he has heard many projects very similar to this. He wants to bring up two points. After about four years of listening to these, he actually went to the regional FDOT office to talk to them about right turn decel lanes and why they were not requiring them on almost anything on U.S. #1. Their response to him was, when they don't require them, that doesn't mean they are saying they can't have them, they are just saying it doesn't reach their standard. The other thing they said to him was they are very hesitant to require them on roads that have power poles. And that was strictly a matter of convenience, the impact of moving the poles. But when the developer comes to the Commission and says they are not putting it in because FDOT doesn't require it, the Commission is absolutely free to require it; and should they consider this, they certainly can have condition number one that staff recommended and that won't be a problem with FDOT. The second thing as he listened to the presentation, if he had an eminent traffic engineer come to him and say independent of the impact of this particular project he can raise the level of a road as critical as U.S. #1 by doing traffic light changes. It doesn't take a long time to do that and prove it. Why don't they do that before they approve this project and verify that they can actually free up trips. The statement that those traffic light changes would result, in even adding 1,300 trips per day, they would raise the Level of Service on U.S. #1 in that area is amazing to him and it is very welcome. And he would give the traffic engineer a whole lot more credibility if he did it independent of this project in concert with City staff and it worked.

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

Mayor Benton said he just felt that when he saw this project it would just look like the basic, they have seen a lot of this. And the concern about the lack of a two-car garage, for that price or even a little bit more, he doesn't know what the cost would be to bring some density down and put a place to park two cars. Most of them like to park two cars inside if possible. But they have been talking about raising the bar. This looks like projects they have approved for ten years. It doesn't look like they are raising the bar. There is nothing saying that a developer or anyone can't build better than code. Just meeting code... The City's codes do need some changes and they are in the process of soon doing that. But he just feels that between what he has seen of this project and the traffic level coming out onto U.S.#1, he can't justify putting that much traffic out there when it is at Level F, unless somebody proves to him that there are plans in the near future to make improvements to that road. That means unfortunately probably widening it. And when he sees what they had to do in Port St. Lucie, it scares him. To put in roads to ease the pain, they voted and went to one additional mill to pay for roads to play catch up. He doesn't believe in Fort Pierce they should do that. He thinks the infrastructure should be put in place first and then they build later.

Commissioner Becht said he is obviously concerned about the traffic. But he also is concerned about creating a de facto moratorium. Fort Pierce is sliding behind in terms of population, demographics, and everything else. So he is going to ask this Commission, what else is it that they want of this particular developer? Try to give him a clear message.

Because they all - himself included - keep talking about raising the bar; but he doesn't think they want to knock it up so high that nobody can build in the economic reality of what Fort Pierce is today. The units are 1,800 square feet. He is happy about that. The way they set the parking up, in his opinion it is going to be a headache. Somebody mentioned going into developments where they have to weave around the cars because they are going to park on the street, so he wishes the developer would try to deal with that issue. He

appreciates the Mayor's comment about let's fix the problem and then allow the housing units. He is concerned that they are going to be left way behind if they adhere to that philosophy. He thinks they have done a good job of trying to design something. If the parking is the issue, let's tell them the parking is the issue; and if they are agreeable to it, send them back and have them see if they can address the parking. He is not a traffic expert, but they have a couple here and they have their own City Engineer here. He doesn't know how they can fix the traffic issue themselves. If they want to put an assessment on them for their fair share of contribution of dumping 1,300 units on U.S. #1, they are probably going to consider that, but that still isn't going to fix the problem. As much as they might not want to hear this, he thinks increasing the number of voters in Fort Pierce is going to help them get a fairer share of the MPO dollars and help get U.S. #1 fixed.

Ms. Wood asked can she make a comment on something that has been brought up twice? A two-car garage isn't really possible in a townhome. Because of the configuration of that housing type, the dimension that would be required for a two-car garage, they wouldn't have enough room for a front door. She understands the concern in wanting to have that amenity, but that particular building housing type doesn't support it.

Commissioner Becht asked did she not come up with rear loaded units on another...

Ms. Wood said yes, if they have rear loaded units they can have lots of things this doesn't provide.

Commissioner Becht asked rear loaded, is that not a townhouse?

Ms. Wood said yes.

Commissioner Becht asked can they not have a two-car garage in a rear loaded unit?

Ms. Wood said yes, and they would have to provide alleys and streets.

Mayor Benton said they can take this project and make it better. He is sure they could probably cut the density a little bit and have a better product and put less traffic on U.S. #1. If there is a way to make it better. But what he sees is the basic development that he sees all over South Florida that to him just adds to sprawl. Let's build a quality development with a little bit more open space. Raise the bar.

Mr. Jeck said they had hoped that the Commission would appreciate the things they have done to raise the bar in terms of the number of trees and the amenities and the additional parking that they did voluntarily. But he will point out, the concern about cars zig-zaging, there are parallel parking spots located throughout the project as well as direct head-first pull-in parking throughout the project. So there is quite a bit more in terms of parking added to this project than what is required by code and those are sprinkled everywhere throughout the project that they believe shows an intent by the applicant to raise the bar. The units are larger than what they might expect to try to raise the bar. The architecture has a lot of detail on it, much more than a plain building, in an attempt to raise the bar. The bar can always be raised more and there is no limit to how high they can go. But they had hoped that the Commission would appreciate they have done some things to address that.

Mayor Benton said just to follow up what Commissioner Becht had said. By no means does he want to put a moratorium on development. But a lot of developments that have been approved just south of here and in other areas, there has been more than one entrance and exit. They can go an eighth of a mile or a half a mile to the south and get out on U.S. #1 or further. There have been two or three different opportunities to get on to U.S. #1 or get on to another road and head another direction. Here they have one entrance and

one exit in one spot where the traffic is at capacity.

Commissioner Coke asked could they tell her the width of the streets are in this development?

Mr. Jeck said the width of the road is 20 feet.

Commissioner Coke asked what width is required to have parallel parking on the street?

Mr. Arias said on both sides, they need another 24 feet.

Commissioner Coke said she expressed her concern to these gentlemen the other day when she met with them. She does appreciate all their efforts with the gazebos and the pool and a school bus stop. Her big concern was it looks like a lot of concrete and it still looks like a lot of concrete to her. When they show the illustration of what the front of the building is going to look like, she doesn't see any grass. There may be a lot of trees, but she doesn't see any grass there. She doesn't see an open feeling about it. So she has concerns which she already expressed to them. She guesses it is the density, because she doesn't see enough green space there. She doesn't see really any room for somebody to go out and plant a rose bush or something else in their back yard. There is just too much concrete. She has great concerns that there is only one exit and one entrance here.

If they are looking at 250 homes with 500 to 700 people in and out of there and only one entrance, what happens if they have to leave?

Mr. Jeck said to address Commissioner Coke's comments, first off this is a dense project, it is not an undense project. It is right next to U.S. #1, it is right next to a Toyota dealership and a commercial area. It is intended by the City Planners to be developed as something that is dense, far denser than what they have proposed, between 15 and 18 units and they are at 11 units. So by creating larger units and adding the amenities they have, they have a density that is far better than what it could be. Anything can always be less dense, but they have attempted to address that. This whole concept that this project represents is something that was before this Commission last year for conceptual approval and they received a 4 to 0 vote he believes - Commissioner Becht had a conflict of interest at the time - but a 4 to 0 vote to approve this concept. So they received feedback, they went through that extra step of getting conceptual approval and feedback that was affirmative and they came back with this design and even embellished it further. So they believe it is something they were led by the Commission as something they would like to see.

Commissioner Coke said she certainly is not going to get into an argument with Mr. Jeck since he is a lawyer and she is just a Commissioner. She is not saying she is not going to support the project this evening; however, she does believe when they discussed conceptual approval that they stressed at that moment in time that it was just that - it was conceptual. It gave them no guarantee that this Commission would approve the project when it came back. She sees he is here with his court stenographer preparing to try to intimidate them. That is not what she is here for, she is here to try to get the best possible project she can. Quite frankly, she doesn't intend to be intimidated. If she has concerns that there is one entrance there or that it is too dense, she would much rather they spend time constructively discussing what they can do to address the fact that there is one entrance and possibly too dense, than reminding her that 18 months ago the Commission gave him conceptual approval. Because that was 18 months ago and it was conceptual. And now here is what they want her to approve for a finished product and she has some legitimate concerns. So let's address those and not what happened at conceptual approval time.

Mr. Jeck said there is no intent to intimidate the unintimidatable. He thinks the City Attorney would agree with him that it is good conservative practice to have a court reporter at a public hearing in any kind of quasi-judicial hearing. That is the only reason. Now as far as the two entrances, they do of course have the second emergency entrance which

they have intended to keep it closed. They are happy to have it open if it is the will of the Commission. But it is their thought that it is a safer design to just use one as an emergency entrance only. But if it is the will of the Commission, otherwise they are perfectly willing to cooperate on that score.

Motion was made by Commissioner Alexander, seconded by Commissioner Coke, to approve the Conditional Use & Site Plan submitted by Ark Development/Southland LLC for construction of a 250-unit Townhome Project on the northeast corner of U.S. #1 and Southland Drive with recommendations of staff and also their fair share of Southland Drive, and also the contingency fund for parks and recreation, along with staff looking into the secondary entrance being open.

Commissioner Alexander said also they have a contingency fund for their recreation and parks in this community. He addressed that to the developer when he spoke with him and he still has that concern of them taking care of the recreation aspect.

Commissioner Coke asked would Commissioner Alexander be agreeable to having staff look further into whether or not that secondary entrance should be open?

Commissioner Alexander said by all means.

Commissioner Coke asked did Commissioner Alexander include the six conditions of the Planning Board?

Commissioner Alexander said by all means.

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

Ordinance No. K-447 entitled, "AN ORDINANCE **AMENDING THE FUTURE LAND USE DESIGNATION** OF THE EASTERLY THREE ACRES OF A PARCEL OF LAND LOCATED AT THE NORTHEAST CORNER OF SOUTH U.S. #1 AND SOUTHLAND DRIVE, FROM RM, MEDIUM DENSITY RESIDENTIAL LAND USE, TO CG, GENERAL COMMERCIAL LAND USE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE." and Ordinance No. K-448 entitled, "AN ORDINANCE **REZONING** THE EASTERLY THREE ACRES OF A PARCEL OF LAND LOCATED AT THE NORTHEAST CORNER OF SOUTH U.S. #1 AND SOUTHLAND DRIVE, FROM R-4, MEDIUM DENSITY RESIDENTIAL ZONE, TO CG, GENERAL COMMERCIAL ZONE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE." were placed on first reading and read by title only. (Applicant: Ark Development - Southland Townhomes)

Mayor Benton declared a Public Hearing on Ordinance Nos. K-447 and K-448 in session and asked if anyone in the audience wished to be heard.

Commissioner Coke asked did they get an answer to Commissioner Alexander's request for a donation to their parks system?

Mr. Jeck said the applicant is happy to contribute to the park fund as a voluntary contribution to help with the amenities in the City. He discussed with his client the possibility that the Commission may enjoy that kind of a contribution from new residents and they asked what would be a fair number. He gave him the limited experience he has had with the Commission on that issue; and the last time he came before them, the number of \$25,000 was discussed and he would offer \$25,000 as a voluntary contribution to their park fund.

Commissioner Alexander asked he is going to consider raising the bar tonight though, right?

Mayor Benton said at least \$1,000 a unit he would think.

Commissioner Alexander said he is seriously speaking of raising the bar on \$25,000. They have come a long way with this developer and he thinks they need to show the City consideration tonight.

Ms. Wood asked while the applicant confers with his client, could she ask for clarification on the conditions of the site plan approval? The first two conditions listed by the Planning Board were subject to other approval; and she has given them the additional information that was researched up until then, and those things were up to the Commission's discretion.

Commissioner Coke said she believes she specifically asked if Commissioner Alexander included those in his motion and he said yes. So the first two, the right hand turn lane on U.S. #1...

Ms. Wood asked is she requesting that the applicant pursue the right hand deceleration turn lane?

Commissioner Coke said yes.

Commissioner Alexander said the conditions of staff.

Mr. Jeck said his clients believe they are twice as good as any other developer around here so they are going to offer a doubling of the amount he has heard before the Commission and would be pleased to offer a \$50,000 contribution to this park fund.

Commissioner Coke said they appreciate that very much. The only other thing she is going to ask of Mr. Jeck's client is, if their Traffic Engineer can please get with Mr. Arias and explain to him what they can do to improve their light situation. Maybe tomorrow at the MPO meeting Mr. Arias is going to, they can have that discussion.

Mr. Jeck said they will agree to fully cooperate in that respect.

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 Alexander, that Ordinance Nos. K-447 and K-448 be passed on first reading.

Those voting in favor of the passage of Ordinance Nos. K-447 and K-448 on first reading were: Commissioners Alexander, Becht, Coke, and Nelson. Those opposed: Mayor Benton.

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The next item on the Agenda was Public Hearing on proposed 2006-2007 **General Fund Budget** for the City of Fort Pierce.

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

**Mr. Philip C. Gates** said he is representing himself as a resident and a business owner here in Fort Pierce. He wants to express his concern about the poor financial condition of the situation of the City and the difficult time people in businesses are going to have with

the proposed increase in taxes. It is well known that taxable values have gone up a record 46%. They are considerably lucky that this has happened this year. This is due to a one time correction of their real estate market and it probably will not happen again, and yet their proposed budget increases taxes on the citizens of Fort Pierce by 25%. Yes, that is 25% increase in taxes. However, not everyone gets the same increase. Business owners are hit hard. Residents who have bought their homes in the last few years will be hit very hard. Residents who have renovated their homes are going to be hit hard. Fort Pierce continues to have the highest taxes on the Treasure Coast. Years ago it was said because of their appraisals were too low that they could not be compared to their neighbors. That may have been true then, but that is no longer the case. Their taxes are still too high. Their spending also continues to be at a very rapid rate. They have made excessive commitments in the proposed budget and they have increased personnel costs. They have allocated money for projects without fully understanding the cost in the future. They start the year with a deficit of \$1.2 million in their proposed budget, yet they plan to use a fund balance which is their savings account for these reoccurring costs. Their City Manager has warned them time and time again of this irresponsible spending strategy. This will get them in trouble as the years go forward. They will have the same increased cost next year and their savings may be gone. Next year their property values may not increase as much as they did this year. They will increase commitments and have considerably less money available. As the City Manager has explained often, they will have two choices - raise taxes or cut spending. Please choose better than they have chosen this year. Throughout all the workshops he has attended and meetings, they have heard the taxpayers demand better management of their money as they want an environment where businesses can create good jobs. Their budget seems to do neither. If they want to have good businesses come to this community and have better jobs and better salaries, increasing taxes by 25% does not do that. He respectfully requests that they lower their taxes and get their spending under control. He has requested this in the past and many of his neighbors have also requested this. He certainly hopes that during this next year he will be able to remind them of this and hopes that they will listen.

