

MINUTES OF A SPECIAL MEETING OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, HELD IN THE CITY HALL COMMISSION CHAMBERS, 100 NORTH U.S. #1, FORT PIERCE, FLORIDA, AT 5:05 P.M. ON MONDAY, SEPTEMBER 25, 2006.

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.

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 second and final 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.

Mr. Philip Gates said he is a citizen here in the City of Fort Pierce. He wants to express his concern about the poor financial situation of the City and the difficult time businesses and people are having with the proposed increases in taxes. It is well known that taxable values have gone up a record of 46%. They have a lot of extra money this year to spend. They are very lucky this year. This is due probably to a one time correction of the real estate market and probably will not happen again. In spite of all the extra money, their proposed budget increases taxes. Not everyone gets the same increase however. Business owners are hit extremely hard. Residents who have bought their homes in the past couple of years are hit very hard. Residents who have renovated their houses are hit very hard. And all the customers of Solid Waste Department will pay at least 15% more for the same service they received last year. Their staff has stated publicly that they would use the extra money in their General Fund for other purposes. As far as he has been able to tell, they have had no adopted criteria to protect their taxpayers from the use of their money for purposes different from their original intended and legal use. He is researching State Statutes in case this devious practice is not allowed by law to prevent future liability to their City and to protect their taxpayers. The bottom line is, that in spite of creative accounting practices, Fort Pierce continues to have the highest taxes on the Treasure Coast. Years ago they said their taxes were very high because the appraisals were too low compared to their neighbors. That may have been true in the past, but it is no longer the case now and their taxes are still high, almost twice as high as Port St. Lucie, and Port St. Lucie has a weak mostly residential tax base, actually 3.6 times by last count of their population. In fact their proposed property tax rate is more than double the tax rate of Vero Beach, 2.6 times their rate. Vero Beach is a smaller city with mostly a residential tax base and they also own a utility company. Tax rates are very high in Fort Pierce for only one reason, they are spending too much. Businesses that want to come to their fair City and bring their high paying jobs with them have to take a second look because of their property tax rate and other hidden taxes that the City levies upon businesses and people. Mayor Benton has served on this Commission for over a decade and has raised taxes time and again. For what purpose will they use the extra money collected through taxes and solid waste fees? Let him give them just one example. During the last Commission meeting, they decided to give money away from the General Fund to several organizations that are not connected with the City nor working on City projects. Who are they? They are good people no doubt. But taxpayers work very hard for their money and expect the City Commission to be responsible managers to protect their rights. They expect services, perhaps a trolley, and

Capital Projects - maybe a parking garage or better regulations such as a professionally drafted Beach Overlay. Where are they? Still in the works, every time he asks. Moreover, the City also plans to give away to private organizations \$1.1 million of FPRA money. Let's be clear. None of this money is for badly needed capital projects or City proposed loans or business incentives for their citizens, which should be at the core of money spent by the FPRA. They may have to reconsider this misguided approach next year when the full effect of Senate Bill 360, which requires them to pay for capital improvements and development when it is approved. They must factor this into their budget. None of the FPRA money is currently allocated to basic capital projects such as new and better roads and parks urgently needed to enhance the quality of life in their community. He wishes them luck and offers all his help to find effective solutions. Their decision to fund projects and organizations that have nothing to do with City business with a job that taxpayers have elected them to do is completely arbitrary. It did not follow any rules but their personal views. Certainly they did not ask the taxpayers whether or not they wanted to give away their money. He is sure these are good organizations. But there are many other reasons some of them have voted to raise taxes time and time again. They have made excessive commitments in the proposed budget completely out of portion to the size of a City like this, a city that has not increased population for the past decade. A city around them grows at record rates. This is what they have done - they have increased personal costs, even taking into account the 12 employees they have nominally transferred to the FPRA budget to make the personal budget appear to be deceptively less expensive, hiring more and more bureaucrats, competent and qualified he trusts and he trusts their judgement on that. But way beyond the means of their City or a city of their comparable size can afford. They have allocated money for some lavish capital projects without full understanding of their costs, which rise every day and with every change of direction on their part. Due to their choice of projects, basic needs are overlooked. The City Manager has warned them time and again against this irresponsible spending strategy. They have the same or increased cost for this coming year. His prediction is that they will raise taxes again in the next fiscal year and hopefully for the last time. Next year property values will not increase as much as they have this year. They increase commitments and have considerably less money. As the City Manager explained to them often, they have two choices - raise taxes or cut spending. They have worked at these at their workshops and listened to the people of Fort Pierce and they have heard the taxpayers demand better management of their money. They have attempted to work on the budget and to prove additional assistance. Unfortunately, their staff has completely refused to provide them with a copy of the budget in spite of several public records requests until Thursday of last week. He want to thank Finance Director George Bergalis for working personally to make sure they did receive a copy of their budget, which is no doubt the most public of all documents and should be easily available to all. Again, he thanks the ladies and gentlemen and certainly hope they can reduce their taxes and taxes that are hidden in the budget for the rest of all of their citizens.

