

MINUTES OF A REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, HELD IN THE CITY HALL COMMISSION CHAMBERS, 100 NORTH U.S. #1, FORT PIERCE, FLORIDA, AT 6:30 P.M. ON MONDAY, OCTOBER 1, 2007.

Mayor Benton called the meeting to order.

Reverend Jared Olson, Hope Lutheran 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 Meeting on September 17, 2007, and the Minutes of the Special Meeting on September 24, 2007.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve the Minutes of the Regular Meeting on September 17, 2007, and the Minutes of the Special Meeting on September 24, 2007.

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

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Mayor Benton proclaimed October 7-13, 2007, as **PUBLIC POWER & NATURAL GAS WEEK**. Mr. William Thiess was present to receive the proclamation.

Mr. William Thiess, Director of the Fort Pierce Utilities Authority, said first of all they really appreciate the recognition of Public Power & Natural Gas Week. They take their responsibility as public power provider very seriously and will continue to work very hard to provide quality service. He would like to take a minute to get a plug in for their Public Power & Natural Gas Week event this coming Saturday, 10:00 a.m. to 2:00 p.m. at the Power Plant. They have lots of things lined up for adults and young alike - tours of the power plant, bucket truck rides, dress-up as a lineman, and all kinds of good things - and lunch courtesy of Riverside Bank. This may be the last opportunity to tour the plant while it is still an operating power plant, because it will be probably dismantled next summer.

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Ordinance No. K-511 entitled, AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; CREATING SECTION 13-40.1; PROVIDING FOR DEFERRED RETIREMENT OPTION PLAN (ADROP@); PROVIDING FOR ELIGIBILITY TO PARTICIPATE IN THE DROP; PROVIDING FOR AMOUNTS PAYABLE UPON ELECTION TO PARTICIPATE IN DROP; REPEALING ORDINANCES OR PARTS THEREOF IN CONFLICT; 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-511 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-511 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-511 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

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Ordinance No. K-512 entitled, AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PEIRCE, FLORIDA; AMENDING SECTION 13-24

(MEMBERSHIP - REQUIREMENTS FOR; EXCLUSIONS FROM); PROVIDING FOR **REINSTATEMENT IN RETIREMENT SYSTEM** OF FORMER EMPLOYEES OF PARTICIPATING EMPLOYERS WHO BECOME SUBSEQUENTLY REEMPLOYED BY A PARTICIPATING EMPLOYER; REPEALING ORDINANCES OR PARTS THEREOF IN CONFLICT; 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-512 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-512 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-512 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

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Ordinance No. K-513 entitled, **AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; REPEALING PRESENT TEXT OF SECTION 13-26; ADOPTING AMENDED TEXT FOR SECTION 13-26; SETTING OUT PROVISIONS RELATING TO CREDITED SERVICE RENDERED BY PARTICIPATING MEMBERS OF RETIREMENT SERVICE;** SETTING OUT PROVISIONS RELATING TO FORFEITURE OF CREDITED SERVICE; SETTING OUT PROVISIONS RELATING TO REINSTATEMENT OF PREVIOUSLY FORFEITED SERVICE CREDIT AND SETTING OUT CERTAIN COST REQUIREMENTS FOR SUCH REINSTATEMENT; REPEALING ORDINANCES OR PARTS THEREOF IN CONFLICT; 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-513 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-513 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-513 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

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Ordinance No. K-514 entitled, **AN ORDINANCE AMENDING THE FUTURE LAND USE DESIGNATION OF PROPERTY LOCATED AT 1911 AVENUE D, FROM CN, NEIGHBORHOOD COMMERCIAL 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-515 entitled, "AN ORDINANCE **REZONING** PROPERTY LOCATED AT 1911 AVENUE D, FROM C-2, NEIGHBORHOOD COMMERCIAL ZONE, TO C-3, 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: Candance Brown Geohagan - Geohagan Motel)

Mr. Peter Buchwald, Zoning Administrator, said the applicant is requesting approval of a change of the Future Land Use Designation from CN, Commercial Neighborhood, to CG,

Commercial General, and a rezoning from C-2, Neighborhood Commercial, to C-3, General Commercial, of 0.31 acre vacant property located at 1911 Avenue D in order to construct a motel. The site is currently vacant and bordered on the west side by properties that contain retail uses and bordered to the south by a property containing a single-family residence. The site is bordered to the north by Avenue D and to the east by 19th Street. The properties located opposite the site on the north side of Avenue D and on the east side of 19th Street contain retail and residential uses. The majority of the properties fronting along Avenue D are designated with the Future Land Use of CG, and the proposed Future Land Use amendment for this particular site is not inconsistent with these properties. In addition, the block in which the site is located is split. With regard to the Future Land Use designation and the Future Land Use amendment for the site, it would improve the consistency of the Future Land Use designations across the site. Similarly, the majority of the properties located along Avenue D are zoned C-3, and the proposed rezoning is not inconsistent with these properties. The block in which the site is located is split with regard to zoning. Rezoning of the site would improve the consistency of the zoning across the site. Both the Future Land Use amendment and the Rezoning for the site are consistent with the revitalization and redevelopment efforts of Avenue D with regard to it being the primary commercial corridor throughout the northwest part of the City and the Rezoning and Future Land Use amendment meets those amendment standards specified by the City Code. A total of 120 notifications of the Future Land Use amendment and Rezoning applications were mailed to the properties located within 500 feet of the site. As of today a total of 25 responses have been received - 19 of which approve the applications and only 6 of which oppose the applications. At their meeting on August 14, 2007, the Planning Board voted unanimously to recommend approvals of the Future Land Use amendment and Rezoning. As the Future Land Use amendment and Rezoning are generally consistent with the land uses, the Future Land Use designations, and Zoning of the nearby properties and the majority of properties located along Avenue D, and as the rezoning satisfies those amendment standards specified by Chapter 22 of the City Code, Staff recommends approvals of the change of the Future Land Use designation from CN to CG and the Rezoning from C-2 to C-3.

Commissioner Alexander said he is all about getting something done in that area. But did he see on the map an omission of a smaller portion of properties just to the south of that?

Mr. Buchwald said correct.

Commissioner Alexander asked why? His guess is they don't own it, but why wouldn't they square that little section there off?

Mr. Buchwald said an application would have to be submitted by the property owner to do that, unless the City Commission directed Staff to do that rezoning.

Commissioner Alexander asked for his information, the difference between the CN and the CG is it allows to do what?