Mayor Benton said he just wants to clear up one thing. Taxes didn't go up 25%, they went up 13%. They did reduce it one full mill which comes to 13%, for the record.

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

Mayor Benton said this City has done everything it could do in the last two years to lower taxes. Last year they went to the rollback rate, which meant their taxes did not go up. This year they came down a full mill, which is more - like last year - than any city or county on the Treasure Coast, and it is their intent to continue doing that. The Commission has made an investment in this community, the citizens have made an investment here, and it is finally paying off. And he thinks it will continue to do that.

The next item on the Agenda was Consider any proposed Amendments to the 2006-2007 Budget.

Commissioner Nelson said at the last Commission meeting he mentioned the possibility of amending this budget to reflect a City auditor and possibly the EEO person down in Human Resources. Do they still have allowances for that?

City Manager Beach said there is nothing in the proposed budget dealing with an internal auditor.

Commissioner Nelson asked if they approve it now, they can discuss that at a later time on an agenda, how do they get it included?

City Manager Beach said the Commission has the ability to amend this budget throughout

the year. If there are changes that are proposed, the Commission has the ability to make those changes just through Commission action.

Commissioner Nelson said on the Agenda are some sizable personnel increases. Will they also have a chance to address that or delete those from the budget?

City Manager Beach said he is not sure he understands Commissioner Nelson's question.

Commissioner Nelson said on the Consent Agenda he sees some high ticket items personnel-wise.

City Manager Beach asked is Commissioner Nelson referring to some employment contracts that they have with contract building officials and things of that nature? Those are budgeted within the Building Department as it exists as this budget is presented to them this evening. Those costs are covered within that budget. The time to address the contracts, if he has a concern about those contracts, those are on the Consent Agenda. Simply request that they be removed from the Consent Agenda and they can deal with them that way. But those are currently budgeted.

Ordinance No. K-449 entitled, "AN ORDINANCE PROVIDING FOR THE **LEVYING AND COLLECTING OF TAXES** FOR THE CITY OF FORT PIERCE, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2006, AND ENDING SEPTEMBER 30, 2007, FOR THE PURPOSE OF RAISING SUCH AMOUNT AS MAY BE NECESSARY TO CARRY ON THE GOVERNMENT OF SAID CITY DURING SAID FISCAL YEAR AND TO PAY FUNDS SO COLLECTED INTO THE ACCOUNTS PROVIDED THEREFOR; ADOPTING THE CITY OF FORT PIERCE 2006-2007 FISCAL YEAR **FINAL MILLAGE RATE**; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on first reading and read in full.

Mayor Benton declared a Public Hearing on Ordinance No. K-449 in session and asked if anyone in the audience wished to be heard.

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

Motion was made by Commissioner Coke, seconded by Commissioner Becht, that Ordinance No. K-449 be passed on first reading

Commissioner Becht said there are a bunch of numbers and statistics that are being bandied around for a wide variety of purposes. He would ask staff if they could find out real figures from Mr. Furst's office on how much additional money they are raising in taxes from properties they have annexed and from new C.O.'s (Certificates of Occupancy). There is a distortion going on that even though the City has lowered the millage rate, the amount of the taxable revenue has gone up. He happens to think they are fortunate in that. But some of that burden is on existing property owners, some of that is on new properties that have only recently received Certificates of Occupancy, and some of that is on property that they have annexed. So before this distortion gets carried too much further, he would like to see if they can get some real numbers on what the increase is, independent of the annexed properties and the new C.O.'d properties that are in the City.

Commissioner Alexander said he concurs with that because he is just having numbers floating in air. He needs to have it in black and white.

Commissioner Nelson asked what are their follow on hearings and when must the Commission approve this budget to make it effective?

Mayor Benton said that is coming next.

Those voting in favor of the passage of Ordinance No. K-449 on first reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-450 entitled, "AN ORDINANCE ADOPTING A **FINAL BUDGET** FOR THE CITY OF FORT PIERCE, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2006, AND ENDING SEPTEMBER 30, 2007; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on first reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-450 in session and asked if anyone in the audience wished to be heard.

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

Motion was made by Commissioner Coke, seconded by Commissioner Becht, that Ordinance No. K-450 be passed on first reading.

Those voting in favor of the passage of Ordinance No. K-450 on first reading were: Commissioners Becht, Coke, and Benton. Those opposed: Commissioners Alexander and Nelson.

City Clerk Steele said the second readings of Ordinance No. K-449 and Ordinance No. K-450 will be at the Special City Commission meeting on Monday, September 25, 2006, which begins at 5:05 p.m. in the City Hall Commission Chambers, 100 North U.S. #1, Fort Pierce, Florida.

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City Clerk Steele said just a reminder, as announced at the beginning of the meeting, Agenda Item #16 (Ordinance No. K-451, Limitations on outside storage in I-2, Marine Industrial Zone) has been pulled from the Agenda.

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The next item on the Agenda was Representative from Calvin, Giordano & Associates to give update on the rewrite of the **Comprehensive Plan**.

**Mr. John P. Downes**, Executive Vice President of Calvin Giordano & Associates, said basically just to give them a quick update, there are four elements right now which have been delivered to the Planning Board. These are final drafts of the elements. Those elements are the Coastal Management Element, the Conservation Element, the Recreation and Open Space Element, and the Intergovernmental Coordination Element. These elements have been reviewed by the City's Planning Staff. Comments have been addressed and have been re-sent back to the Planning Staff and they sent them on the Planning Board. There are three other elements with the Goals, Objectives, and Policies that are now being reviewed by the Planning Staff. Basically once they review them, make their comments, they will address those and get them back to Planning Staff again. As of now, the reviews of the elements are going smoothly and they are on schedule.

Commissioner Coke said she wants to thank them for doing such an exceptional job, for being so far behind the eight ball and doing such a wonderful job of not only catching up but putting them ahead of where they needed to be. She thinks this is going to be instrumental in the future of the City and she does appreciate their extra efforts.

Mr. Downes said thank you, but he cannot take any credit for that, to be honest. His staff is doing it, it is not him.

Commissioner Coke said pass that along to them.

Commissioner Becht said he has a couple of questions. The first one relates to the Deliverable 4.1 (Analysis and Report on water/sewer, solid waste, drainage, and transportation network capacity) originally targeted for March 2006; and all he has is, it is ongoing through September 2006. He might not sound as appreciative as Commissioner Coke was.

Mr. Downes said he believes that is part of the infrastructure element which is in staff review right now.

Commissioner Becht said he would like to have copies of that information, specifically the water and wastewater information that has been gathered to date. That would help him on a Task Force that he is on. The second issue or question that he has is, he saw an e-mail earlier today, he thinks originating from Mr. Recor to Mr. Margotta concerning the Port Sub-Element. They got it back from DCA. The City has to notice it and put it on the agenda for transmittal back to DCA. Is that the next step?

Mr. David Recor, Deputy City Manager, said it is called an adoption hearing. He asked their Planning Director to have it on the next available agenda that they could meet the legal notice requirements, notwithstanding the feedback from DCA that they do it at the time of their adoption of the Comprehensive Plan Rewrite.

Commissioner Becht said with all due respect to the sensitivities of the DCA, let's adopt it and send it back up to them. What is the date that they are going to have it before the City Commission? Because this is a very important date.

Mr. Recor said the first meeting in October.

Commissioner Becht asked they have sufficient time for legal notice?

Mr. Recor asked can they meet the notice requirements for the first meeting in October?

City Clerk Steele asked what are they presenting?

Mr. Recor said it is an adoption hearing. He doesn't believe that there are any special notice requirements other than what is required by statute.

Commissioner Becht asked is it adopted by Ordinance?

Mr. Recor said yes, it is.

Mr. Recor said if it is not the October 2nd meeting, it will be October 16th.

Commissioner Becht said no, he is not going to go there. He is not going to be happy with that. He wants to know what is the fastest date they can get it and he thinks they have all the staff members here tonight to figure that out. So is it the first meeting in October or is it the second meeting in October?

City Attorney Schwerer said from a legal standpoint, they simply need to determine the exact number of days the public notice is required prior to the meeting.

Mr. Recor said 15 days.

City Attorney Schwerer said it will not meet it then, because by the time Ms. Steele gets it to the paper and gets it published, it is going to be...

City Clerk Steele said the next meeting is 14 days from now.

City Attorney Schwerer said that is correct. They just went through that discussion on another issue today. That is why Ms. Steele and he are aware of that. Fifteen days does not give them sufficient time to get it on October 2nd. It will have to be the second meeting in October.

Mr. Recor said the significance of the second meeting in October was to get it adopted or send it back to Tallahassee prior to the meeting of the Governor and Cabinet Aides, which is scheduled for November 14th he believes.

Commissioner Becht said the Cabinet meeting, he understood it was the day after the election.

Mayor Benton said that is not a good time for it.

Commissioner Becht said no, it is not a good time. Anyway, so if it is November 14th then they will have the second hearing in time to have adopted it, he guesses is the technicality there.

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City Manager Beach said he would request that they move up Agenda Item #28, the A-1-A project update. Mr. Donahue is here to give the City an update, if they would permit that. The next item considered was Commissioner Coke request update on the A-1-A Project.

Mayor Benton said they do expect a monthly update on this project until it is finished.

Commissioner Becht said he also understood that Mr. Arias could not retire until it was completed.

Mr. Hector Arias, City Engineer, said if that is the case, the A-1-A project is going to be completed pretty soon.

Commissioner Coke said they have a couple of members of the Retirement Board here who won't approve his retirement until then.

**Mr. John E. Donahue**, Vice President of LBFH, Inc., said he is here to give the Commission a status update on the A-1-A project. He passed out two items. The first item is a memorandum that he sent over to the City Engineer on August 24th that was transmitted to the City Manager on August 25th. The second memo is dated today with the current update of the A-1-A project. He thinks Commissioner Coke wanted to sort of get a delineation on where these segments fell, so he tried to do that in the second memo dated September 18th. Phase 2A goes from U.S. #1 down to the west side of Seaway Drive bridge. The design and approval of this phase has been completed and the construction is underway of that segment, so they are in good shape. Phase 3 of the project runs from Gulfstream Avenue to Blue Heron in the City limits over on South Ocean Drive. The final 100% plans - which include the roadway, landscaping, electrical, lighting, and irrigation plans - were submitted to FDOT on Friday, September 15th. They expect based on the review that FDOT gave themselves on Phase 2 be 90% submittals that FDOT will take about nine weeks to review and provide comments on the 100% submittal. So they expect to receive comments from FDOT on or about November 17th. The plans were submitted to DEP's Bureau of Coastal Systems and Beaches on August 15th. They have 90 days to come back with either questions or a permit issuance. So they can expect to receive comments on or before November 15th. The dewatering permit application was resubmitted to South Florida Water Management District for that segment on August 25th. The district has 30 days to determine if the application is complete, and either move for permit issuance or request additional information. It is likely that it will be considered complete on September 25th, but they will withhold the permit issuance for the dewatering permit for Phase 3 until the ERP (Environmental Resource Permit) application is considered complete by South Florida Water Management District. That application will

be submitted tomorrow - he has a typo in there - it is actually September 19th. They will have 30 days to review and comment or start the permit issuance. So they are hopeful that on October 20th the permit application for the ERP of Phase 3 will be deemed complete and they will start the permit issuance there. They talked to the Fort Pierce Utilities Authority today. FPUA is completing their final designs and plans should be finished by them next week on Phase 3. They are still waiting on FDOT's final review of the geotechnical (soils) engineering report for the entire project. That was originally resubmitted and addressed some of their comments on January 20th of this year. FDOT lost it. They resubmitted it on July 13th of this year. He can't get any comments from them, although their consultant and he have been trying to call both the FDOT District office down in Fort Lauderdale and up in Tallahassee. So they are working on that one. And they have also received new maintenance agreement forms from FDOT for the lighting, landscaping, and drainage and irrigation. Those were forwarded to the City Engineer's staff. They are going to be working on those.

Commissioner Coke said she appreciates Mr. Donahue being here tonight and giving this update. When they had their big discussion at the end of July they were going to get this and now she is glad they have it. The next thing they were going to do is schedule this for a monthly update. So can she assume that he will be at the second meeting every month?

Mr. Donahue said yes, he will be here on October 16th and November 20th.

Commissioner Coke said so they are going to continually get updates so nothing falls through the cracks, she would appreciate that.

Commissioner Alexander said he would request any updates that Mr. Donahue has to give to them, that they have that prior to the night of the meeting, please.

Mr. Donahue said yes, can do.

Mayor Benton asked how many miles are they talking about on this reconstruction job?

Mr. Donahue said total, around five.

Mayor Benton said he had a meeting with some engineers the other day and they tell him now the cost of reconstructing roads is \$6 million a mile. So even at that figure they were looking at, \$12 million and then \$19 million, it is time they started putting letters together and request some more money from Tallahassee he takes it.

Mr. Donahue said he thinks that price might be a little elevated.

Mr. Arias said it is. They made some kind of an estimate with Mr. Donahue's quantities and the City's quantities and the new prices. He thinks the project is going to increase from \$12.5 million to \$19 million. He has been conversing only with FDOT about the additional increase. They have indicated that they should get the additional funding which is about \$7 million from the MPO. He thinks the fight with MPO for that kind of money is going to be very hard. The Mayor is right, they have to contact their Legislators like Mr. Ken Pruitt and the others so they can get this. Correct him if he is wrong, but once they get Phase 3 under construction, they have time to go through Legislation for additional funding. They have to get a new Joint Participation Agreement to increase the price and also to get the reimbursements for the project. So they are working on all that. They need to have some Legislation help in this.