Mr. Chris Dzadovsky, President of the Mariner Bay Association, said he is here to speak for the residents of Mariner Bay, a highly taxed area as they know, since they have some property on the beach. With the over-assessments of the properties at Mariner Bay, not only are they getting hit, some of the owners are not homesteaded and certainly that is impacting them even greater. He would ask them at least to look at rolling this millage back to the rollback rate.

Mayor Benton said all he can say is, they did that last year and they did what they could do this year. They did go back a full mill, that is as good as they could do. They had to cut some things out of their budget. So they wish they could do more and hopefully next year they can. It is their intent to continue bringing that millage rate down to bring business back here. But unfortunately some people get caught in the middle. He has neighbors who have that same problem, they don't have a homestead exemption. He kind of wonders why, because they must be getting a better deal somewhere else.

Mr. Dzadovsky said he can tell them that he is certainly impressing upon the homeowners at Mariner's Bay to entertain that, to be full time residents at least, or homesteaded. He would also like to say that the beach evaluations are extremely high. He just has his property tax here alone and it went up \$95,000 in one year. It is going to tax people off the beach. It is going to really hurt. At a time when they want to encourage people to come to Fort Pierce, taxing them out is not the way to go.

Mayor Benton said Mr. Dzadovsky does know the City doesn't set those prices, the market sets them.

Mr. Dzadovsky said he understands that. All he is asking them to do is really entertain the idea of the rollback rate. The folks at Mariner Bay have contacted him and said they hear they are getting a tax cut and they were pretty happy about that; and when they sat down and looked at it, it is actually a 15% or 16% increase.

Mayor Benton said 13%.

Mr. Dzadovsky said his alone is 15.359% or something like that. When he did the numbers, he didn't want to be incorrect. Anyway, on behalf of the members of Mariner Bay, they would like them to roll it back.

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 Becht, that Ordinance No. K-449 be passed on second and final reading

Those voting in favor of the passage of Ordinance No. K-449 on second and final 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 second and final 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 second and final reading.

Commissioner Nelson said this budget does not include the EEO Officer that he talked about during their workshop and it doesn't include an Internal Auditor he thinks is mandated by the Charter. He has some concerns about the fact that they took \$500,000 from Solid Waste to balance their budget. He would like to know, are they really on solid grounds in that endeavor? Those are the three issues he wants to get some more information on. He is getting feedback from some of his constituents over and above the people who have spoken here this evening that they don't feel that they are really doing the best they can with regards to rolling taxes back so they don't have a hit like they are getting. He is having difficulty explaining to them that it is not their doing, that they are - as the Mayor indicated - rolled it back two years in a row. But somehow or other more money is still coming out of

their respective pockets. What can they do? He alluded to four different things there and they can ask staff any way they choose and they will proceed.