Mr. Buchwald said the difference between the Future Land Use of CG and CN and the difference in the zoning opens up the variety of business uses that can be conducted on the site. It allows for a greater variety of retail uses, including a motel, as opposed to just neighborhood uses. The applicant is requesting to be able to increase the variety of business uses that can be conducted on that property.

Commissioner Alexander asked so it is not just for the hotel, it is for other business interests?

Mr. Buchwald said that is why they want to rezone it. But they are not here to consider the motel, this is just to consider the rezoning application. But that is the intent as staff understands it.

Commissioner Alexander asked she is asking for a motel, right?

Mr. Buchwald said that is what the applicant has expressed she wants to do there; but a rezoning application doesn't require a site plan necessarily.

Commissioner Alexander said he doesn't see any sidewalks. Will there be sidewalks surrounding this property? Is that what he is looking at in this depiction of a sidewalk there?

Mr. Buchwald said yes. If it comes through greater than 4,000 square feet, then it will be subject to site plan review. If it is less than 4,000 square feet, it will come through the Planning Division under Building Permit review. At that time they will make sure it has sidewalks and it meets all the requirements of the Code.

Commissioner Becht said the Commission is not approving or disapproving the hotel. They are limited tonight to the zoning and land use amendment.

Commissioner Alexander said this shouldn't be in package then.

Mr. Buchwald said the reason it is there is to see what their intentions are, to give the Commission an idea why they want to do this rezoning. It is there for informational purposes.

Commissioner Alexander said he doesn't see any buffers between those buildings and the residents. They are not required to have buffers? Whatever noise is created there, that is for the neighborhood?

Mr. Buchwald said yes, they would be required to have buffers if they are adjacent to a residentially zoned property. So for those properties behind them or to the south directly abutting, then they would need the buffers.

Commissioner Alexander asked Mr. Buchwald will all take care of that when it comes by him, right?

Mr. Buchwald said yes.

Commissioner Becht said he is happy that there is some thought given to what the applicant might do with the property if they get it rezoned and if they get the land use amendment. His question to Staff is, can they walk him through the process? If the Commission approves the Land Use amendment, do they then have vested rights; or does Mr. Buchwald transmit it up to DCA (Department of Community Affairs) and then they come back and they get vested rights? If they are going to transmit, when are they going to transmit?

Mr. Buchwald said the official adoption hearing will be the next reading, the second reading. Upon that the amendment will become effective 31 days following the adoption by ordinance. The affected person may file a petition within 30 days following the adoption. It requires only 10 days notification before the adoption hearing. But within 10 working days of the adoption, a copy of the plan amendment materials will be submitted to the DCA.

Commissioner Becht asked by whom?

Mr. Buchwald said by Staff to DCA, Treasure Coast Regional Planning Council, and any other person - to answer Commissioner Becht's question - a copy. So it will be submitted to them saying this is what they are doing. They don't have to wait for them to respond.

Commissioner Becht asked when are they going to transmit to DCA?

Mr. Buchwald said within 10 working days of the second reading, the adoption.

Commissioner Becht said Mr. Buchwald is going to need to walk him through. He thought they were limited to two transmittal hearings per year. But maybe this is different.

Mr. Buchwald said this is not a large-scale amendment. It is considered a small scale amendment, so it isn't subject to the bi-annual transmittal that large scale amendments are, because it is less than 10 acres in size.

Commissioner Becht asked has Staff given any thought to how they are going to handle the 300 plus annexations that are coming in? Are they going to send those up to DCA or are those small land use amendments?

Mr. Buchwald said they will send those up to the DCA.

Commissioner Becht asked when will those go up?

Mr. Buchwald said upon annexation into the City.

Commissioner Becht said so that will be like in the second meeting in December of this year.

Mr. Buchwald said if all goes well.

Commissioner Becht said he is just suggesting to Mr. Buchwald that in addition to the work that the City Clerk, Mr. Buchwald, and the City Engineer is doing trying to get these annexations processed, that he wanted to make sure somebody knew that they are also going to have to transmit and that is another mountain of work.

Commissioner Nelson said this subject makes him want to address certain issues surrounding this. He sort of agrees with concerns of Commissioner Alexander and Commissioner Becht. But some time ago they initiated action that changed the zoning in that area to allow on-street parking and zero lot line building. Is that affected in any way by this action?

Mr. Buchwald said no, that is not affected by this action.

Commissioner Nelson asked so the people along that corridor will in fact be able to build at a zero lot line and they are not required to have parking, as they are allowed to do in the downtown area?

Mr. Buchwald said the C-3 zoning district allows them to go up to the side lot line, so they are not required to have a setback from the side lot line.

Commissioner Nelson asked the structures adjacent to this property, residential or commercial, would those be in fact be grandfathered-in if they were residential?

Mr. Buchwald said yes, they currently are. It is like any other non-conforming use, it is allowed to remain until there is a change or there is damage greater than 50% to the structure.

Commissioner Nelson asked so they can stay as they are; but in the event they want to go commercial, they can go commercial, or if they are damaged by a hurricane, it is a question of what percentage they are destroyed.

Mr. Buchwald said that is correct.

Commissioner Nelson said those six people who opposed this, did Mr. Buchwald get a feel for what their opposition was all about?

Mr. Buchwald said yes, he did. It appeared a couple of them referred to the use of alcohol, that they were concerned if the use was going to involve the sale or consumption of alcohol. This application does not include any type of approval toward alcohol. Any type approval for an alcohol license would require a Waiver of Distance application subject to the Commission's approval.

Mayor Benton declared a Public Hearing on Ordinance No. K-514 and Ordinance No. K-515 in session and asked if anyone in the audience wished to be heard.

**Ms. Candace Brown Geohagan** said she lives at 8650 Shady Lake Lane. She is the owner of the property. She is really happy and enthused to see that the Commission is really active, which she knows is part of their job, with the revitalization of the Lincoln Park area. So she and her husband, that is part of the reason that they are doing this project on Avenue D and they really have high hopes and great plans for their property on Avenue D. They also own the adjoining property on Avenue D, which she thinks is zoned a little less, which they are rehabbing also for general use. So her thoughts when she first heard about this is that the Commission was going to rezone that whole area and make it commercial. She is not sure that is going to happen, but she thinks it would be a good thing for the whole area, especially with the revitalization. To answer some of their questions, they are going to do a buffer wall for the privacy of the people there and the residents on the other side. There is only one house on the opposite side. Their own adjoining property is next to their building and Reno's is behind it, which they already have a buffer wall, so that is going to happen with their property.

Commissioner Nelson asked she owns the property immediately to the east across the street?