Mayor Benton said he touched base with Senator Pruitt on this, not formally, but he thinks they should put a letter in writing. They are only a month or two away from their Legislative Delegation and all their requests. He prefers to have that letter ready to go for that. Because who knows? They hope to get the money but it might take them a couple of

years.

Mr. Arias asked is it a letter for Mayor Benton to sign? It would help.

Mayor Benton said he is going to have that letter put together as soon as possible.

Commissioner Nelson said the Legislative Delegation is having a breakfast on the 21st which is going to be their first time for receiving these types of requests. It is in Port St. Lucie. He has an invite to that.

Mayor Benton said that is why he wanted to make sure they start now, because it is going to take some doing.

Mr. Arias said he has a letter that he sent to the Department of Transportation with all those figures. He can give them that letter to present to the Legislative Delegation.

Mayor Benton said the holdup was not just the City's fault. There were just many obstacles. It is a barrier island. It has been everyone's fault.

Mr. Arias said the original estimate from FDOT was \$37 million five years ago. It just increases. It is going to be at least \$19 million. He can predict that.

Mayor Benton said they will get that request in as soon as possible.

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Commissioner Coke said in light of what the next few items are (concerning requests for Public Funds), she wonders if they shouldn't have the discussion on Agenda Item #22 prior to considering Agenda Item Nos. 18 through 21? (The Commissioners agreed.)

The next item considered was Discussion regarding funding of Non-Profit Organizations and other **Funding Requests** from the General Fund.

City Manager Beach said he believes this was an issue requested by the City Commission to be placed on the Agenda for discussion by this Commission. His best recall is that it was Commissioner Coke who had suggested that this come back before this body tied to several funding requests that were coming through the process and the fact that they are doing a lot of this through the Fort Pierce Redevelopment Agency now.

Commissioner Coke said she will just expand upon this because she has brought it up for the last five years. She appreciates the fact that they have a lot of worthwhile organizations out there and she would love to be able to help them all. She understands the County has a policy of not funding anyone through their General Fund. The City of Port St. Lucie has the same policy. She thinks the City of Fort Pierce has been far more generous in that they have established a grants program through the FPRA to assist many of these people. They have now some venues through the Sunrise Theatre that will assist the Jazz Society and other non-profits who want to utilize that. She brings this up because she has a concern with the decreasing level in their General Fund. She thinks when things come in front of the Commission, they tend to think with their hearts rather than with their heads. She would like to see them consider utilizing the grant program at the Fort Pierce Redevelopment Agency rather than the General Fund to fund these things. If the Commission feels that they need to consider some of these requests that are outside the FPRA area, she would like to see them establish an annual fund with a set number of dollars and a grant application that they have already labored very diligently on to the FPRA utilized to do the same thing. She thinks if they set up \$5,000 here and \$10,000 there, it doesn't sound like a lot; but at the end of the day all those \$5,000 and \$10,000 throughout the year add up and take a bite out of their General Fund. That is her concern in this.

Commissioner Alexander said when they speak about their hearts and their heads, they have a tendency to omit the ones that have not. When they do that, first of all he placed children in a child's place. If a child had the capability of going out and making wages or earnings, they possibly would. But he prefers them not going out in the avenue they are going in and that is the children who are out there selling drugs to get \$50 to become part of a football league for registration or whatever. When they speak of non-profit, they give to non-profit with their transportation. Is she talking about deleting their transportation? The cost the City gives to the Council on Aging. Those are not for transportation, those are monies for the elderly. When they say non-profit, are they going to put everything in one basket and just stomp on it and then what comes out survives is okay? He just doesn't want to put their children in peril because when some of these things come up here like tonight, it seems like it is not a recreation but it is an activity for the children. In the school system now they have cut out what they called gym or P.E. If they follow that suit...

Commissioner Coke said her concern is that they have funding available through the FPRA, so that is where these requests should be going.

Commissioner Alexander said again, all the requests are not going to be able to go through the FPRA. He is just saying when he speaks, he would rather blame mistakes on his head and not from his heart. So when he speaks about the children, he is going to be wholeheartedly, and that is the children and the elderly. His concern again is, some individuals that are coming to the City, maybe if they do it on a case by case or presentation or application he can go for that. But to just arbitrarily say no more non-profit, that is individuals that don't have that worry. He is not speaking of Commissioner Coke in general, he is just speaking of people who have not... And they speak about the activities that go on this community. To get \$50 just to enroll a child in some participation that they are obligated to. He didn't see it in his package, but he read a memo that the City is allowed up to \$10,000 for non-profit. Is he the only one who read that somewhere? Is there something written? He knows it is written because he read it that the City is obligated to non-profits up to \$10,000. He doesn't know if he is using the word obligated, but they can utilize whatever funds or means of funds that they can up to \$10,000 for non-profit.

City Manager Beach said the City Commission has a number of policies that they have followed in the past. As an example, each year they budget \$15,000 for various non-profits to ask for advertising funds. He thinks the Commission recently limited that to \$1,000 per agency making those requests. He is not aware of a policy that the Commission has set up either limiting it to \$10,000 or saying they would go up to \$10,000. He knows they did a great deal of that through the Fort Pierce Redevelopment Agency. They set up a lot of conditions and requirements for funding eligibility under that. Now he believes some of these requests that are in front of them this evening are not eligible for FPRA funding because they are not restricted to that area.

City Attorney Schwerer said the policy with respect to application for public funds is very specific. They do have such a policy. A 501(c)(3) organization duly certified by the Internal Revenue Service can make an application for up to \$10,000 of public funds. Remember the application is very specific and it comes to them with a lot of detailed information. If not a 501(c)(3) and is a regular non-profit, he believes the limit is \$1,500. They can get the policy and read it. It is an up to number.

Commissioner Alexander said he just wanted to bring that attention to the Commissioners. When he read it, he wasn't aware that it was black and white.

Commissioner Becht said he would like to start with the big picture. The big picture here is, what is the function of government? They tax their citizens in order to provide both essential services and the non-essential services. Some of the things Commissioner Alexander was talking about are not exactly tied to safety and streets and keeping the place clean, but may be more essential in the long run in terms of investing in their youth than

anything else they do, but it is kind of tough to make the connection between the dollar invested in the football uniform and having a more productive citizen down the line. He is always bothered by taking the taxpayer citizen monies and contributing it to a 501(c)(3) that they think is more important than the taxpayer thought it was. That being said, they are going to do it. Those who come after them are going to do it. So if they want to deal with it, maybe they want to deal with it in a fashion of limiting when they are going to accept applications for this money. Maybe they only do it on the first meeting of the month, maybe they only do it one meeting a quarter, and maybe they limit the dollar amount within the budget. They can do it as a percentage of the budget, come up with a dollar figure; or they can come up with a percentage of the budget not to exceed a certain dollar figure. But the Commission is carte blanche writing checks with taxpayer dollars for charities that will always pull on their hearts. There has to be a balance. They all five are going to disagree on where that balance is, but there has to be a balance between where their heartstrings pull on them and where prudent management of taxpayer monies comes to bear. He doesn't know where that is. But he throws out for discussion limiting the times they will hear the applications and throws out for consideration limiting it to a certain dollar amount or a certain percentage of the budget.

Commissioner Nelson said this subject is dear to his heart as well. He thinks Commissioner Alexander might have been alluding to the \$10,000 limit that the City Manager has authority to sign off on. But he doesn't think that was the intent of that authorization that was given by the Commission some time ago. They have a certain amount of monies that are set aside for advertizing and things of this nature. They set up a kitty of \$15,000 at one time and gave \$1,000 at a whack if someone were to ask for it. The thing that has plagued him in many instances when people ask for these types of donations or contributions is that there are certain organizations for that in fact have the authority and the general responsibility to make some of these contributions or donations to these charitable organizations. The Children's Services Council has the taxing authority to do this. Then too he is worried about perineal organizations such as the senior citizens group Council on Aging, they set aside monies for them. He thinks they set aside monies for Sunrise Theater and Jazz Club and Opera Society and Main Street. It worries him because he doesn't think the average citizen fully understands and appreciates the fact that their hard earned monies are going to some of these things that they have no interest in. The City is doing it as though it is something that always meets with their approval. He would much rather that they try to come up with a set of organizations that they are going to continue to donate to like the Main Street and the Council on Aging, and just lock it down. Just cut off these people who are coming in and wanting monies for anything they can think of. It boggles his mind in some of the things people ask in terms of donations from the public coffers. He just doesn't understand how they do it. It is mind boggling. He can see and appreciate something the kids are doing and they need to do something about that. But when it comes down to some of these things that are being requested, in his opinion it is ill use of taxpayer money.

Mayor Benton said they have a budget which they have just put together. That is the place. They budget money for advertising, they budget money for certain non-profits. A lot of these non-profits have the ability to request funding through Community Development Block Grants. They are giving money. But what bothers him is, tonight they have at least \$20,000 requested in front of them now. They open the door each meeting, they are looking at anywhere from \$1,000 to \$20,000 plus at the same time they have a deficit in their budget. Tonight is not going to affect that deficit, but it can continue to do that. To him, what they budget at budget time is one thing. Or they put a number in there that they are going to give to certain programs; and when it is gone, it is gone. His concern with these requests is, they have one here from the Port St. Lucie band. Port St. Lucie should be taking care of that. The point is, people know that the door has been open here because they do have big hearts. He has been supporting some of this. Years ago they went through this and there was a lot of discussion, that is why there are line items in their budget for funding some programs. But to him, the budget is over with. And even the

CDBG, there is a time they can come in and request funding. Whether they are not getting the message out good enough to the community, but a lot of those same organizations are funded every year, when there are a lot of new organizations that could be added to that list.

Commissioner Nelson asked he is taking into consideration the fact that some of their kids go to Port St. Lucie High School?

Mayor Benton said yes, he is. But Lawnwood Stadium was built by band parents and private money. Whatever happened to those days when the private sector did for itself and the business community helped out? This isn't building a stadium, this is taking a band to the Orange Bowl.

Commissioner Coke said Commissioner Alexander can rest assured and she thinks he knows her well enough by now that she always does try to go out of her way to assist whenever she can, especially things that have to do with the children in their community. Her concern is that they have become known as the City with the big heart. It is much easier to come here and ask than it is to go to the United Way or the Children's Services Council. Because they all tend to jump on the bandwagon and say yes without running anybody through a lot of red tape. Certainly she doesn't want to see them not take care of the youth or the elderly in their community. What she would like to see them do is establish some parameters whereas if an organization is eligible, the first source should be the FPRA and an FPRA grant. Maybe they need to develop a contact person here who can point these people toward the right direction - the Children's Services Council, the United Way funding, all kinds of other funds that are available. She also thinks at some juncture in time, they should establish a budget for what they are going to do with this on an annual basis and either have a grant application similar to what they use for the FPRA or maybe they should do what the County does. If they establish a budget of \$10,000, everybody here gets to say who they would like to donate \$2,000 to. She is not sure how they should do it. But her concern is the requests are coming faster and faster and the dollar amounts are no longer \$500 or \$1,000, but are \$7,500 or \$10,000. And when they are looking at that kind of money in one evening, that could pay a Police Officer's salary for half a year.

Commissioner Alexander said when he becomes an advocate for his children, he won't be challenged on every corner. When he says his children, they have to look at their children as a whole. Now they have developers who will probably never develop in that area over there, but they have a contingent fund, they have a fund coming from there for recreation. They didn't say where they were going to use those funds, but at least they know those funds are available to be utilized. He supported Mayor Benton wholeheartedly when he spoke about a skate park. They are ready to swap a \$1 million piece of property to the County to do a skateboard park. What is the difference between a skate park, a basketball court, a football field, a soccer field? Tell him what is the difference. If they can't utilize one park for everything, then they have to separate it and have to judge accordingly. Commissioner Coke came for \$25,000 worth for education. Everybody is not going to go to college. All these kids, they are going to be deterred at an early age if they don't put some grants on it. He sees these young kids out there selling drugs. He sees them out there disrupting Pop Warner football fields because they are gang associated. If they don't stop this nonsense... He looks at the life as the life is being useless and he won't put a useless charge on a child. Again, he is not saying everybody, he says case by case and application by application. If they don't see the light at the end of the tunnel. Ten years ago it wasn't as bad as it is today. It is probably going to get worse. If the community wants to gripe about a few dollars, let the community say no more. That is who he listens to is the constituents. Whether it is the entire City or whether it is right across the street or right downtown, he listens to each and every person who has something to say. He doesn't pick on Commissioner Coke or Commissioner Nelson, because they don't have children. He doesn't say they don't have concerns, they have individual lives with concern.

Mayor Benton said they have all had their say. Have they come to any kind of consensus? It is tough for all of them because there are so many requests. It is hard to say yes to some and no to others. That is why he likes the idea of doing it in a format like with the Community Development Block Grant. They basically have people coming in most of the year requesting funds. A lot of these organizations get funding through them and that is citywide.

Commissioner Coke asked can she make a suggestion? They have had recently developers out of the goodness of their hearts give the City money for their parks and hopefully their future Parks/Cultural Affairs/Recreation Department - whatever it is going to be. She is wondering if they couldn't reach a consensus this evening to earmark 50% of those funds to go toward youth activities that have to do with parks, recreation, etc. Mr. Ward she is sure already has the format to apply for the funding they use with the FPRA. That way they already have a fund available, there is money there. If there is money there, great; and when they run out of 50% of that money, it is kind of like when they run out of the FPRA grant money, it is gone for the year.

Commissioner Alexander said he is just saying help anywhere they can. He will go along with that, at least it is a start.

Mayor Benton said he thinks that is a good idea. He knows a lot of groups are here today. In his office he basically has every organization that is looking for help out there. So every time a developer comes in they walk out with a list of who they would like to contribute to. When developers come in here and make contributions like they have tonight, maybe they can get it to the right people. What they can do is through their budget. They even know what that number is every month. They start with \$50,000 tonight, if that is a consensus of where they want to go with this.

Commissioner Coke asked can Mr. Beach present them a contact person to take care of that?

Commissioner Becht said his comment to that is they are not starting with anything, because he doesn't think they have received dollar one yet.

Mayor Benton said they have a commitment from Southland Townhomes.