City Manager Beach said the EEOC Compliance Officer is not in the budget, as Commissioner Nelson indicated. Also there is not an Internal Auditor as part of this budget. As it relates to the tax issue, let him give them an example. If last year their business was worth \$100,000 and it had a millage assessment against it from the City of 6.9 and the property appraiser changed that value from \$100,000 to \$200,000 this year, even by going back to the rollback rate, that person's taxes are going to be much higher. They are going to be much higher based on the assessment, not based on the tax rate of the City. It is interesting, he believes that within the next year... They have been dealing with a lot of hot button issues over the last ten years here. One of them has not been the tax rate, that hasn't been a big issue. But he is sure that because of what has happened with the appraisals, that is something that is going to be moved to the front of their discussions and their needs over this next year, because it is substantial. There is nothing insignificant about it and he suspects there are some people out there who are quite surprised and shocked.

Commissioner Nelson said he understands that clearly and basically agrees with Mr. Beach, but he has difficulty explaining to his people the fact that they are paying more. And so they are saying to him, can he do more to prevent or minimize this impact that it is having on them? Do they have any influence over the appraised values that is coming out of the Tax Appraiser's office? Are they realistic? What can they do about it?

City Manager Beach said he is unaware of anything that the City Commission can do in regards to the Property Appraiser doing his job. His methodology is very subject to review. Did he do it properly? Everybody has the opportunity to challenge that appraisal. But if they look around, the people who are impacted by this, they are really okay with the evaluation of it because they think that is pretty neat. What is making them jump and nervous is simply the cost of taxes going up because of that increased evaluation. It is not something within the control of this Commission. He thinks to further complicate this for Fort Pierce, if they found a way to abolish and completely eliminate their ad valorem tax, in St. Lucie County the taxes they would pay every year would still go up substantially. All they deal with is about 20% of that total tax bill. They could cut it in half tomorrow and everybody out there would still have a substantially larger tax bill than they had in the previous year because of all of the other entities that are part of the tax bill.

Commissioner Nelson said he raised the issue regarding the increase in garbage collection and of course the taking of \$500,000 from the Enterprise Fund to balance off the budget they have here, offset some deficits. Is there a legal premise for this, a basis for this that they can hang their hats on?

City Manager Beach said he doesn't know that they have ever asked for that opinion. However, this is a practice that the City was engaged in for probably 20 years until about three years ago. Three years ago they got in a position where they were no longer... It wasn't that they weren't dependent on the Solid Waste fund, they simply used it all. After they used it all, they quit doing it. As they know, the only way they are able to use it now is because the Commission agreed to an adjustment in the fees.

Commissioner Nelson said looking at it from a legal standpoint, the Enterprise Fund basically is supposed to be self-sustaining; and they shouldn't be in fact making money at the expense of the taxpayers to pay for anything other than the services which they are getting is his colloquial opinion of that. Is he off base there or barking up the wrong tree so to speak or what?

City Attorney Schwerer said he has not briefed that legal issue of the transfer because he

hasn't been asked to do that. He does know it has been a past practice of the City to transfer funds from various different enterprises to the City including the Marina. But if requested, they can certainly look at that. He is not aware of any legal prohibition that they cannot do that. He will certainly look at it if they wish him to.

Commissioner Nelson said he admits they have done it in the past. They do it to a certain extent with the U.A. But somehow or another he has in the back of his mind that somehow they should take these Enterprise Funds and let them be somewhat self-sustaining; and in the process when they make money, they should in fact be giving that money back to the people they got it from in order to keep the rates down, to keep the taxes down, and that kind of business.

City Attorney Schwerer said there is a difference between an enterprise fund, a user fee, and a tax. There are different definitions. There is considerable difference legally between an enterprise fund, a user fee, and a tax. An example of a user fee is, for instance the fees that are paid to the Building Department for building permits and inspections and things, that is a user fee. Clearly there are people who could argue with the concept, but he thinks legally their garbage and solid waste fund is an enterprise fund by law. So that has already been determined that it is an enterprise fund and not technically a user fee.

Commissioner Nelson said all he does is throw this out because his public is asking him these kinds of questions. He is not smart enough to know these kinds of things.

Mayor Benton said he has a Master's Degree, he is smart enough.

Commissioner Becht said if one other person agrees, he would like to make certain they can do the transfer from the Enterprise Fund, if somebody else thinks that is worth an hour of the City Attorney's time.

Mayor Benton said he thinks so.