Ms. Geohagan said no. It used to be a store and they own that. It is three lots. They own that lot west, to the east is 19th Street.

Commissioner Nelson asked she doesn't feel it is to her advantage to get that rezoned at this time?

Ms. Geohagan said it would be to their advantage to get it rezoned.

Mr. Buchwald said that is already zoned C-3.

Commissioner Nelson said fine, she is in good shape.

Commissioner Alexander asked is Ms. Geohagan going to partner with the Fort Pierce Redevelopment Agency?

Ms. Geohagan said of course. They plan to do a really nice building there.

Commissioner Alexander said he just wanted to make sure they take advantage, it will make it more beautiful and fitting.

Mayor Benton said they want to thank Ms. Geohagan, because they have been waiting for this day for a long time. They have made some effort over there, but it is nice to see the private sector. This is one of the first rezonings he has seen on Avenue D in a long time. He looks forward to this.

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 No. K-514 and Ordinance No. K-515 be passed on first reading.

Those voting in favor of the passage of Ordinance No. K-514 and Ordinance No. K-515 on first reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

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Ordinance No. K-516 entitled, **AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, AMENDING CHAPTER 22, ARTICLE IV, SUPPLEMENTARY REGULATIONS, SECTION 22-67 (FENCES, WALLS AND HEDGES; INSTALLATION, REPLACEMENT AND MAINTENANCE); SPECIFICALLY AMENDING SECTIONS 22-67(c)(3), GENERAL AND CENTRAL COMMERCIAL INDUSTRIAL AND OPEN SPACE ZONING DISTRICTS, AND 22-67(c)(5), COMMERCIAL AND INDUSTRIAL BUFFERS; PROVIDING LIMITATIONS ON OUTSIDE STORAGE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.** was placed on first reading and read by title only.

Mayor Benton said before he opens this up to staff, he would like to just summarize how they got to this point tonight. Between a Port Charrette, a Port Comprehensive Plan, a Port Master Plan, and many Public Hearings over the years in the foresight of the community. The current ordinance, so everyone does know, says 15 feet is the limit now. So for everyone here tonight, this is a compromise, they are looking to go above 15 feet. So he thinks they should be supporting this instead of saying no. But that is his opinion. He will open it up to staff.

Mr. Matthew Margotta, Director of Community Development, said Peter Buchwald will perform the presentation.

Mr. Peter Buchwald, Zoning Administrator, said on June 18, 2007, the City Commission directed staff to draft an ordinance limiting the outside storage of boats in racks and cargo containers to three high or a height of 30 feet. (Mr. Buchwald displayed slides during his presentation.) On July 16, 2007, the draft ordinance was presented and the Commission directed Staff to remove the language pertaining to boats and forward the ordinance to the Planning Board for their recommendation. At their meeting on August 14, 2007, the Planning Board voted to postpone consideration of the proposed ordinance to allow additional time for affected parties to review the proposed ordinance. At their meeting on September 11, 2007, the Planning Board voted 6 to 2 to recommend approval of the proposed ordinance with conditions, which they will explain further in detail a little later on. Now the ordinance is before them for its first reading. Currently Section 22-67(e)(5) of the City Code only provides limitation and requires the screening of the outside storage of materials for commercial and industrial uses. Any outside storage of materials is screened with a sight-obscuring fence or wall which is at least six feet in height and the material being stored cannot exceed the height of the fence or wall. In addition, the material being stored cannot exceed a height of 15 feet at any time. Therefore the current ordinance requires that if material is to be stored to the height of 15 feet, a sight-obscuring fence or wall is required that is at least 15 feet in height. The proposed outside storage ordinance supplements the existing zoning regulations for outside material storage as specified in the City Code. It will apply throughout the City. And its intent is to mitigate the impact of incompatible commercial/industrial uses on residential and tourist development and redevelopment. It does not pertain to boats, masts, citrus crates, or cranes or other equipment. The proposed ordinance amends Section 22-67(e)(5) of the City Code as follows: The outside storage and stacking of cargo containers may not exceed a height of 30 feet. To be consistent with the City Code, the proposed ordinance also includes the outside storage and stacking of containers be screened with a sight-obscuring fence or wall up to a height equal to the height of the highest stored or stacked cargo container. The proposed ordinance meets these amendment standards as specified by the City Code. At their meeting on September 11, 2007, the Planning Board voted 6 to 2 to recommend approval of the proposed ordinance with the following conditions: A line of sight formula be utilized to obscure the containers which includes a wall, a hedge, setback and height; Landscaping which is approved by the City Urban Forester is utilized to obscure the sight of the containers as well as a wall; and Containers are stacked no more than four high. To

satisfy the first condition of the Planning Board recommendation for approval, the ordinance may be revised with regard to utilizing a maximum setback angle or a line of sight formula in conjunction with a buffer wall height requirement. This is a graphical example of such a revision and includes a minimum buffer wall height of 8 feet and a maximum setback angle of 45 degrees. As they can see, this would result in a minimum setback of 22 feet from the wall. As the proposed ordinance meets the requirements of the code and is consistent with the Comprehensive Plan, Staff recommends approval of the proposed ordinance as is.

Commissioner Becht said in reading the pretty lengthy Minutes of the Planning Board meetings, quite a lot of discussion has taken place. One of the public speakers, he thinks someone connected with the metal fabrication business, asked the question of why can't a metal fence be constructed? Did Staff give any thought to that? Was there any comments or reaction to that?

Mr. Margotta said the Design Review Guidelines still apply. Any time they are going to deal with any of these changes along the arterials, the Design Review Guidelines apply. Metal buildings and metal fences in general aren't very compatible with the Design Review Guidelines. Generally the Design Review Guidelines look for stone, brick, wood materials for fences and buildings.

Commissioner Becht said there was some discussion about... He got confused at the end of the Minutes. Someone had raised an issue that Homeland Security, he thinks Mr. Shields actually raised an issue that Homeland Security might interface with this ordinance and prevent a wall; but as the meeting trailed on and everybody got tired and it was late, he thinks he said it is not clear in the Homeland Security. Did staff receive any written material from anybody that clarified whether Homeland Security does or does not prohibit the fencing requirement?

Mr. Margotta said no, they have not received any material regarding Homeland Security and the impact that a fence or wall might have in this particular situation just across the City. He believes in that case they were talking about the Port, how a wall would have obscured the view into the site, and the Coast Guard or somebody would have a problem.

Commissioner Becht asked Mr. Margotta didn't receive anything in writing? It was requested by one of the Planning Board members and perhaps Mr. Walker as well.