Commissioner Becht said they don't have the \$50,000 from them. Symphony Builders was the other one who made the commitment and the condo on the beach is the other one, and they haven't even broken ground yet. So he doesn't think they have any money in this fund. He likes Commissioner Coke's idea of creating an identifiable budget item where they know how much money they have of the taxpayers money or they are covering it with developers money. Commissioner Nelson mentioned capping this with those non-profits that they are already line item funding. As tough as that might be, he heard tonight that the County doesn't have a giveaway program and Port St. Lucie doesn't have a giveaway program. He didn't hear about Vero Beach or Stuart whether they have a 501(c)(3) program. Maybe other cities have ideas they could follow, maybe if they task staff to come back and tell them what surrounding communities are doing. Because if the surrounding communities aren't giving money away, then Fort Pierce is doing it wrong.

Commissioner Alexander said they are doing in-kind services. They are doing something.

Commissioner Becht said he would like to know what they are doing. Instead of the Commission trying to invent the wheel, let's see if others are doing it. He doesn't want to be the only government that is giving away to 501(c)(3)'s.

Commissioner Nelson said he was over in Orlando for the Florida League of Cities Conference. He serves with one of those committees over there. It was pointed out to them and there is a deadline coming out of Tallahassee, requiring them to address this fair share issue, requiring them to have an ordinance in place by the first of December reflecting how they address this fair share issue. He has a copy and he will make it available to anybody who wants to see it. But this might be an area where they can address that too. What he is worried about on this area of getting money from the developers and all, he doesn't want to be charged with extortion of any sort, strong arm tactics. He doesn't think that is what the government is supposed to be about. He just threw it out for consideration in light of what they discussed.

Mr. David Recor, Deputy City Manager, said he does understand the Commissioners are the policy makers. Staff will follow whatever direction they establish. He thinks the discussion has been good. Commissioner Coke, while her idea is a good one, he wants to encourage them to use the monies that have been exacted from the development community for capital improvements for the kinds of recreational improvements those were intended for. There are limited dollars and limited resources to fund the various kinds of improvements that they program into their CIP. With that said however, the idea is a good one. Alternatively, they had discussed on a number of occasions rather than waiving code enforcement fines and fees and fee waivers, maybe they identify another source other than the funds that they are exacting from the development community for a specific kind of recreational improvement, but identify another revenue source in other words. If they would like to task staff with looking at what other communities are doing and come back to them with some recommendations, he thinks that would probably be a good place to start.

Commissioner Alexander said every year they have the same dilemma. He thinks he has tasked staff since the conception of his even becoming a Commissioner that they have concerns with this community, with the children, and the efforts that they need to go forth. With the numbers that come back in the budget, the numbers that are being played and juggled around with, and they tell him every year that they can't come up with some few numbers that the Commissioners have the right to disburse? Because the other numbers they can see are ballooned up so they can work with those numbers. That was one of the reasons why he wasn't in agreement earlier tonight because of the numbers that don't come up and the numbers that are requested and they play the number game. He doesn't do well with number games. Again, he is saying if they are going to task staff to come up every year to find some of these avenues and ease the burden on this Commission, then that is where it needs to be placed, not finding other sources.

Commissioner Nelson said Commissioner Alexander has a pretty good point there. He understands that the County has a system wherein they allocate certain amounts of monies to their individual Commissioners and they themselves disburse them.

Mayor Benton said no, one developer gave them \$250,000 so each Commissioner in the County had \$50,000 to give to their special...

Commissioner Becht said not any more.

Mayor Benton said some of them have used it up; but the last he read, not all of it is gone. Commissioner Nelson said think about it. They can budget that amount and give it to any Commissioner and let them handle it and take the pressure off the whole group. If anybody has a special interest group they want to deal with, they can do it.

City Attorney Schwerer said just a little legal caveat here. They just need to understand that when they set up a policy dealing with public funds, they have to follow strictly the general outline and guidelines that the law provides that the money should be used for the general welfare and benefit of the City of Fort Pierce, not to promote the individual interests of any group or individual. He just wants the Commission to stay focused that the intent of

the expenditure of public funds is for the benefit and general welfare of the City as a whole.

They must find whenever they give money to an entity, whether it is non-profit or 501(c)(3), they must find that the activity they are funding and what they are giving is for the general benefit of the City of Fort Pierce and not for the special gain or specific benefit of an individual or organization.

Commissioner Becht said he is very uncomfortable with that idea. As he said earlier, he is uncomfortable in taking taxpayers money and diverting it to even a non-profit that three of the five of the Commissioners agree on. The extractions they are currently making of developers started because they did not have an impact fee in place at the time for certain things they wanted. It would be his expectation that when they do adopt an impact fee ordinance, he thinks the time for the extractions will be over with. There were two thoughts that he would like to see if they have a consensus on. One is tasking staff to come back to them with how other communities are dealing with the issue. And two, perhaps following up with something Commissioner Nelson said earlier, creating an approved list of 501(c)(3)'s, so when they do get to a point where they are going to have developers with this money that is not going to be earmarked for capital improvements for parks and recreation, that they could suggest to them that here is the list of non-profits that they can make contributions to.

City Manager Beach said back on Commissioner Becht's first issue, is there a consensus that they would like staff to research how other communities handle this issue? If there is, staff will move in that direction. The second subject that Commissioner Becht brought up would be determined by the results of that assessment. They have young children who have to go home and go to sleep here some time this evening, so...

Commissioner Becht said also senior citizens.

Commissioner Alexander said but again he goes along with a document that Mr. Schwerer and he was talking about that places the City with no obligation to the taxpayers. But he knows he read that statement and it did say...

City Manager Beach said that policy does exist.

Commissioner Alexander said he wants that to be fed to this Commission as he was fed. He thought it would have been amongst his paperwork tonight, but it is not. Again, he doesn't want the community to think they are just trying... But any time they have 100 or 200 kids that on a daily basis that are placed in a certain situation, at least they know where those children are and they are trying to get them home safe and sound tonight. Now that is worth more than a dollar to him to know where they have their children at any given day or afternoon that they should be home studying but they are doing this P.E. thing because their schools seem to think it is not important, but at least they have some efforts toward their children in the community. Tonight he is showing them that it is not a black and white issue. It is a child issue, the children of this community. It saddened him that they put a dollar on a child.

Mayor Benton asked there is a consensus to see what other communities are doing around them? (The Commission agreed.) He knows they have done this before in the years Commissioner Nelson and he has been here, and he thinks they are all going to be surprised when they see the information they get.

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The next item considered on the Agenda was Mr. Thomas Brown, Jr., Fort Pierce Buccaneers, Inc., request \$10,000 in **Public Funds** to purchase insurance, uniforms, and equipment.

Commissioner Alexander said he has to indulge that he has talked to the Coach. If they say he has a weak heart, he had him. But it isn't anything funny about the situation, he

takes it very serious. And for him to even research and find out where the City's obligation goes or where it ends, he took a lot of credence into it. Mr. Brown asked and he requested that he come before the Commission and see what they have to say about it.

Mayor Benton said he has met with Mr. Brown and also he knows he missed the window of opportunity with the Community Development Block Grant funding. Hopefully next year they will get in early enough to speak with those folks.

Commissioner Nelson asked has Mr. Brown talked with the Children's Services Council?

**Mr. Thomas D. Brown, Jr.** said yes.

Commissioner Nelson asked what did they tell him?

Mr. Brown said there were no funds available.

Commissioner Nelson asked how long ago had he made that request?

Mr. Brown said in the last month.

Commissioner Nelson asked how long has he known that they were going to need these funds to go down to the Orange Bowl?

Mr. Brown said this is an ongoing process every season. They start in July and they play football through November. They constantly request funds.

Commissioner Nelson asked his sources of funds in the prior years were what?

Mr. Brown said they have got private donations. They have never actually gotten a grant. This is the first year they applied for grants because they could not get the private donations they have gotten in the past.

Commissioner Coke asked what are the dates when they play?

Mr. Brown said they start in July with their practices and they play football through November.

Commissioner Coke said she guesses she just has to ask this question, because she asks it of everyone who comes. Did the County give them any money?

Mr. Brown said no.

Commissioner Coke asked did the City of Port St. Lucie give them any money?

Mr. Brown said no.

Commissioner Coke said let her make a suggestion. Have they contacted the local Kiwanis Clubs that they have two of in town and the local Rotary Club?

Mr. Brown said they were not aware of that; but after meeting with Mayor Benton and Commissioner Alexander, they have had some contact with them, but no response back from them yet. His organization was not aware that was a venue they could take, but they have attempted to start the process.

Commissioner Coke said she guesses the point she is trying to make here is they do want to do everything they can to help the children in their community. However, there are

avenues that are already set up for this type of thing. The Kiwanis Club, which is an international organization, their sole purpose is to raise money and to help the children in their community. The Rotary Club, they love nothing better than to write a check to help the kids in their community. The Jaycees are the same way. There are a lot of civic organizations who are willing to help. It is not that this Commission doesn't want to help him and their youth. What they want to do is be sure that everyone is exploring all the other avenues. Because when the Kiwanis Club gives them a check for \$100 or \$500, they raised that money for that sole purpose. When this City Commission gives them a check for \$500 or \$1,000, they are taking away from the other services that they can provide for the remainder of the community. Certainly children are the most important service they can provide; however, she would rather see everyone knock on all the doors that have that money in their pockets waiting to give it out.

Mayor Benton asked when does Mr. Brown need this money? When does the season start?

Mr. Brown said they actually started playing last Saturday. He has kids playing right now with football helmets that have expired. They don't have the money to replace the football helmets the kids are wearing because they haven't had any funding. They actually started playing last Saturday.

Mayor Benton said all these people who had contributed last year to the football league, do they automatically send an invoice out to them or call them? And they haven't responded this year?

Mr. Brown said every person who has donated to them previously gets a letter sent to them before the season starts to let them know they are starting back again and they appreciate their contributions last year. They get a sponsorship package in efforts to get them to sponsor them again this year.

Mayor Benton asked is there a follow up?

Mr. Brown said absolutely, yes.

Mayor Benton said they had spoke about Rotary Club, Kiwanis, and these clubs, that is what they like to do.

Commissioner Alexander said maybe the City can leave the door open if he requests a funding of \$5,000 to assist this youth club.

Motion was made by Commissioner Alexander, seconded by Commissioner Coke, to approve donation of \$5,000 in Public Funds for the Fort Pierce Buccaneers to purchase insurance, uniforms, and equipment.

Mayor Benton asked would \$5,000 help?

Mr. Brown said absolutely.

Commissioner Alexander said they will be trying to raise some more money.

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

Mayor Benton said contact himself or anyone here, they will get him in with some of these clubs for next year. He knows it is late now. All he has to do is tell them what type of program he has and usually they come to the plate.

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The next item on the Agenda was Mr. Philip Gates, Jr., Lincoln Park Business Association,

Inc. request \$1,000 in **Public Funds** to defer advertising expenses for Linc-Fest on October 21, 2006.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve donation of \$1,000 in Public Funds for the Lincoln Park Business Association for the Linc-Fest on October 21, 2006.

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

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The next item on the Agenda was Mr. Philip Gates, Jr., Lincoln Park Business Association, Inc. request \$7,500 in **Public Funds** to establish annual Linc-Fest premier event.

**Ms. Elise Ann Rollins**, President of Lincoln Park Business Association and Program Coordinator of Lincoln Park Main Street, said she wanted to make a correction. Mr. Gates was the person for the delivery of the package, he is not the presenter. This letter comes from the office of the President and the Events Chair, Ms. Peggy Harris, so she wants to make that correction. They want to make sure they have their distinctions clear on that. She doesn't know how it got twisted, but it did. The next thing, they want to present to the City Commission and the Mayor their Certificate of Appreciation for helping them on Lincoln Park Main Street. They were, as she is sure they heard, number one.

Mayor Benton said they want to say a big congratulations, because they know there was a lot of work and done very quickly. He heard some great things. He is sure it is going to be a great program.

Ms. Rollins said in doing what they have done, they are trying to up the level of their project. They really came in on what they call a bad night, but anyway she thinks the City is really looking, from what she gathers, a return on the money they are putting out. They hope to do what they are requesting. They hope to make it a major tourist attraction. The measure will be the number of people they will be able to get from outside of the Lincoln Park community and outside of the City and outside of the County to come to their activities and their events. The money would be well spent if they do that. They will impact the economic restructuring of the Avenue D corridor. That is basically why they are coming this way this time, so they can really draw attention to their businesses.

Commissioner Coke said it is great. She is talking about all these people they are going to bring into their area. Let her suggest that she go to the St. Lucie County Tourist Development Council and apply for a grant. The most important thing the Tourist Development Council is looking for is how many heads on beds do they think they are going to do and they will give them a grant. That is one way the TDC does give money, if they are bringing people in from out of the area.

Mayor Benton said he knows they helped sponsor a summer fest and he thinks that was done through the FPRA if he recalls correctly. He is just wondering if this request would be appropriately going to the FPRA versus the City Commission. It is the same type of program they did and he knows sponsoring the fireworks for the 4th of July and everything has done through the FPRA. Would this be a request that should be in front of them?

Commissioner Coke said her one suggestion before they bring this in front of the FPRA is, she doesn't know who filled their paperwork out, but all of that stuff up here that has a yes or no answer, none of them are answered. Some people are sticklers for having the forms filled out. She thought she would tell her that before Mr. Ward says something.

Mayor Benton asked if she would like to continue, does she have a brief explanation of what they are doing? Unless she would rather make it in front of the FPRA, but he really thinks that is the area. Their meeting is September 27th.

Ms. Rollins said they are on a time management. Ms. Jefferson is coming on September 26th which they are preparing the letters to give the Commission to please be at that activity. They want to have these planned out, but they will do what they have to do. One of the things they do want to inform them of is they have a business owner who followed the model that they have been telling her all the time, Ms. Lillieth Reece at the Buffalo Soldier Restaurant. They intend to do a grand opening event for her. If they have never been in there before, go in there now. It is really gorgeous. They want to really highlight that as a model of what they are trying to do. It is really working because other people are asking, what are they going to do for them? It is hard work, they have to work at it. That is what they are telling them. But she did like they said and she is interacting with the City. They are featuring people like her in this Linc-Fest. Time is the element for their request, so they give her a direction, that is what she will follow

Mayor Benton asked does everyone agree? They are only talking about ten days. Ms. Rollins asked so they are going to the FPRA? Okay.

Mayor Benton said they will look forward to this. Thanks to both ladies for all their hard work.