Commissioner Becht said all of them are writing checks for taxes. Just a couple of facts. Mr. Gates has left, but Mr. Dzadoovsky is still here. \$13 million of their \$40 million budget goes to the Police Department. They are put in the tough position that they have to properly fund them. And this is one of the first years since he has been up here that they have gotten what they asked for. They are at a point where they are still having people robbed, still having cars stolen, people are still getting hurt, crime is still being committed. But this is the first year where there is a trend where these things are sort of getting under control. Now if they are the victim of a crime, they don't think it is under control. But statistics would support that the crime is decreasing with a bunch of different efforts. He doesn't think anybody is going to come up here and say they need to cut the Police Department's budget. But they could come up here and say, they need to cut the budget. One of the things he wants to point out is, they could cut the \$900,000 out that they are taking from the Reserve Fund and the \$500,000 they are taking from Solid Waste, which would require them to come up here and with great detail carve another \$1.4 million out of a \$40 million budget, and they still aren't going to save the real estate taxpaying public any money. The first \$1.4 million in that situation is they are not going to take it out of the Reserve Fund. They might consider lowering the garbage rates. He doesn't want to beat this horse to death, but Commissioner Nelson keeps talking about this Internal Auditor. He is not going to talk about the Internal Auditor again. It is a dead issue. But one of the things that was brought to his attention that they didn't go forward with is, shouldn't they hire an efficiency expert which they don't have on full time payroll, and they could fire him. He doesn't understand how Commissioner Nelson can talk about lowering the budget and talking about hiring or creating another bureaucracy of \$500,000 a year for an Internal Auditor. But if Commissioner Nelson really wants to look at something, let's task Staff with getting a qualified competent efficiency expert to come in and look at the take home vehicle policy and the other things that all of them have talked about and see if there are ways to

save money. Turning the lights off or going solar, whatever they can do to save money he thinks would be worth hiring an efficiency expert to come in here and do something. There is the solution if Commissioner Nelson wants to pick that up and move with it. He is paying real estate taxes on properties that don't have homestead protection and it hurts. So as much as he can, he has done as good a job as he can of balancing the provision of services with the cost of delivering those services and this is the budget they ended up with.

Mayor Benton said he has been sitting up here for 11 years and the first few years sitting up here, he didn't support the budget that was in front of them. At that point their millage rate was 7.8 something. They had some very difficult times then. Many years before any of them came along, previous Commissions doubled the millage rate because of some binds they got themselves in. He thinks this Commission in the last three years has done a great job, cutting the millage rate last year to the rollback rate, which nobody on the Treasure Coast did. And this year before they even talked about their budget, they told staff they were going back a full mill. So that is just under two mills in two years. Nobody on the Treasure Coast has done that. Yes, they were some of the highest, but their demographics aren't what Vero Beach and Stuart are, and they are very close to the millage rate of Stuart right now. So it is their intent to keep doing that. But it has just been a very difficult task and property values have helped. Yes, he considers himself at least in the top 5% if not in the top 1% and his City line on his taxes in two years has gone up \$65.00. Now County and everybody else, a lot more. Children's Services, School Board, Mosquito Control - everything else has gone up. But under Fort Pierce, which last year was the same and a lot of them didn't pay because if they had hurricane damage that was taken off, but this year his went up \$65.00. And for what he gets in Fort Pierce and the services of this government, \$65.00 more he thinks was worth it. Yes, they had to give their employees across the board an 11% raise. But he thinks every office, every doctor, everybody working in this County is going to have to give raises like that or they are going to lose good employees because they can't afford to live here because of the cost of living in the last three years. It has been a very difficult couple of years for all of them, and they are just trying to do the best they can with what they have.

Commissioner Alexander said he did support the budget on the first reading. He did not hear one word from staff. They didn't know what his concerns were and they still don't know because they had three votes. He wants them to know he won't support it now. There will come a time when they don't have three votes, then they are going to wonder why Commissioner Alexander acts the way he does.

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

There being no further business, Mayor Benton declared the meeting adjourned at 5:35 p.m.

Adjournment.

ATTEST:

CITY CLERK

MAYOR COMMISSIONER