Mr. Margotta said nothing new, no.

Commissioner Alexander said at one time this Board - he doesn't know who asked the question - but they was asking about the Port being in a special district or zone. Did they address that, Mr. Schwerer? He sees a nod. Did they at any time speaking of the Comprehensive Plan about the Port being a special area that they maybe can allow certain things versus outside the Port area?

City Attorney Schwerer said he is not aware of any special discussion. But perhaps Staff can enlighten them on what the Comp Plans for the Port. But he doesn't recall any special treatment other than they attempted to at least mirror and provide in there what the net results of the charrettes have been over the years and provide that feedback to the drafters.

Commissioner Alexander asked the question never came up from anybody concerning the containers in the Port area?

Mr. Margotta said there is no specific thing in the Comp Plan that goes to creating a whole new zone for the Port. The only real discussion in the Comp Plan regarding the Port is that they have a Port Master Plan and what led into that. The Port Master Plan is very specific on certain properties. Otherwise the Future Land Use map and the zoning goals just talk about it being an industrial and a marine-oriented area.

Mr. David Recor, Deputy City Manager, said he believes what the Commissioner is referring to is the designation of at least part of the Port area as a PUR. He believes that is what he is asking about.

Commissioner Alexander said okay, something did. The question was asked.

Mr. Recor said for several years portions of the Port area have a land use designation of industrial and a zoning designation of PUR.

Commissioner Alexander asked so they haven't addressed any of that matters? Okay, that is just something put before them. His other question, he asked this he thinks when he met with one of the reps. What is the capability of their crane and stacking? He understands they can only stack four high with the crane system they have.

Mr. Margotta said please save that one for the applicant because he really doesn't know the technical specs on it and he has heard a varying bunch of answers himself. But he thinks they have proven they can stack at least four high. It might go higher.

Commissioner Alexander said he needs the definition of what they mean by wall. Did he hear him say concrete or wood? When he envisioned a 30 foot wall, that is some kind of prison or something, isn't it?

Mr. Margotta said a wall is not defined in their zoning code per se, but the building code does tell them what a wall is. And it would require some manner of construction. He expects it could be a varying bunch of materials. It could be a mix of wood and stone. Generally speaking it sight abatement. It is of enough construction that it is self-sustaining or self-supporting. And it is meant as a barrier.

Commissioner Alexander asked he is talking about something solid?

Mr. Margotta said absolutely.

Commissioner Alexander asked that is what they are asking for in this community, a solid wall? Again, he is looking at a port. When he sees pictures depicting a port and all that, he thinks of the port when he sees it like that. But again, he is not taking any sides. He just wants some understanding for himself because he is going to have to make a decision. And the only reason he brought up about the PUR that it was a discussion, he never heard any more about the possibilities of this. And he just wanted to know, once they get to the ordinance, is it going to be reviewable or are they going to be stuck with whatever decision they make tonight or tomorrow? He just wanted to have some kind of leeway.

Mr. Margotta said any ordinance that is created by the Commission can also be changed by the Commission. So even if they made a decision tonight that years from now they find needs to be altered, they have the power to do that.

Mayor Benton said there is certain language that can be altered before the second reading which is at their next meeting.

Commissioner Coke asked could Mr. Margotta tell her what is the building height restriction in existence for the zoning that is there now? Is it 65 feet?

Mr. Margotta said they are looking that up just to make sure they get it right.

Commissioner Coke asked along those lines, is it possible for someone to construct a building that would be 65 feet and then stack containers in there up to the height of the building?

Mr. Margotta said if he understands the question, if they build a building to whatever height is allowed, anything over 65 feet requires a Conditional Use.

Commissioner Coke asked so if there was a building built 65 feet there would be nothing to stop someone from stacking containers inside the building?

Mr. Margotta said absolutely not.

Commissioner Nelson said first of all let him thank Staff and the Planning Board for the apparent diligence which they pursued this project. Based on the input, the Minutes he has read, a review on the T.V., they really did a yeoman job. Of course, the input from the citizens was quite considerable. He would like to divulge that he was in fact in contact with several of the citizens and the property owners relative to this subject. He has been slightly enlightened quite a bit. He is not sure and he even at one point mentioned to the Commission here that the 30 foot wall might pose some problems from an engineering standpoint. He noted from the Minutes of the meeting that someone was talking about the possibility of a wall costing perhaps more than the building itself, in the neighborhood of \$1 million, which might adversely affect the businesses ability to make a profit. To what extent did they look at the relative potential cost of building a wall out of either concrete, metal, or wood for a 30-foot fence?

Mr. Margotta said they have some information regarding construction of walls, particularly walls of this size. A cost wasn't necessarily nailed down as a specific factor. However, they do have some information and Mr. Buchwald is pulling that out right now, so maybe he can answer the question to some degree. But the cost isn't the only thing they think of when they are talking about land use and buffering and so on. It is a matter of need, whether they think it is necessary to have this much of a visual abatement between one use and another. So staff put more emphasis on that than they did on the potential cost of the...

Commissioner Nelson said he had the pleasure of visiting several ports around the world. He knows they are in a new era of security nowadays. But he doesn't ever recall having seen one with a fence of the magnitude that they are proposing here. What is their basis for having a fence around this structure?

Mr. Margotta said the height of the wall or fence is intended to be the same height of whatever is being stored. So if they are stacking containers in this case 10 feet high, then the wall only needs to be 10 feet high, just as their ordinance currently describes. They were taking the notion that is in their existing ordinance, that whatever material is behind the fence or wall would be at the same height as the fence or wall. They just kept extrapolating that. It does seem to get a little absurd, he will be the first to tell them that. But if their intent is to provide a barrier or a visual abatement between the stacked material, stacked containers here, and the outside area, then their current ordinance talks about a one to one relationship between that fence and the stacked material. That is the logic behind it that led to this. He realizes a 30-foot wall is somewhat burdensome. They do have some examples too of sound abatement walls or visual abatement walls that are along highways and some other types of land uses.

Commissioner Nelson said generally speaking they stick their swords in the premise that they are here for the general health, safety, and welfare the public here. What particular aspect of that philosophy are they trying to address in terms of not allowing or requiring this wall? They do have a certain amount of noise over there? Is there some health factor that they are trying to consider over there? And this effort they are trying to address here now, is it universal throughout the entire City, or is it just for a particular geographical area?