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The next item on the Agenda was Mr. Allen Korson, Port St. Lucie High School Band Booster Club, requesting contributions to help defray cost of sending the **Marching Jaguar Band** to the Orange Bowl in Miami on January 2, 2007.

**Mr. Allen Korson**, President of Port St. Lucie High School Band Boosters, said he did not come here to ask for contributions. He would like to clarify a couple of things. He is a citizen of Fort Pierce. His kids went to Garden Center Elementary, Dan McCarty, and now go to Port St. Lucie High School. One-third of their band is made up of people from Fort Pierce. What he came here for was to request help of this Commission for using the resources that they have, not their money. He was not real happy with the targeting of Port St. Lucie being different than Fort Pierce. They are representing the County. They are representing Port St. Lucie, Fort Pierce, the Treasure Coast. They are one of only two schools in the whole State of Florida that got invited to the Orange Bowl. They have to raise \$100,000 to take 118 kids and chaperones and staff four days. December 30th is the Orange Bowl Parade. They have a competition to be in on Fox Network. They are going to be in the half time in the Orange Bowl on Fox Network. It takes a lot of money. What he came here tonight to ask for was their help, not their money. He was just a little disappointed at the comments that were made without knowing the full scale.

Commissioner Becht said Mr. Korson is on T.V. and he is going to be on T.V. probably late at night. So where do the folks who are listening to this need to contact him and where do they need to send him their checks?

Mr. Korson said actually to the high school. The Port St. Lucie Band is at 1201 Jaguar Lane, Port St. Lucie, Florida 34952. Address the checks to the Port St. Lucie High School Band, that would be good enough.

Commissioner Becht said he doesn't care whether it is \$5.00 or \$100.00.

Mr. Korson said no, they are putting it in the kitty. They are out there raising their own funds.

Commissioner Becht said he noticed in their packet that they got a letter from the Superintendent who specifically says he understands the large financial cost involved with this kind of undertaking and is there to support all 140 members as they represent them all. Have they been able to make any financial commitment to him yet?

Mr. Korson said yes, \$15,000; and they are asking the community to do a matching program. Thursday night they are receiving a \$5,000 donation from an individual here in the County and \$1,000 from the Rotary. He is a member of the Fort Pierce Elks and they are contributing \$500 towards their program.

Commissioner Coke said there are two Rotary Clubs up here and two Kiwanis.

Mr. Korson said Jack Kelly at the Port St. Lucie City Council has been helpful in that area. They are attending Friday Fest. The Sheriff's Department has sponsored. They are doing a drawing. One of their Fort Pierce residents whose daughter is in their band has donated a Highwayman painting that they are putting a drawing together. They are selling the tickets at the Friday Fest, which unfortunately they got rained out two weeks in a row, and the West Fest, and they are going to be in the October Fest and the Fall Festival. So stop by their booth and please help by donating to the drawing, that would also help. He would call on the City Commission to use their resources and contacts. He would be available after the meeting to talk to anybody who wants to.

Commissioner Coke said she suggests when selling tickets, they have a Farmer's Market weekly.

Mayor Benton said he wants to apologize. Because it said contributions, that is normally what they have people come in front of them for. So knowing that if they were to open the door to one school, every school would be in here. Yes, they would be more than happy to help with their service clubs, knowing that is what they are out there for.

Mr. Korson said about 37 members of their band are actual residents of Fort Pierce. It is a County school.

Mayor Benton said but it is just one of those things where, one school, another school...

Mr. Korson said he totally understands. He is asking for their help and resources, as well as the County. He would like the County to help them get there, because they are going to be representing the County. It is the Port St. Lucie High School, but they are a County school.

Commissioner Becht asked has Mr. Korson made the presentation at the County yet?

Mr. Korson said yes. The County said they have a developer who gave them a gift and they gave them \$10,000 toward that program. Currently it is just under \$50,000. They are like \$48,000 right now that they have raised through fundraisers and so forth. They have to continue because they have to have it done by the end of November.

Mayor Benton said good luck.

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The next item on the Agenda was Resolution No. 06-46, Appointing a member to the Historic Preservation Board.

City Clerk Steele said they have applications for appointment. She needs for a Commissioner to suggest a name for her to read the resolution with that name in it.

Commissioner Coke said she has a question, because although quite often these... She doesn't want to say the word political, although sometimes they do become political. But she has never before seen them get a recommendation from staff on who they should be appointing to boards. She is not quite sure why.

Mayor Benton said he asked that question some time ago and he found out that is part of their job, the way this board is set up. The Director looks over the applicants and makes a recommendation.

Ms. Kia Powers, Historical Preservation Officer, said per City Ordinance, Section 23-23, Appointment Procedure - Appointments will be made by the City Commission after recommendations have been made by the Historic Preservation Officer.

Commissioner Coke said that is different from any other board they have.

Commissioner Becht said he moves they appoint Jerome Young to the Historic Preservation Board. (Commissioner Coke seconded the nomination.)

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 06-46

“A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, APPOINTING **JEROME W. YOUNG TO THE HISTORIC PRESERVATION BOARD**; PROVIDING FOR AN EFFECTIVE DATE.”

Motion was made by Commissioner Coke, seconded by Commissioner Becht, that Resolution No. 06-46 be adopted.

Those voting in favor of the adoption of Resolution No. 06-46 were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

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Commissioner Becht said they have their auditor with them. Commissioner Nelson has Agenda Item #27, which deals with Department of City Auditor. He is wondering if they can call that out of order so they can send Mr. Barnes home.

The next Agenda Item considered was Commissioner Nelson to discuss Department of City Auditor.

Commissioner Nelson said he sent them a memo dated September 13, 2006, addressing the recommendation to have a City Auditor in compliance with the Charter which dates back to the day the City was incorporated back in February 2, 1901, with several changes going up to 1957 which addresses specifically the City Auditor. He submitted certain backup data received from various sources and research. It says that the auditor shall be appointed by the Commission. By definition, after legal review by professionals, shall mean they will appoint a City Auditor. There are many things going on in their City now that requires them to closely monitor and get independent feedback so they can make appropriate decisions relative thereto. It is not the intent of this to in fact evaluate or undermine or cross-check the efforts of the City Manager, but to appraise and to evaluate and give appropriate recommendations consistent with what he thinks the founders of their Charter meant and what he thinks the Legislature did in fact approve in 1957 by Legislative Acts. Of course, by citizen referendum, they voted to have this Charter adopted. As they are elected as City Commissioners they have a tendency to come into City Hall, get a big booklet of the City Ordinances, and they have meetings with the City Clerk, they have meetings with various staff people, lawyers, and the City Manager, but they never delve into the real true nitty gritty of the Charter. Most of the time the data they have been fed has been somewhat slanted in his opinion, not really fulfilling the roles of this Commission as an oversight authority. He would like at this juncture to point out that when he first broached this subject back during their workshop session, he was told to come back and bring it back before the Commission. He started trying to collect data. It is amazing the impediments that were put in his way trying to collect data. He asked a young lady who

has been assigned as a secretary to the Commission trying to get some of this data and he was told she couldn't do it. He went to the City Manager and he said he would get it for him. He hasn't gotten it yet. But he did find something to bring before them at this juncture. He just points out to them that they as Commissioners have a responsibility to be accountable to the people they represent and they should have at their disposal those means by which they can collect data and appropriately address them. He doesn't think they need to be spoon fed. He doesn't think they need to have information shunted away from them or fed anything that just arbitrarily is supposed to be accepted. They received a piece of information just recently relative to the cost of take home vehicles. From one department he saw some data that said they have ten vehicles they take home and the cost of those vehicles on a monthly basis, ten vehicles, is \$122. Now he has from his own personal experience that to fill up his lawnmower taking 5 gallons at \$3.00 a gallon costs him \$15.00 and he just rides around his yard. So he is not sure the information they are getting is always accurate. He is not sure that it is not somewhat slanted. So he is looking for somebody out there who is going to make an objective appraisals as to what is going on in this City and what they should do about it. Again, not to overlook, not to undermine, not to second guess the City Manager or anybody else. Commissioner Becht mentioned the fact that they have the City Auditor in the audience. He didn't call on the City Auditor that is serving in an independent capacity because he didn't want to put him in a position of possible jeopardy or conflict of interest. He didn't go to his lawyer and ask him what he thought about it, because he too is in the same category as the City Auditor when it says the City Attorney shall be appointed by the Commission. And he is in a position where he might have a conflict of interest because he gets certain remuneration from the City as City Attorney. He doesn't know where they go with this thing. He would ask at this juncture that perhaps the City Attorney might want to recuse himself because he gets some compensation from being the City Attorney and that the Auditor might recuse himself because he gets compensation as being the City Auditor. But he asked the question in the event this thing does not go the way he supposes it should go and he will ask the City Attorney before he closes here, if it does not result in the selection of a City Auditor consistent with the Charter as he defines it or interprets it, the appeal procedures or the recourse he might have, would that be through the Florida Bar, the Governor's Office, or the State Attorney's Office, or the Court system? He rests his case.

City Attorney Schwerer said he thinks that was a question. What he thinks Commissioner Nelson was saying was, if his opinion doesn't agree with his, should they request a second opinion? He thinks that is what he said. What he wanted to say first is that he has not had the benefit of providing them with anything to the Agenda package, but he would ask that they take one of these and pass them down, these are copies. Commissioner Nelson and he have had a number of discussions about this City Auditor position. Where they part company from a legal standpoint is the distinction between a City Auditor and an Internal Auditor. They are not the same person. Commissioner Nelson is proposing an Internal Auditor as opposed to a City Auditor. The word Internal Auditor does not appear in any of their Charters. It does not appear in any of the Minutes going back 90 years that he asked the City Clerk to research. What he simply asked the City Clerk to do was go back as far as she could, she went back 90 years, and he is passing out to them those documents that the City Clerk was able to locate in the historical records of the City of Fort Pierce concerning any Charter reference, any ordinance reference, and any discussion in Minutes of the City Commission as to the City Auditor. What they will find in the references there is that the City Auditor for 90 years by the City Commission, the prior City Attorneys who have served before him - and he might include those were some fairly intelligent folks - were somewhat a little more intelligent than he is in the Constitution and the Charter provisions because they were dealing with these as they were evolving. He hasn't had an issue with the Charter where they had to submit to a resolution or referendum by the voters, but they did, so they did a lot of research in that area. But for 90 years the City of Fort Pierce Commission, Mayors, City Attorneys, and City Managers have equated the term City Auditor with one who performs a financial audit of the books and records of the City as required by the State Statutes, not an Internal Auditor. That is not to suggest that the City

Commission in its discretion is prohibited from creating a position called an Internal Auditor or a Department of Internal Auditor, they can do that. But that is a different procedure and a different manner in which they would attempt to do that. That would require setting up a separate department and job description and duties of that person. Getting back to the documents that he gave to the Commission, let him just explain briefly. They went back to 1923.

Commissioner Becht said he hates to interrupt him, but it is 10:20 p.m.; and he is going to, he thinks, sum up where Mr. Schwerer is going with this. He thinks the sum of what he is about to tell them is, they are not required by the Charter to have an Internal Auditor.

City Attorney Schwerer said that is right. They are required to have a City Auditor.

Commissioner Becht said they have that. But if they want to have an Internal Auditor, they can.

City Attorney Schwerer said yes, they can.

Commissioner Becht said so why don't they jump to the discussion of whether three of them want to have an Internal Auditor.

City Attorney Schwerer said that is not to say they can convert the City Auditor into an Internal Auditor. That is what he wants to say. In other words they can't convert that person into an Internal Auditor.

Commissioner Becht said if he has given Mr. Schwerer a chance to say everything he needs to say, then he is happy.

City Attorney Schwerer said that is the bottom line.

Commissioner Becht said okay, so now if he may respond, he asked Mr. Barnes to be here tonight. And he asked him to be here because every time Commissioner Nelson has mentioned the Internal Auditor, he has tried to bring up if there is something specific that he wants researched, they can specially task the auditor that they have to look into that issue. If Commissioner Nelson wanted the take home vehicles investigated, two meetings ago they could have specially tasked this auditor to do it without creating a new bureaucracy. The Gainesville City Auditor department is \$423,000 and God knows how much the one in Palm Beach costs a year. Because he took Commissioner Nelson seriously about wanting this position, he figured if he could solve what he thought he was going for - which is to have certain things investigated - and he could do it for less money, Commissioner Nelson might jump on it. But apparently Commissioner Nelson has something else in mind that he doesn't understand what it is that he can't do through the City Auditor who is here. So he wanted to give Commissioner Nelson a chance to ask Mr. Barnes if he can do something that Commissioner Nelson thinks an Internal Auditor can do that he can't do. That is why he asked Mr. Barnes to be here tonight. He has been very clear that he sees no need - based on everything they have discussed to date - to create a special department which is going to start somewhere between \$150,000 to \$200,000. And they know how budgets swell. They know Gainesville is half a million dollars. He is sure the outside City Auditor would salivate at a number that is half that large to specially task him every week to do something and come in at half of the budget of Gainesville and probably do a better job. What is it that Commissioner Nelson thinks an Internal Auditor could do that they can't specially task the City Auditor to do, save money, and avoid what he has told him before he has read about and seen in other organizations where the Internal Auditor becomes the Gestapo. If they like you, they don't investigate you real hard. If they don't like you, then they are all over you counting your paperclips. So he saves money and avoid the Gestapo with specially tasking the outside City Auditor. What does he gain with this Internal

Auditor?

Commissioner Nelson said he is not sure that Commissioner Becht read the information he submitted to them.

Commissioner Becht said he did.

Commissioner Nelson said then he saw from empirical sources the fact that an Internal Auditor or a City Auditor is distinctly different from that of an independent auditor as the gentleman in the audience represents. It boils down to the firm they have doing their financial doing one thing and the internal City Auditor... He is saying independent is the same thing as external auditor and Internal Auditor is the same thing as the City Auditor as far as he is concerned. So they don't need three categories, just one.

Commissioner Becht said Commissioner Nelson lost him. He wants to follow him. He is starting with the assumption that Commissioner Nelson has a legitimate goal he wants to accomplish; and the education he needs is, what does Commissioner Nelson see they are accomplishing by creating this budget with an Internal Auditor that they cannot accomplish with specially tasking the outside City Auditor.