Mr. Margotta said the health, safety, and welfare aspects of this generally fall into the aesthetic category. How this is visually received from somebody traveling along the public road, if they feel overcome by the amount of stacked containers. If those stacked

containers were right up near the right-of-way, they start to get somewhat of a canyon affect, they feel like they are in between something. That is the intent, is to try to provide some separation and buffering of something that is fairly impressive, a very high stacked bunch of materials that is not pleasing to generally look at. He is editorializing a little bit there. But Staff took the direction from the City Commission - he will move into the second part of that answer - that 30 feet high or stacking three containers would be generally acceptable, please draft an ordinance to take to the Planning Board and get their input. So health and safety-wise they figured that to try to keep the height of those stacked containers to a minimum or to a certain height was something that was wanted by the public. And they have a mixed opinion from anybody out there.

Commissioner Nelson said his partner there was getting some research material out. Did he get that? Relative to the cost.

Mr. Buchwald said based on limited information he could obtain, it averages about \$350 per lineal foot. Of course, that could greatly vary depending on the height of the wall and the length of the wall. Again, the height of the wall, nowhere in this ordinance is the height of the wall required to be 30 feet, unless they choose to stack containers 30 feet. If they choose to stack containers to 20 feet, then the ordinance says they need to have a wall that is 20 feet high. If they stack one container then they only need to have a wall 8 feet to 10 feet, depending on the height of the container. So it is up to the property owner in terms of how high to build the wall. The reason why the ordinance was crafted in that way was because the existing ordinance, as he showed in the demonstration, is similarly crafted in that way, that the wall must be up to the height of the materials. So to be consistent with that, that is why the ordinance was crafted up to 30 feet. But nowhere in the ordinance does it require a wall to be 30 feet in height. They talked about the protection of public health, safety, and welfare. As they will see on their screens, part of the thing is they have redevelopment and new development occurring throughout the City. Not only in the northeast part of town, but down there in the southwest part of town they see right there they have some industrial, and right adjacent to residentially zoned land. So the ordinance would apply to that as well, where they have industrial adjacent to residential land, and they choose to stack containers or storage materials. They must provide for the mitigation of impacts from that. That is both aesthetics and noise.

Commissioner Nelson said in short then, it has a universal application. It is not strictly for the port that this ordinance is formed. Is that right?

Mr. Buchwald said that is correct.

Mayor Benton said he knows when they started on this, they were looking to keep a height limit. They didn't want things stored over three high or 30 feet. But now that they have opened it up to all the industrial areas, he has some concerns. Number one, to him a 30-foot wall is as unsightly as three stacked high containers plus it just invites graffiti at a time when they are trying to prevent that. When they go up and down I-95 and see the walls that Commissioner Nelson likes down south to keep the sound down, it just is full of graffiti.

It would be a nightmare, the gangs would love it. And also fences. If they had a maximum height on any type of wall they wanted, to him it would be 8 foot. Then they could plant landscaping. They go over the bridge, if there is enough trees and bushes, they don't have to hide it but buffer it just so they don't see it in their face, just to sort of cover it up a little bit. But it is like out west, he couldn't imagine while they are trying to create industrial parks and industrial areas for jobs, to ask people to put up a 30 foot wall just to hide what is behind it. So the language the way it is now, he will wait until after the Public Hearing, but he is not going to support it with that type of language. Mature landscaping, yes. But walls and fences to 30 feet, he just couldn't imagine it lasting through a hurricane. Then they would have to armor it so much. He wonders what the building codes would be for a wall or a fence like that?

Mr. Buchwald said if they will look at the screen, these are some examples of tall walls that can be attractive. That was the intent of the ordinance, to have them build walls of this type.

Commissioner Nelson asked how high is that one?

Mr. Buchwald said these are roughly 15 feet at least. He included an example in their packet, there are walls as high as 40 feet high, so there are examples of that. But that was the intent, to have these types of walls, not have walls such as a penitentiary.

Mayor Benton said in a time where they are talking green instead of walls. Walls are going to draw the heat, especially down here. That might look nice somewhere else, but here he would prefer to see just something no more than 8 feet with landscaping going higher or covering up maybe. He thinks Harbour Isle, the wall around there is a classic example of about as high as he would want to go and it is covered up by landscaping.

Mr. Buchwald said they certainly have the opportunity to revise the ordinance.

Commissioner Coke said she has some questions regarding their options with the wall. Because a 30 foot wall, although in theory it sounds good. They have a port there, they are never going to hide the fact, and she doesn't think anybody is ashamed of it. She thinks the purpose is, not only in this area but in other industrial areas, to provide a buffer for the residential community as well as people who work in other areas in that neighborhood. So she thinks a 30 foot wall is kind of defeating the purpose of looking to limit stacking to 30 feet. She likes the line of sight theory where things set back a little bit. And she loves the landscape theory. Could they not put a berm around some of these with an 8-foot fence? They put a 2-foot or 3-foot berm with an 8-foot or 10-foot fence and landscaping around that, and that buffers it enough.

Mr. Margotta said regarding a berm, certainly their Design Review Guidelines might have some effect on this. Recall that a berm has some spacial aspect that is needed, it will take up a little horizontal area. It is just a matter of how they want to design the visual abatement, if that is what they are going for here.

Commissioner Coke said yes, she does think they need some visual abatement; but she thinks a 30-foot wall would defeat the purpose.

Commissioner Becht said he is going to weigh in on the wall too. They have several people who talked at both Planning Board meetings and a couple who have talked here. Just so they can focus in on the issues he thinks are germane to this, he doesn't think there is a consensus to support a 30-foot wall mandate, much less a 30-foot wall allowance. He is not sure he wants to allow a 30-foot wall, much less mandate one. And he appreciates Mr. Buchwald's comments that they are not mandating it unless they want to stack three high. Well, they are stacking three high. He doesn't need to hear any... He thinks it is pretty clear they are not going to approve a 30-foot wall tonight, so if the public could focus their comments on what is going to be decided tonight. What would be a benefit to him is to have the public input on the nexus between the harm to the business operator or the property owner of the limitation of either three containers or four containers. What is the actual harm to them? There are other business operators who are using the Port who have said they are going to go out of business if they limit this. If they could tie a string from the limitation to the harm to their business, then that would help him make a decision tonight.

Mayor Benton said he is going to weigh in on that also. He brought up fencing and walls. Would they include fences going to 30 feet?

Commissioner Becht said Commissioner Alexander did not mean to make a joke, but it looks like a prison. He would have said a castle; and he has no desire to create castles on their waterfront.

Mayor Benton said walls and fences.

Commissioner Becht said right.