Commissioner Nelson said he does the financial, the checking of the books, the procedures that they use for the financial accounting for the City government. The Internal Auditor would address those operations, those procedures, those goals and objectives that have been established by management, and addressing where some of those shortfalls are and make a recommendation for correction thereto. From an external auditor, an independent auditor, they get what they call a management letter. They find certain things they should do or they haven't done, and they correct them later on. The Internal Auditor working with staff and with management to address those issues on an ongoing basis to insure that they in fact achieve those goals and objectives that are set out by policy as set by the Commission. Does that make sense to him now?

Commissioner Becht said he still thinks they can specially task the City Auditor to do everything Commissioner Nelson thinks the Internal Auditor is going to do.

Commissioner Nelson said he can't see how Commissioner Becht can say that. The City Auditor came in for the first time when they hired him last year. He came before the Commission and made a presentation and nobody asked him a silly question at all, he didn't make a presentation, he was here for less than five minutes. Over the last ten years he has been a Commissioner, they have not utilized their former auditor to address various issues. So he is saying they are going to do it now because he is asking for something to clarify what the Charter says they could and must do?

Commissioner Coke said first of all, she thinks if they have underutilized the services of their external City Auditor, then that is our problem. And if they have a list of things that they specifically need to address, then they should do that. Secondly, it sounds to her more along the lines of what Commissioner Nelson is trying to accomplish like the Utilities Authority. They bring in an efficiency expert, not to spy on people, but to work with them to see how they can better organize departments and people and resources. And from what she understands, every time they have brought them in and they have gotten a report and had some recommendations and follow through, that it has been a very successful thing. She has suggested that previously they might consider doing that, bringing in someone whose expertise is in efficiency. But not to establish a department. The same as they have people come in to do a pay study. If they feel they need to validate the efficiency of their departments or perhaps consider reorganizing them, maybe what they should do is consider bringing in, as a one time deal, an efficiency expert. Let them go through and see where they are working well, where they have areas of improvement. She would agree with Commissioner Becht that they should either utilize their City Auditor better now... If Commissioner Nelson thinks they need something other than that, she just can't support it.

Commissioner Nelson said he tried to give each of the Commissioners in sufficient time the document he submitted to them on September 13th so they could put down in writing their thoughts so he can have the benefit of their thinking as well as they have the benefits of his thinking. Aside from that, Commissioner Becht is a lawyer by profession and he has a tendency to listen to him when he speaks authoritatively about law. Commissioner Alexander does embalming, he does things specialized in taking care of the dead and a few other good things and takes care of the kids. Mayor Benton is quite astute in horticulture and other special things. Commissioner Coke deals with selling of good things and all this stuff. It so happens that he has a Master's Degree in management. He might be considered an expert in the field. He has about 26 to 30 years in practice both public and private sector. He has been on this Commission almost 12 years. He has read succinctly in great detail this Charter. He believes very strongly that when a legal document such as a Charter says they shall do this, it means will. He has consulted with attorneys who say that is exactly what it meant. He believes if he were to put this in a court of law with a judge sitting in front, that the judge will say they shall do this and they have been remiss in not doing it, just like he would say they are violating the Charter on various issues. He is submitting to them as a possibility right now that they have been in fact violating the Charter. They talk about amendments. He cites to them that the only amendment that addresses itself to shall appoint a City Auditor stops at December 3, 1957. All that other information that the City Attorney gave them here dated prior to that time, they can throw it out the window. It is null and void and non-germane because the binding referendum that was voted on by the voters and enacted into law by the Legislature is the only document and the only rulings they should deal with and each of them says that they must/shall appoint a City Auditor and that is where he hangs his hat. He pointed out to them, giving them empirical data relative to what this Internal Auditor does and should do. He tried to do it in very simple terms so it wouldn't get all convoluted. He admits that the duties that have to be performed by the City Auditor are not spelled out in the Charter. That is something for the Commissioners to do their due diligence and come up with a response. They have duties for the City Clerk, they have duties for the City Attorney, they have duties for the Police Chief. But it calls on the Commission to use their common sense and knowledge to define the duties for the City Auditor; and that is something that is sorely needed by this Commission based on the various problems they have in this City today.

City Attorney Schwerer said he doesn't want to debate the law or debate with Commissioner Nelson; but when Commissioner Nelson suggests they are in violation in Charter, that is where they part company. He wants to make it absolutely clear to this City Commission that all his predecessors in office as well as himself have been absolutely confident that the City Commission is in full compliance with the Charter by appointing the City Auditor as it does and as it exercises that discretion to do every year. Prior to 1953 the City Auditor position has been a dual office. It started out that the City Manager - when Commissioner Becht interrupted him, he doesn't want to go back to 1923 - but this City complied with the Charter by appointing the City Manager as the City Auditor. He served two roles in 1923. As they go through the years, that changes. The City Clerk became the City Auditor at one time as well as the City Treasurer. Then what they had in the 1950's is a lot of problems with government and they had a lot of problems with things that were going wrong with government and the State law started stepping in and saying they can't have folks inside their organization auditing, they have to go outside. What the City of Fort Pierce did in 1957 was they appointed a City Auditor. There is an ordinance that appointed Ira McAlpin in 1953 as the City Auditor for the City of Fort Pierce. Mr. McAlpin's CPA firm served as the City Auditor all the way up until he doesn't know when. They didn't go that far because they went past 1957. Clearly what he is trying to tell them is, here is a statement right from the package he gave the Commission and this is in 1966. It is a very detailed report. The City Commission had commissioned or charged the City Auditor with a lot of different duties. They wanted a complete report on a number of accounting personnel problems, routine City Commission invoice approvals, cash procedures, utility department banking recommendations. There was a big task that was given to the City Auditor who

was appointed by the City Commission to do. He rendered an extensive report. Part of that report was the City Commission discussion about the office of City Auditor.

Commissioner Becht said this is beginning to sound an awful lot like a debate.

City Attorney Schwerer said bottom line is, they went back in the 1960's and said the Office of City Auditor has not yet been created but the City Commission has exercised their power in providing for annual audit of the City's finances as set forth in Charter Section 20(a), which satisfies the requirement of the Charter that they appoint a City Auditor. All he is pointing out in that debate was back in the 1960's and they continue to appoint the City Auditor every year. It is not one and the same as an Internal Auditor. That is all he wanted to point out.

Mayor Benton said he thinks they have had a debate. He was willing to listen to the debate. His concern is, from what he sees in Gainesville with a \$400,000-plus budget, he thinks their independent City Auditor is doing a fine job. In his opinion, to create another part of government when they are trying to lower taxes and millage rates, that basically is set up to tell them they are doing something wrong or right...

Commissioner Nelson said he asked two questions of the City Attorney. Would he recuse himself because he has a potential of personal gain by this; and secondly, what would be his recourse if in the event they opt not to appoint a City Auditor? Does he go to the Governor's Office, the Court System, the State Attorney, or somebody to get an interpretation as to...?

Commissioner Coke asked is he trying to intimidate them?

Commissioner Nelson said he is not trying to tell them anything other than the fact that he is asking a silly question as to what he should do. If she feels that is intimidation, be intimidated.

Commissioner Coke said she has no intention of it.

Commissioner Nelson said good, listen to the question. His question is - and he needs advice from the City Attorney on this - what does he think he should do? What does he think his course of action should be in the event that they don't see fit to follow the Charter as he has interpreted it?

City Attorney Schwerer said his job as City Attorney is outlined in the Charter. He shall advise the City Commission as a body, not individual Commissioners, but the City Commission as a body on any matter of law including the Charter of the City of Fort Pierce. That is his job description in the Charter. He has been asked by a number of Commissioners to research this issue, by more than a majority of this Commission to research this issue, which the City Clerk and he did. He is not going to recuse himself as City Attorney when he renders an opinion on the City Charter to this body that he is charged to represent and render such an opinion. His opinion is being rendered solely on the historical data that has been given. And his opinion is limited to the sole fact that the City is in complete compliance with the City Charter by having appointed a City Auditor for 93 years.

Commissioner Nelson asked so he has no objection to him getting a second opinion?

City Attorney Schwerer said that is his opinion. Why should he recuse himself from rendering that opinion? If they want a second opinion about whether the City is in compliance with its Charter, that is a prerogative of the City Commission sitting as a body to request. But he is simply giving them his opinion, the City Clerk has her opinion, they talked about it.

Mayor Benton asked who would Commissioner Nelson contact in Tallahassee to get a legal opinion on this - the State Attorney's office, the Ethics Commission, the Attorney General?

City Attorney Schwerer said no.

Commissioner Nelson said he is a free citizen, he is a standing City Commissioner, and he should have some outlet to talk to somebody over and beyond this Commission with or without the consent of the Commission. He threw out several people he could talk to - the Courts, the State Attorney, the Governor's Office, the Ethics Commission, or the Florida Bar. Somebody has to tell him what his options are. He doesn't sit around like a knot on a log or a potted plant.

City Attorney Schwerer said he has never had a situation of an individual City Commissioner asking for any kind of an opinion from an outside source. They can get that opinion as a body if they want it. But he doesn't know of a mechanism, unless Commissioner Nelson wants to hire an attorney and pay for his opinion, but that will just be an opinion of another lawyer. He doesn't know what Commissioner Nelson is asking for.

Commissioner Nelson asked if it came from a source like the Governor's office or the Bar Association or the State Attorney's Office, the meaning should be a little different, wouldn't it?

City Attorney Schwerer asked what is he asking to have done, whether or not the City is in compliance with the Charter?

Commissioner Nelson asked are they in compliance with the Charter?

City Attorney Schwerer said that is for this Commission to request that.

Motion was made by Commissioner Nelson, seconded by Commissioner Alexander, that they request some source to be determined - the Governor's office, the State Attorney's office, the Ethics Commission, the Florida Bar Association - of their interpretation of whether the City of Fort Pierce is in compliance with the City Charter regarding its City Auditor.

Commissioner Alexander said his concern is that he has heard that Mr. Schwerer was charged with going by some Commissioners and he brings this to him tonight. He is supposed to comprehend this? Why are they so defensive about an Internal Auditor? What is the difference between an Internal Auditor and a City Auditor? What is the definition of each one of them?

City Attorney Schwerer said first of all, he did not get Commissioner Nelson's memo until Friday morning. The only thing he took issue to was in Commissioner Nelson's memorandum when he said to this Commission that legally the word shall means must or will and they stand the risk of Charter violations if they continue to ignore this requirement. That is the only thing that he became defensive about, when it suggests that the City is not in compliance with its Charter during a time frame when he is serving as their legal advisor. That is why he is becoming defensive on that. He doesn't have any issue with respect to a City Auditor or an Internal Auditor. He already told them if they want an Internal Auditor, they can request that, that is what their function is as a City Commission. They have the power to establish an Internal Auditor position. They have the power to create what Gainesville created. They may have to go through some Charter amendments to do what Gainesville did. And they have the power to create what West Palm Beach did. That is what Commissioner Nelson is suggesting they do. He is simply pointing out, the City Auditor that is appointed by this Commission under the Charter is one and the same as the person they now have serving. That is where Commissioner Nelson and he disagree. He

is telling them that is clearly what 93 years of history of this City has shown. Prior Commissions and prior City Attorneys and prior Mayors have interpreted the appointment of a City Auditor in fulfillment of the Charter provision just like it is in the present situation. They certainly have the ability to create an Internal Auditor; but that is not one and the same as the City Auditor.

Commissioner Nelson asked Mr. Schwerer has no objection to him going out and asking a source, i.e. some of those guys he just mentioned - the State Attorney or Governor's Office - whether or not Mr. Schwerer's opinion is right, or whether or not the Charter as he interprets it is right? He has no objection? He concurs with that?

City Attorney Schwerer said this Commission can do anything...

Commissioner Nelson asked he has no objection? Is it all right?

City Attorney Schwerer said yes, he has an objection.

Mayor Benton said they have a motion on the floor.

Commissioner Alexander asked if the motion fails amongst the Commissioners, then where do they go from there? It is a failing motion, right?

Mayor Benton said right. There is no reason why any individual Commissioner couldn't write a letter to the Governor or anyone else trying to get a response. He is not saying they are going to respond.

Commissioner Alexander said so it is up to the City Commission.

Commissioner Coke asked could they read the motion again?

City Clerk Steele said the motion was to request some source to be determined for an interpretation that they are in compliance.

Commissioner Nelson said he needs to paraphrase that somewhat, whether or not they are required by way of the Charter to in fact appoint a City Auditor. That is what they are talking about.

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

Mayor Benton said if anybody wants to send a letter to the Governor, the State Attorney, or the Attorney General, they can do that as an individual.

Commissioner Nelson said when he sends a letter to the Governor, he takes off his hat and he is no longer a Commissioner. He just wondered.

Mayor Benton said he is a Commissioner and he represents his district; and if he would like to request that, he is sure the Governor would probably respond to him.

Commissioner Becht said he would like to thank Mr. Barnes for waiting so patiently for any questions that Commissioner Nelson might have wanted to ask him.

Mayor Benton said thank you. Mr. Barnes should come more often. He has to tell them, when he has an issue or if he feels there is an issue out there, he doesn't wait for the City Auditor to come to the meeting or until he makes a presentation. He feels he can call them any day of the week and he thinks any of them should. That is what they are there for.

They work for the City all year round.

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City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 06-47

“A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, ADOPTING THE **SOLID WASTE ADMINISTRATIVE GUIDELINES** AND APPROVING THE **SCHEDULE OF FEES** FOR COLLECTION AND DISPOSAL OF GARBAGE AND TRASH AS SET OUT IN THE SOLID WASTE ADMINISTRATIVE GUIDELINES BY THE CITY MANAGER IN ACCORDANCE WITH SECTION 16-31 OF THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.”

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, that Resolution No. 06-47 be adopted.

Commissioner Alexander asked in reading right off the top of his head, it went from what to what, \$17.38 to \$19.25?

Mr. Harold Hopkins, Director of Solid Waste, said \$16.74 to \$19.25.

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

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The next item on the Agenda was Consider proposal submitted by AGCR Group LLC to create the **Fort Pierce Development Authority.**

City Manager Beach said they are all familiar with this proposal, it was submitted by Don Root. They have a memorandum from Matthew Margotta talking about the creation of the Development Authority. He sent them a memo on September 5th that indicated that he was recommending that they move forward with this, subject to the agreement of the City Commission and Staff preparing the necessary contractual documents to put it in the right format. There are parts of Mr. Root's proposal that are not the way they do business at the City and they simply have to refine that and put it in a different format. So if they are all willing to move forward with this, staff will start that process. If they would like to talk about it, they have Mr. Root and Mr. Margotta here.

Commissioner Coke said first of all she is going to begin by saying she thinks it is two weeks later than they should be doing this, because every day that they go by without a Development Agency to help bring jobs to this City is a day of missed opportunities. She was very disheartened speaking with some people the other day. They wanted to talk to her about the St. Lucie County Economic Development Council, which she is sure is a very worthwhile organization, although she hasn't seen them bring anything up here in a long time. Is it her understanding of this that they can single source this and just negotiate a contract with Mr. Root?

City Manager Beach said there is a requirement that the City Commission make a determination that they will waive that process and authorize staff to move forward with this agreement.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve the concept of the proposal to hire AGCR Group LLC (sole source) to create the Fort Pierce Development Authority and allow Staff to negotiate a Professional Services Agreement with AGCR subject to review by the City Attorney.

Commissioner Alexander said he just wanted to divulge that he did speak to Mr. Root

concerning this and thought it was a great idea to present it to the City of Fort Pierce. He is fine with it.

Commissioner Nelson said he has some concerns with this. Commissioner Coke alluded to the fact that they do have an Economic Development Council. They have the Chamber of Commerce. They have the City Manager playing a role they have given him with respect to economic development. They as individuals or ambassadors are trying to recruit businesses and development in their area. He doesn't understand. He thinks Mr. Root severed his relationships with the County in his role over there and consequently severed his relationship with... Why are they doing this? What are they trying to gain here at the exclusion of those entities he just mentioned?

City Manager Beach said he wouldn't anticipate that what they are doing would be to the exclusion of any of the other agencies or groups who are working in the economic development field in St. Lucie County or even on the Treasure Coast. What Fort Pierce has been doing in the 11 years he has been here is focusing its efforts and work on redevelopment and rebuilding and reconstruction and trying to renew their old City. They have been content to take the crumbs of whatever fell off the table of the economic development efforts of St. Lucie County and Port St. Lucie and so on. They have never set out on their own to create an economic development strategy that would serve specifically Fort Pierce or north of Midway Road, they have never done that. This is their opportunity to do that. He can't tell them what the outcome of this is going to be. This is a long term effort. This is something that really requires a lot of ground work to make it successful. He does believe that the individual who has made this proposal has the credentials and has the ability to give them some guidance in that.

Commissioner Nelson said he thinks Mr. Ward and Mr. O'Conner are doing some things that facsimilates economic development too. How is it going to dovetail with those people? City Manager Beach said the City's economic development strategy over the past 11 years as he indicated has been one of rebuilding their community. That has been their economic development strategy. This strategy that is proposed here actually starts the process of soliciting industry. This will start the process of trying to create a Fort Pierce Industrial Park that is designed specifically to bring quality jobs into the Fort Pierce area. That is the difference in what is being proposed here and what they are currently doing.

Mayor Benton said it has certain goals and objectives. He knows all of them over the last several years have met with a lot of people, specifically industrial people, who wanted to come here and had all kinds of hoops to go through in that Midway Road area. What Mr. Root is looking to do is purchase this property with the City basically and eliminate those hoops. So when somebody comes in, they don't have to take a year going through all kinds of obstacles, City or County. They can start and open up shop in a very short period of time. That has been the problem in the past, it could take them a year. He thinks it is a great proposal and it is a different direction than the Economic Development Council down south has been doing for the County. He thinks it is a good proposal for Fort Pierce.

Commissioner Nelson said he has got some concerns. He thinks Jon Ward and Brian O'Conner has some economic development thing they are pushing out there.

Mayor Benton said they are doing stuff right now that they can't talk about. It is just one of those where Mr. Root has goals and objectives that can help them all in jobs in the future.

Commissioner Becht said Commissioner Nelson keeps talking about Jon Ward and Brian O'Conner, who are doing a great job in the Fort Pierce redevelopment area. But there is a much bigger city than that. This gentleman can attract industry to the rest of the city. So now they will have that economic engine and they will have the economic engine...

Commissioner Nelson asked how about that guy sitting at the end of the table? They gave

him a special license to do that in secret.

Mayor Benton said they will be working together and he has a lot of connections.

Commissioner Alexander said he just wants to say one thing because they are leaving out the marine aspect of it and that is a whole other world by itself and that is inclusive in what he wants. That is what sold him on it, because he had individuals in his office the same day talking about developing that Taylor Creek area and they want to do it first class.

Mayor Benton said hopefully at the next meeting, whenever he sees that they won't be here until midnight, he has a very small presentation he would like to make. Mr. Root knows about this and he would like to send him in that direction.

City Attorney Schwerer said a legal caveat. The motion is to waive the sole source; but what they are approving by this is not the proposal, they are approving negotiations to enter a contract. The contract will be back before the Commission. He just wants the record to be clear on that.

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

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The next item on the Agenda was Submittal of Applications for Appointment or Reappointment to the **Fort Pierce Utilities Authority Board**.

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

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

Commissioner Alexander said he would like Item 29a (Agreement with Daniel Gargas for Professional Services) removed for discussion.

Commissioner Nelson said he would like Item 29a (Agreement with Daniel Gargas for Professional Services) and Item 29b (Agreement with Edward Bock for Professional Services) removed for discussion.

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

c. Award bid for **Uniforms** for the Public Works Department employees to Southern Stitches in an amount not to exceed \$12,800.00. Bid No. 5645

d. Authorize Application by Police Department to Florida Department of Transportation for **Aggressive Driving Grant** in the amount of \$79,300.00.

e. Approve Specific Authorization No. 4 to Agreement for Professional Engineers Services between the City and Tetra Tech EC, Inc. to conduct a physical hydraulic model investigation of the breakwater island concept for the **City Marina**.

f. Approve application for **Alcohol Beverage Permit** submitted by Stephen Lewandowski, representing **International Brotherhood of Electrical Workers**, for Picnic in Jaycee Park on September 30, 2006.

g. Authorize execution of Historic Preservation Grant Award Agreement between the City and the Florida Department of State, Division of Historical Resources, for the Fort Pierce **Historic Properties Survey Project**.

h. Approve Additional Services Agreement Addendum to the Professional Service Contract with Calvin, Giordano and Associates for creation of a **Transportation Concurrency Management System** and the enabling ordinance.

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The next item considered was Item 29a, which had previously been removed from the Consent Agenda: Approve **Independent Contractor Agreement with Daniel Gargas** to provide professional services to the Building & Code Enforcement Department.

Commissioner Alexander said he just has the question when he sees this figure here for a contract employee for the City of Fort Pierce and somewhere he saw where his contract was last year. He is just trying to see why was this not discussed in their workshop when they were discussing each and every department? The Building Department unfunded five positions and now they want to come back with this. He just has a question about that dollar figure and where did they derive that?

City Manager Beach said he believes this contract is a renewal. Isn't this an existing contract that is expiring?

Mr. John Alcorn, Director of Building & Code Enforcement, said this will be the third year for this same person.

Commissioner Alexander asked at this figure?

Mr. Alcorn said this figure is \$5.00 an hour more than it has been in the previous years. Mr. Gargas has to supply the vehicle, insurance, and such. The comparison is if they were to fund it themselves as an employee, based on a \$65,000 salary it would be about \$99,000 with benefits, not including a vehicle and not including vacation. So this is less expensive to the City. The third option they have is to go with an outside firm such as they have for some of the other situations like Plans Examiner, where they charge typically \$85.00 per hour; and that is substantially more expensive because they have the cost for the company as well as the employee. So this is less expensive for the City. The other advantage to the City is, as this person is not a City employee, should the need change they can terminate the contract with seven day notice. It is a little more difficult to do that if it were a City employee. The other thing, through their budget this year it is about \$1 million less than their budget last year. They are trying very hard to keep their costs...

Commissioner Alexander asked were they in the red last year? Does he remember them being in the red last year in that department or what?

Mr. Alcorn said no. He thinks they watched it all the way through the year to keep their staff down. That is one of the reasons they went with the contract employees.

Commissioner Alexander said he doesn't know this gentleman that well; but was he the gentleman who led Mr. Alcorn's department when it was budget time?

Mr. Alcorn said no. That was a City employee, Marc Meyers. He is a permanent City employee. One year ago they had five contracts that this City Commission approved. This year they have two. They have cut that down by three. They are able to do that because of the seven day notice. Again, they are trying to do their best to watch the costs. Their budget being about \$1 million less than the Commission had approved a year ago is trying to do their best to keep things in check.

Commissioner Alexander said when he sees these top heavy contract employees in the City of Fort Pierce, then they are losing out. He considers they are losing out when they don't have full time employees because they don't have no responsibilities. But if Mr. Alcorn says so, that doesn't have to mean he has to agree with it. Because again, they all play these number games with him and he is not abreast to it.

Mr. Alcorn said if the Commission would prefer they could fund a permanent position and not go with the contract; but he believes it will cost more and then they will have a City employee who is permanent.

City Manager Beach said the purpose of the contracting was to give them the flexibility to adjust their staffing levels as they respond to demand. If they need to go down they can, if they need to go up they can, without having to deal with those employment issues.

Commissioner Alexander said his only concern again, he is speaking of \$91,000. They have Department Heads who have been here 20 years and don't make \$91,000. If he is the only Commissioner that has a concern with this, so be it.

City Manager Beach said that is a legitimate concern. He thinks though the explanation is as the Department Director pointed out, they could do it the other way, it would still cost them that amount of money.

Mayor Benton said this is a maximum. In other words, for some reason if development pressure is not on, that \$91,000 would not be spent. In fact, if they didn't need this employee, he could be laid off six months into the year. If they hire somebody, it is very hard to get rid of them.

Commissioner Alexander said no, it is not. He begs to differ.

Mayor Benton said getting rid of an employee can be very difficult sometimes.

Commissioner Alexander said he doesn't have anything to say about that now.

Commissioner Nelson said he took note of this too. He is very much concerned with \$91,500 for someone who is going to be working basically part time without benefits. He noticed that Mr. Alcorn cites in there, management responsibilities as well. How many layers of people does he have doing management? And what does he do? He thinks Mr. Alcorn is making somewhere in the neighborhood of \$95,000 or \$96,000, isn't he?

Mr. Alcorn said they have the two divisions. One is Code Enforcement, and one is permits and inspections, which is the Building Division. Mr. Gargas has multiple state certifications. He has a lot of experience in managing building departments. He and Marc Meyers work hand-in-hand in managing the Building Department working with the architects, contractors, and public who come in, and to assist them also in the Plans Review. It is a very complex job that requires the certifications.

Commissioner Nelson asked doesn't Mr. Alcorn manage?

Commissioner Nelson asked how is this person going to contrast with Mr. Alcorn's management? What is he doing different than what Mr. Alcorn is doing? How many people do they have doing management.

Mr. Alcorn said each division has two people.

Commissioner Nelson asked each division has two managers or two directors? Mr. Alcorn said no. For instance, Code Enforcement has a Code Enforcement Manager and a Senior Code Officer. In the Building Division they have the Deputy Building Official and this person assisting him. But he also is certified so he could sign permits, plans, and approve projects in that manner. He has been doing this, this is his third year.

Commissioner Nelson said Mr. Alcorn wasn't here during the budget workshop or he would

have asked him more succinct questions than they have thrown before him. He can't see it, he will be honest with him. From a management standpoint, he doesn't know what Mr. Alcorn is doing versus Marc Meyers working as a manager, and then this guy is a manager, and he is a manager or director. Why do they need so many people at such a high level salary?

Mr. Alcorn said they have cut the number of employees they could to a maximum. They are working with quite a few fewer employees now than they were one year ago. He believes they are at a bare minimum with what they have. And he presents that to the Commission and the fact that they have cut the budget by close to \$1 million. They do their best to keep the cost down.

Commissioner Nelson said he doesn't have the details he wants on this. He alluded earlier about him submitting a letter indicating what the take-home vehicle costs were and all that, so that shot Mr. Alcorn's credibility with him with respect to providing him accurate information that he could really dig into that would make his mind click. Mr. Alcorn is saying here that this manager is going to do these kinds of things. He hasn't finished. Is that walk away a sign of contempt or what?

Mr. Alcorn said he apologizes. He didn't realize he was asking him a question. He apologizes.

Commissioner Nelson said go ahead and sit down. He made a decision. Go ahead and sit down. He is finished.

Mayor Benton asked could he make a suggestion? His understand he was making \$35.00 an hour. Why don't they just offer him 11% like they gave everybody else and see if that would work. He doesn't know who negotiated the contract. He thinks 11% like everybody else.

Commissioner Nelson said they can renegotiate the contract completely if they are going to have him at all. That is high.

Motion was made by Commissioner Nelson, seconded by Commissioner Alexander, that the request be denied.

Commissioner Nelson said maybe staff can come back with a better recommendation.

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

MOTION FAILED TO PASS.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve Independent Contractor Agreement with Daniel Gargas to provide professional services to the Building & Code Enforcement Department.

Mayor Benton asked would they entertain offering this...? He didn't have these negotiations, but he would like to see it come back and negotiate that 11% like all the rest of the employees. he believes they should treat them all the same.

Mr. Alcorn said 11% of \$35 is what?

Mayor Benton said they are looking at \$38.

Mr. Alcorn said his recommendation is that they amend it so the contract comes out at \$38.00 per hour rather than \$40.00 an hour and they can move forward with it tonight.

Motion was amended by Commissioner Coke that the Independent Contractor Agreement with Daniel Gargas be amended to \$38.00 an hour. Commissioner Becht accepted the amendment to the motion.

Commissioner Nelson asked what then?

Mayor Benton said \$38.00 an hour instead of \$40.00 in the contract. That is close to that 11%.

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

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The next item considered was Item 29b, which had previously been removed from the Consent Agenda: Approve Independent Contractor Agreement with Edward Bock to provide professional services to the Building & Code Enforcement Department.

Commissioner Nelson asked would the petitioner come to the podium and please explain why this is so in need therefor?