Commissioner Alexander said he understands they have a sight line. At what point do they decide that this is a sight line? If they go down 2nd Street, then the Port itself is sitting back so far from 2nd Street. If they go down Fisherman=s Wharf, what is going to make them think that is going to be a street in the future? But is that where the example is coming from, Fisherman=s Wharf, on the screen there?

Mr. Margotta said actually this is meant to be a very generic example of what happens if there is a wall that they can=t see through, that is the first piece. Measuring from the top of that, generally if they are standing right next to a wall they could see over the top of it and that is it. But they also see at an angle. Generally, if somebody is standing on the other side of that wall at an angle of about 45 degrees, the net effect is they can=t see anything in that setback angle area that is depicted on this example.

Commissioner Alexander said if they are standing next to it. But he understands that the calibrations or whatever they put together is from what is the middle of the street or where?

Mr. Margotta said as quick as Staff tried to put this example together, they didn=t have any guidance on what is preferable. If they go on the other side of the street, a 45 degree angle isn=t going to do anything for them, they barely skim the top of that wall before they see what is on the other side of it.

Commissioner Alexander said so he is saying the property line.

Mr. Margotta said they have to start somewhere. And this is where Staff started, at the top of the wall if they are right next to it. If they are going to have a wall that is less than 10 feet or 10 feet or so, they might as well just measure from the top of the wall. There is no more logic applied to it than that. They couldn=t say center of the road, the other side of the road. It started to become very burdensome at that point on the property owner.

Commissioner Nelson said he thinks the Mayor or Commissioner Becht mentioned something about the height. He doesn=t want them to get too far removed from the number of containers they have there, not necessarily at the port but containers in general throughout the City. This ordinance was supposed to be applicable universally. They are dealing with three or four containers. And he thinks the Commission at one point gave staff a mandate to go out with three and they came back with the Planning Board with four. Is there a break-even point or some rationale for the recommendation for four? How did they arrive at four versus three?

Mr. Margotta said that number came from the Planning Board. Staff had recommended 30 feet high stacking three containers. The number literally just came from the Planning Board. He believes the intent of the Planning Board was to strike a compromise - something more than three, less than five. He hesitates to even say that because he is putting words in their mouth. But he believes that was the intent, is another layer of compromise.

Commissioner Nelson asked does he feel - of course, they will have the developer or the property owners come up shortly - that this compromise of three or four with a reduced height or an elimination of the fence, they can put this issue behind them in some respect? With 3 or 4 containers high, a low or modified fence less than 30 feet by all the stretch of the imagination. He is giving him a chance to field that.

Mayor Benton said they will have that discussion after the Public Hearing.

Commissioner Becht said one last comment from him at least before they open this up to the public. He thinks it was Planning Board Member Olson, if he is not mistaken, who asked Mr. Shields specifically if they agreed on the four containers, if he would accept that. With all due respect to Mr. Shields, he started sounding like an attorney, he did not respond with a clear yes or a clear no. That puts him to the question for Mr. Schwerer. If the property owner that has the biggest rub with this accepted a number like four, does that eliminate their ability to challenge the ordinance at a later date? Their right, not somebody else=s.

City Attorney Schwerer said he wouldn=t be able to answer that because there are too many variables. He is not sure what accepted means.

Commissioner Becht said then there is no benefit in a compromise, because they really haven=t given up the ability to challenge it legally.

City Attorney Schwerer said he would be hesitant to accept any compromise from the podium as being bullet proof for purposes of a challenge.

Commissioner Coke asked can Mr. Margotta tell her if it is still Staff=s recommendation that they go with three? It was the Planning Board that came up with four?

Mr. Margotta said Staff=s recommendation is three, the ordinance that is before them tonight.

Commissioner Coke said so it is 30 feet. Because she is sure some of the things they are talking about in industrial areas will not necessarily be this. But it will be 30 feet exclusive of large machinery, boat masts, boats, and equipment?

Mr. Margotta said this is generally staff's interpretation that it does not include things like the orange bins or fruit bins, the outside storage of boats. They had a list of things they put up there to try to help clarify that issue a little bit. This is strictly an outside storage ordinance, but they got into the specifics regarding containers.

Commissioner Coke said that last sentence was the sentence she wanted to clarify. It does not pertain to boats, masts, citrus crates, cranes or other equipment.

Mr. Margotta said in case there was any confusion on this, he doesn=t believe the Planning Board was in support of the 30 foot wall either. They were trying to get a mix of landscaping and a wall. So he thinks that was kind of in line with what had been said so far.

Mayor Benton declared a Public Hearing on Ordinance No. K-516 in session and asked if anyone in the audience wished to be heard.

**Mr. Chris Dzadovsky** said he lives on Mariner Bay Boulevard in Fort Pierce. First he would like to let them know that he subscribes to the Socrates method of finding answers and solutions by asking questions. He stands before the Commission as a member of the Code Enforcement Board and then as a member of South Beach. He has some concerns that there could be some severe unintended consequences to the proposed ordinance. Often when they see cases that come before them that have language in ordinances that is touchy, it becomes difficult for the code officers to come forward with their presentation and it is their interpretation of that ordinance. Sometimes counsel represents the alleged violators and they pick apart the language in those ordinances. So whatever language is selected, it should be clear and concise. When he raised the issue of unintended consequences, for instance on his way here he passed the area on South Beach next to the inn near the Jetty. There are two large stacks of true materials, slag, that are about 10 feet high. Is it the intention of this ordinance that the property owner build a fence 10 feet high obscuring that entire beach area? So he cautions them that might be one of the

unintended consequences. Furthermore, just outside of his door at Jaycee Park there are building materials and two storage containers. How does the ordinance apply there? Does the unintended consequence of this ordinance apply and could it cause problems for the City and the County? It should be adhered to across the board if citizens have to adhere. Last week during budget talks he heard each of them state clearly that they wanted to save staff jobs. His concern is that this ordinance could possibly eliminate jobs at the Port and cause difficulty for the business owners. So he thinks that looking at this very carefully and think about it very carefully. Next, he feels it is important to define what is considered long term storage, what is considered material, and - very important to this subject - what is temporary storage? Can those questions be answered tonight? Next, historically how many ships can be serviced at the terminal at any given period? How many containers can be on- and off-loaded during a given period of time? How much space is available in that given space to accommodate the busy period to determine the stacking height, is there a mechanism or is there a formula that can be provided? Is it possible that two, three, or four might be the answer? That can be answered through a review process of the past terminal performance. Next, they have to consider that the taxpayers of the City may end up paying and shouldering some of the burden of lost tax revenue from the Port should this ordinance go into effect as it is written. No matter what transpires here forward, any development of the area must be done cautiously and environmentally sound. Speaking of environmentally sound, the area of the Port which is directly east of the property that the FPRA (Fort Pierce Redevelopment Agency) just purchased is systematically being degraded by the incoming and outgoing tides. If there is an important issue that needs to be discussed and needs to be reviewed immediately, it is that. It is polluting the Indian River Lagoon as they speak.