Mr. John Alcorn, Director of Building & Code Enforcement, said this is so if they have a reduction in the need, they don't have to have a City employee they would lay off, they would just terminate the contract. This employee particularly was a Deputy Fire Chief in Pennsylvania. He came to the City originally through Cargill. He has been working with them originally from Cargill and ever since on a contract. Again, this is a third year of a contract for him. He does research, records retention, data entry.

Mayor Benton said he doesn't know what Mr. Bock was making last year. But 11%, does Mr. Alcorn think he would go along with that? They went 11% across the board. He would prefer to keep it that way if possible. He doesn't know what he made last year.

Mr. Alcorn asked what is the dollar amount in this contract?

Commissioner Coke said \$20.00 an hour.

Mr. Alcorn said if they do that at \$18.00 or \$19.00, put a dollar figure on it...

Mayor Benton said he doesn't know what he was making last year.

Mr. Alcorn said if they say \$19.00. It wasn't a \$5.00 increase.

Mayor Benton said so that would put him in the 11% range.

Mr. Alcorn said \$19.00 an hour, it would be in the range.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve Independent Contractor Agreement with Edward Bock to provide professional services to the Building & Code Enforcement Department, conditioned upon changing the figure to \$19.00 an hour.

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

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**Ms. Marcia Baker** said she lives on Seaway Drive in Fort Pierce. She has a couple of items here she would like to quote. One from Okaloosa County and this is for their effective November 7th revised in February 2003 and that is new high density residential development, etc., shall not be permitted within the Coastal High Hazard Area (CHHA). New nursing homes, assisted living facilities, and hospitals are required to be located

outside of the CHHA and the 500 year flood plain wherever possible, etc. Then from the Coastal Management of Pinellas County, they have changed their existing 1989 code, which the existing one restricts location of or expansion of hospitals, nursing homes, adult living facilities, etc. within the evacuation Level A or CHHA zone. They have just recently changed that to be in conformity with the new Coastal Management Statutes. The new 2006 Florida Statutes as passed were signed into law by the Governor in June 2006 and encompassed House Bill 1359 and Senate Bill something or other here. This is part of the new coastal management CHHA zone. The Bill provides a comprehensive plan which must be in compliance, etc. They have until July 1, 2008 to be in compliance. Many counties have already been in compliance for years and years. Part of that is it places a moratorium on the construction of new adult congregate living facilities, community residential homes, group homes, homes for the aged, hospitals, nursing homes within the Coastal High Hazard Area. This has been passed into law. They have until July 2008 to comply. She has for months, probably the last year, trying to get this included into their Comprehensive Plan. She would like to provide that information to the City and to the City Attorney for their reference.

Ms. Baker said the other thing she would like to bring up - and this has to do with discussion she and Mr. Alcorn had rather vehemently some months ago - she had been doing some additional research and found that under the 2006 Legislation, FS 161.54, under Definitions - Beach and Shore Preservation, Chapter 161 - there has been a drastic change in the definition of what damage is for determining the 50% total loss after damage to a property. If it is in the Coastal High Hazard Area only - and this is only for damage, this is not for reconstruction or redevelopment - the total cost does not include nonstructural interior finishings, including but not limited to finished floorings and floor coverings, base molding, nonstructural substrates, drywall, plaster, paneling, wall covering, tapestries, window treatments, decorative masonry, paint, interior doors, tile, cabinets, moldings and millwork, decorative metal work, vanities, electrical receptacles, electrical switches, electrical fixtures, intercoms, communications and sound systems, security systems, HVAC grills, freestanding metal fireplaces, appliances, water closets, tubs and shower enclosures, lavatories and water heaters, or roof coverings, except when determining... In other words, this is just for property that has been damaged, not for improvement. What this means is that many of the properties that had been considered totaled 50% or more during Hurricanes Frances and Jeanne would no longer be considered 50% totaled. So these are brand new rules, brand new regulations, that are going to affect not only ongoing things like the Overlay District but a whole bunch of other stuff; because these new two sets of rules which are not in the building code, they are not in any part of the things that the Commission might have been familiar with. She knows she has advised Mr. Recor of some of these things. They are under Beach and Shore Preservation and under Intergovernmental Programs, so they are kind of buried in the new legislation. She would like to call that to the Commission's attention.

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**Mr. Les Lasenby** said in 1981 he began his career with the **Fort Pierce Police Department**. For the next 19 years, he proudly served the Fort Pierce Police Department in this community. Unfortunately he was forced into retirement by an on-duty injury; however, he has remained active in the community through numerous projects that he has been involved in and he has maintained a good relationship with members of the Department in the City of Fort Pierce. He has a great respect for the Officials and the Department Heads within the City of Fort Pierce, and until recently felt that respect and friendship was returned to him. He recently was asked to conduct a survey with members of the Fort Pierce Police Department regarding an issue that he felt was important and would benefit the City once the results were presented. This survey concerned the opinions of members of the Fort Pierce Police Department regarding the leadership of the Department. He is presently in the process of completing and documenting these responses. On September 5, 2006, he entered City Hall to attend a Commission meeting as he often does. Upon seeing Acting Chief Baldwin in the lobby of City Hall, he greeted him. Acting Chief Baldwin was initially friendly until the subject of the survey came up. He

started aggressively asking him questions regarding the survey - who was wanting him to do the survey and so forth? He advised Acting Chief Baldwin that these were confidential matters and he did not feel comfortable discussing them with him at this time. Acting Chief Baldwin immediately became red in the face and loudly stated that the survey didn't matter as he had already taken care of that and said, "Who the H do you think you are." He also stated in a loud and harsh voice, "This is none of your F-ing business" and walked away from him. During this time members of the City staff and public were in full view of this confrontation. At that point he was shaken by the confrontation, embarrassed by the public outburst by Acting Chief Baldwin, and immediately left City Hall before the Commission meeting and returned home. Due to the fact that these disrespectful statements were made in a City building, in a public place, and observed by the public, he is requesting that Acting Chief Baldwin give him a public apology in City Hall for his actions and statements.

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City Manager Beach said tomorrow at the **Fort Pierce Utilities Authority** Board meeting there is an Agenda item where the Director of FPUA is recommending the ending of their program of sharing their purchasing operations. He would encourage and ask the Commission to contact any FPUA Board members that they have a relationship with and ask them not to take action on that until the City has had an opportunity to thoroughly evaluate it and better understand what the financial impact and the operational impact of such an action would be on the City of Fort Pierce.

Commissioner Nelson asked wouldn't it be better for the Commission to send a formal letter over there and make a request to table it and don't discuss it at this time? Rather than going down and talking to the individual members.

City Manager Beach said they can do a letter. But his preference would be that if they have someone they can talk to, ask them not to take action on that until they have an opportunity to study it.

Commissioner Nelson said talking at this late date on a one on one basis would not have the impact of a formal letter signed by either the City Manager or the Mayor making that request.

Commissioner Becht said let's do both.

City Manager Beach said they will do both. The meeting is at 4:00 o'clock tomorrow, so that gives them until 4:00 o'clock tomorrow to make personal contact with them.

Mayor Benton said also Mr. Barnes will be there, because Mr. Barnes has had a response to the Utilities Authority's memos that went out, so he will be there to answer questions.

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Commissioner Alexander said he has a serious concern and it has to do with a certain area of this community that they all know as their recreation area out on 13th Street. But they have a little gang there they call **13th Street Gang** that is disrupting and they are doing some bodily harm to their children. And it seems that the 13th Street Gang has the right to do what they feel like doing. He has been questioning it, he has been reporting, he has been watching. And he is telling them these young kids are hurting their children and there is nothing being done about it. Families can't even go out there and enjoy a game out there on Saturday. The last three weeks it has been disrupted with the same little hoodlums. And they are going to tell him that they are going to let the children have the best and ruin it for everybody else? Children don't have anywhere to go now. That should be a safe haven. He understands they may have two or three officers out there and they are sitting in their cars. He just hopes he doesn't walk up on them when they are sitting in the car when something like that is going on because he is not too happy with it. He reported it. He asked Chief to look into this. The 13th Street Gang is terrorizing the family right there behind... They jumped on this young man. He was up there at the League of Cities and this young man called telling him he is going to kill someone if they don't quit and leave him alone. For him to have a 14 year old kid talking about killing someone because

the citizens don't protect them, he has a problem.

Mayor Benton said let's see if they can get a grip on that and maybe with the Sheriff's help also. That is in a Weed & Seed area. So they should be working on that together.

Assistant Chief of Police Sean Baldwin said he assigned those three officers to work out there during those games so this wouldn't happen. If they have officers who aren't doing what they are supposed to be doing, he will certainly take care of it.

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Commissioner Becht said at their next meeting, if they could get a report back from Engineering Department whether it is viable or feasible to re-time these **traffic lights on U.S. #1**. He doesn't think the private engineer needs to tell them how to do that. He thinks Mr. Arias can figure out if it can or cannot be done.

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Commissioner Nelson said there appears to be a **School** being constructed on **Jenkins Road**. The MPO he doesn't think knows anything about it. It is going to be a tremendous impact on Jenkins Road as well as Okeechobee Road. He just doesn't know what is going on there.

Mayor Benton asked isn't there a member of the School Board sitting on the MPO now?

Commissioner Nelson said yes, but they haven't discussed it.

Mayor Benton said the City and the County should know, because they approved that school with the County's knowledge. So the City and County Commissions and Staffs do know about that school and the School Board.

Commissioner Nelson said he doesn't know about it.

Mayor Benton said he approved it, that school.

Commissioner Nelson asked that is in the City?

Mayor Benton said it is in the City. They have been talking about this. It is on the east side of Jenkins Road just north of Okeechobee where they are constructing a school.

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Commissioner Nelson said the **Bridge at 8th Street and Moore's Creek**, they allocated funds for that. There is still no activity on that. That bridge being out is a detriment to the people who want to go up and down that area. What are they doing about getting that bridge fixed? They allocated funds.

Commissioner Alexander said they are waiting on the permit.

Commissioner Nelson said the same thing goes for **7th Street between Avenue C north and Delaware to the south**. They allocated funds for that. They don't have any action going on that.

City Manager Beach said they should be getting this week the most recent Project Status Report. He knows it addresses the 7th Street project. He doesn't know without looking at the report where they are with the 8th Street Bridge.

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Commissioner Nelson said it was brought to his attention that they had only a 17% turnout in this last voter effort - 17% out of roughly 142 registered voters in the County. They need to do something to further educate and make their citizens aware of methods for selecting their representatives. Of course, the putting out of **political signs** is one way of doing that.

He is being told that various politicians are having their signs pulled up and discarded. Could they not develop some type of media wherein they can let these signs be up. They are going on private property and pulling them up and on the public rights-of-ways.

Commissioner Coke said Code Enforcement is leaving notes because it is ten days after the election is over. Then they can put them back up 30 days before.

Commissioner Nelson said these have been pulled up completely and removed and perhaps destroyed.

City Manager Beach said his understanding of the instructions that have been given to staff in that regard is, first of all if it is on private property, they don't disturb it. There is another process for dealing with signs that are placed on private property. If it is in the public right-of-way, they can remove it; but even when they remove it, they ask them to take it to a certain location and let the candidates know where those are. They know they paid money for those signs and they would like to have them back.

Commissioner Nelson said they complained to him big time. He had one man at his house today complaining about it. Two people as a matter of fact.

City Manager Beach said he thinks another thing that happens in that political process, opponents will start to damage each other's signs.

Commissioner Nelson said that is a lot of dirty politics. Commissioner Coke knows about that.

City Manager Beach said he thinks there is more to that because City staff has very clear instructions on how to deal with it and they try to be as...

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Commissioner Nelson said he will make a report on the requirements to have an ordinance dealing with **fair share** submitted to them later, a hard copy.

Mr. David Recor, Deputy City Manager, said they just approved it on the Consent Agenda.

Commissioner Nelson said they are on the ball.

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Commissioner Coke said she just wanted to remind whomever in staff who is intending to be at the **MPO** meeting, the MPO meeting is at 2:00 p.m. in Port St. Lucie.

Mr. David Recor, Deputy City Manager, said Engineering and Planning will be there.

Commissioner Coke said very good. She will be glad to see that.

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City Manager Beach said all of them may have received a request from the County relating to a **lobbying trip** they are taking to Washington, D.C. and they have invited Commissioners to go. It has something to do with the Water Resources Act. Any of them who are interested in that, let him know. He will try to gather more information.

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Mayor Benton said at Gulfstream Avenue and A-1-A there are several **structures** there. It has been two years. He doesn't care what has been done in court. To him, there is no way that they could do anything with those structures after two years open to the elements. If they have pictures, isn't that good enough in court? Can't those structures come down? They are a threat to the public safety. The doors are off these buildings. As winter approaches, the unwanted element will be moving in, if they are not there already. Drugs are probably being done there. Can those structures come down? They have had this discussion several times. He is looking for a legal answer. Now it is to the point where it is public safety. It needs to come down pronto, like yesterday.

City Attorney Schwerer said Commissioner Coke asked last week and he got a status report. That agreement is being signed as they speak. There was one final detail of that litigation that was wrapped up and they have agreed to that detail that staff requested, so that is being signed. There is a requirement he thinks in that agreement that the structures be removed within 30 days of the signing. Does Mr. Alcorn recall that?

Mr. John Alcorn, Director of Building & Code Enforcement, said yes. And planting the grass.

City Attorney Schwerer said the sodding of the lot is what held it up.

Mayor Benton said in other words, if they don't have a signed document tomorrow, they are going to call them and make sure it is signed and faxed. Because he heard that a month or two months ago.

City Attorney Schwerer said they will call them as many times as it takes to get the representative to sign that agreement.

Mayor Benton said 30 days.

City Attorney Schwerer said or they will proceed with a court hearing on it.

Mayor Benton said at **Jefferson's Plaza** he noticed there is a little bit of work. They are pulling windows out. Come on, bring in the wrecking ball, put a fence up around it. They are not maintaining the grass or trees.

City Manager Beach said he has asked for current reports on both of those subjects, on the Jefferson Plaza and on the properties on the beach. He will get that to them as soon as those reports come in.

Mayor Benton said he doesn't want to see reports. He wants to see structures gone and progress. It has been two years.

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There being no further business, Mayor Benton declared the meeting adjourned at 11:30 p.m.

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Adjournment.

ATTEST:

CITY CLERK

MAYOR COMMISSIONER