**Mr. James Turner** said he is President and sole stockholder of Apple Industrial Supply and Apple Machine & Supply Company, and his address is 5900 Orange Avenue. He is not in the City yet, but he assumes when they discover their 40% budgetary shortfall in the next fiscal year after this one, that they will do an annexation flurry of activity. If they pass this ordinance, they will include a lot of other businesses other than just the Port. But the ordinance he believes is written for the Port. He doesn't believe the 30 foot or 40 foot is an issue in other areas other than the Port. He is maxed out in his building site. He has been trying to rezone adjacent property for five years for expansion. But he has been caught up in the Jenkins Road Charrette. Therefore he resorted to containers to store drop steel merchandise. Regardless, he cannot justify an expensive building to store merchandise of a low value and turnover, but in high demand for his customers. He notes his customers include nearly every governmental agency and utility from the four-county area and nearly every commercial business along with the homeowner with something broken. He does a lot of port related business also. For example, there is a lot of problems he sees with the ordinance. And the code man is right on target. If his container is in the rear of his building, does he fence in his property? What if the rear is hundreds of feet from the road? What if the adjacent property is industrial and the road is right next to his property? What if these roads are not normally traveled? Does an existing building count as a wall? What if there is not enough room on the existing site to put a wall and landscaping? When he built his buildings there was a five-foot setback for his buildings. He has hundreds of feet of building. There is no room for a wall. Remember even a 10-foot wall will require extensive engineering of the footer and bracing to meet wind load requirements. This requirement is not a small matter. It may mean the difference between staying in business or not. It will certainly drive the new company to locate in the area to the County or more business-friendly area. When he built the 78-unit apartments on Oleander Boulevard and Southern Avenue, the City objected to his 6-foot wall as being unsightly. They wanted him to do a wrought-iron fence so there is not a tunnel effect. Imagine an 8-foot, 15-foot, or even a 30-foot wall. What if the container is next to Wal-Mart, for example? Wal-Mart has a container on Okeechobee Road right in front. Do they screen the whole property or just the box? If the box is near the front of the road, do they block the view of the store from the road? How about the driveways and auxiliary buildings such as gas stations, will they have to put a fence around that? What if they are in a site such as a 20-acre plus TreeSweet site, if they have one box, do they fence the whole site? Where in the code is this addressed? How about the box storage along Rock Road, a road most people try to avoid? This

company rents out storage boxes. Will he have to fence in his whole property? If the box is on a trailer continuously, such as the Wal-Mart Distribution Center - it is a storage box, but it is on a trailer and it is there all the time - will they have to fence that whole site? Fort Pierce is not a business-friendly city. If they pass this ordinance, they will drive even more businesses away and they may get brisk opposition to annexations due to the utility agreements which are ripe for a challenge.

**Mr. Roger Pepera**, 3111 Oleander Avenue, said he is the owner of Accurate Welding & Repair. For the last couple of years they have been doing business with this company and they can see the financial impact it has done for them since the agriculture is gone in their area pretty much. That used to be what they survived on. They do semi-trailer repair, container repair, crane repair, all of the above. It about put them out of business when the crunch hit them on agriculture. They buy materials from Apple Machine, Turner Machine, everyone local that they can possibly do business with. They get their money from the Port. The Port is what generates their jobs. His jobs, he supports a couple of people and they support their families through the Port. So this financial crunch, he is just asking they take into consideration. When he drives across that bridge, the first thing he smells isn't a real pleasant odor. He is looking at containers holding waste and they are not fenced in, not like what they are asking the Port to do. They are talking about millions of dollars. It is not just a little decision. It will keep him in the area if they have money to pay him for the work that needs to be done.

**Mr. John McCulley**, McCulley Marine, said he employs 35 people. They depend on the Port of Fort Pierce. Without it, they have to leave. If it is over, he doesn't have a place to go. He thinks this ordinance should be named an ordinance to get rid of Indian River Terminal. That is what it was intended for and that is what they set out to do here, or that is what somebody set out to do, not him. To begin with, he doesn't think the 15 feet applies to the Port. They have been through this at every planning meeting. They have been through this at the County Commission meeting. The 15-foot ordinance does not apply to the zoning at the Port, only the 65-foot building ordinance does. So they are not giving them something by giving them 30 feet, they are taking away something. There has never been a 15-foot. Maybe someone should ask staff or someone should ask a lawyer - is it or isn't it? The Planning Board only approved it with conditions, they didn't want to approve it as it was. Go look at the Minutes. Don't look at the Minutes, look at the tape, look at the actual video of it. They did not want to approve it, so it was approved with conditions. If they throw all the conditions away, it wasn't approved. He doesn't know. He doesn't want to hear any more lies. That is one thing he is having a problem with is this 15-foot thing. He doesn't need the Port to go away because he has to have it. They keep picking at them, they go to a death by a thousand cuts thing. That is what they are doing - picking at them, picking at them. Pretty soon they are going to leave. That is what they want he is sure. But they can't do that. There are so many jobs at stake here, not just the ones he employs and they employ, but truck drivers and other people who are associated with the Port.

Mayor Benton said just to clarify a few things. Nobody is telling anybody any lies, number one. And the City Attorney led him to believe for the last 12 years that 15 feet meant everywhere in this City under that zoning. So only when it was challenged, when the facility at the Port came down and operations were done outdoors with no facility, did that come into play. It is not their intent to put anybody out of business. He doesn't think anybody has ever cited Mr. McCulley for anything he is doing over there whether it went higher than 15 feet. And if containers are coming in and leaving instead of being stored, then they are being used and they are creating jobs. If they are being stored, he doesn't see that as jobs, they are sitting there. So it is not their intent to put anybody out of work or out of business. Their compromise... And Mr. McCulley has been there for years while they have debated this issue on how high to go.

Mr. McCulley said Staff implied that the 15-foot rule applied to the Port in the beginning of that meeting. Ms. Dixon, if they will look at the tape of both meetings, asked the question

finally, is it or not? And the answer finally from Staff was, 65 feet and there are no other restrictions.

Mayor Benton asked can Mr. Schwerer clear that up?

Mr. McCulley said let's get this done for once.

City Attorney Schwerer said he presumes he is asking him...

Mayor Benton said about the outdoor storage. That meant the whole City, right? Under that zoning? It didn't exempt the Port.

City Attorney Schwerer said let him back up two steps here. It has always been the legal position of the City that the rule governing fences applies to all zoning categories. The Code Section 22-67(e)(5) which is being amended tonight, the amendment is intended to provide an exception to the otherwise stated rule that they cannot store materials in excess of 15 feet in height in all zones of the City. It was devised to provide for someone to exceed that 15 foot maximum. Let him read the ordinance. It is the required code for fences, walls, or hedges. And it states commercial and industrial buffers, which applies to all commercial and industrial property... Outside storage of materials for commercial and industrial uses - and that covers a broad range - shall be screened with a sight-obscuring fence or wall which is not less than 6 feet, up to a height equal to the height of the material being stored, whichever is greater. So the sight-obscuring fence needed to obscure the material up to the height. Except that storage of materials may not exceed a height of 15 feet. That meant they couldn't store materials in excess of 15 feet in height in those particular zones and that applies to all industrial and commercial zones. They also have in every zoning category, including light industrial, a general prohibition in their basic use standards. He will read from Light Industrial, Section 22-34(e)(4), other applicable use standards. It says, materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area. This is the same code that applies almost in all zoning categories.

Mr. McCulley asked almost in all?

City Attorney Schwerer said what he is saying, almost in all, they have certain residential zones that are more restrictive than that. But that is light industrial, it is in marine industrial. They can go through the code. It is in every commercial zoning. It is the same use standard in every single one. In residential districts, it gets a little more restrictive. So when he said almost all, he meant almost all as far as all zoning. They have estate zoning, they have residential. That is the code as it exists today. The debate that occurred at the Port was the code dealing with storage of materials not greater than 15 feet. The enforcement action was to cite violations which exceeded that, which was the container stacking. If his understanding of what occurred it correct, this code and this ordinance they are looking at today was designed to allow that stacking of materials in certain zoning districts to exceed the 15 feet. So it was put before the Commission to allow something, not restrict it.

Mayor Benton said to compromise.

City Attorney Schwerer said the 30 feet that they are talking about is certainly a number that is within the discretion of the Commission. That 15 feet is the code today, and the 30 foot number is what the Commission was comfortable with.

Mr. McCulley asked the 15 foot applies at 100 Terminal Drive in Fort Pierce off 2nd Street - is that correct or not correct - in that zoning area?

Mayor Benton said that is correct is what he just read, that in that Marine Industrial Zone as it is today, 15 feet. That is what they are looking at going higher.

Mr. McCulley said okay. When they pass all these ordinances, are they going to pass an ordinance that makes the Building Department allow for a fence over 7 feet high?

Mayor Benton said they will see at the end of the meeting. He thinks he heard three of them say that they are not wild about much over 8 feet high.

Mr. McCulley said he is not wild about it either. But if they are going to pass an ordinance that says 15 feet, 10 feet, whatever feet. And then they are going to apply for a permit and say they want to build an 8-foot fence; and then the Building Department is going to hand them a permit that says 7 feet, here is what you got.

Mayor Benton said they will make that clear at the end.

Mr. McCulley said it has got to be done, because that is what is happening right now.

Mayor Benton said they will make that clear at the end.

Mr. McCulley said so they can't play Pontius Pilate and say they are passing an ordinance; but the Building Department is going to be the one that turns them down, not the Commission.

Mayor Benton said the Building Department will look at the codes.

**Ms. Carole Mushier**, President of the South Beach Association, said let her state the SBA position on the proposed ordinance before the Commission tonight before she goes into any details or specifics. They support the approval of the proposed ordinance as to limiting of stacked marine cargo containers to three high or 30 foot maximum throughout the City. They also support the Planning Board Condition (2), to allow landscaping - meaning trees, bushes, shrubs and berms - to be utilized to obscure sight as an alternative to or in conjunction with a wall or fence. As a matter of fact, they suggested this at the Planning Board meeting as an economically feasible alternative to the 30-foot wall. They are not clear on the line of sight or setback angle example formula presented to satisfy the Planning Board Condition (1), they are not sure that it accomplishes what is needed. They also caution that no matter how much emphasis may be placed on the Port area tonight, this ordinance is to protect proper buffering throughout the City. She knows she doesn't have to review the contents of the Port Master Plan with the Commission. They are well aware of its intent and she suspects they probably reviewed it again before this meeting. Suffice to say, every time cargo operations are mentioned in the document, it is preceded by the word limited - not expanded, not greater. She offers the following dictionary definition of limited: confined, within limits, restricted, circumscribed or narrow. Their port, as compared to other ports in the state, is a small operation. Historically it has always been a small operation, initially dealing primarily in citrus. Marine cargo containers are a fairly recent innovation in the international moving of goods. Marine cargo containers have a niche in their port and they should continue as a niche. But in the grand scheme of things, they should not be the tail wagging the dog. They do not see this ordinance as an attempt to put marine cargo operations out of business. That it might limit their expansion, that could be true. But then that is what the Port Master Plan is all about. They support the continuance of marine cargo operations through existing facilities. Incidentally, this was one of the four assumptions agreed upon at public meetings held in 2002 and before, that the Port will continue to accommodate cargo through existing facilities. This is found in the 360-plus page document that accompanies the final Port Master Plan. There should be no loss of jobs as claimed in this one particular area of operations at the port, as they can continue with their current plan. It is absolutely necessary that there be some form of sight-obscuring of any outdoor storage of materials or containers stored or stacked for commercial and industrial uses. The line of sight setback example they have is but one of a myriad of examples considering the many permutations that are involved. There is no miracle about 45 degrees. It could be 30 degrees, it could be 60 degrees. The 8-foot wall could be 10 feet or 15 feet. The line of sight could begin at 5-foot high at x-number of feet

from the wall. She is sure others can provide some suggestions, should the Commission decide they wish to pursue some form of line of sight and setbacks as an alternative to 20-foot or 30-foot walls. They believe it is worth a further look. In conclusion, they support the original proposed ordinance to the maximum height of 30 feet. They further support landscaping in all of its forms as a means to provide a sight-obscuring buffer.

**Mr. Ken Shields** said he is here on behalf of the Port of Fort Pierce and Indian River Terminal Company. Just a few points of clarification at the risk of getting into a back and forth, but there are a couple of things he would like to read into the record regarding the understanding of how their particular Marine Industrial I-2 zone is covered. He is going to read from the City of Fort Pierce Comprehensive Plan, Adoption Draft, Revised May 4, 2007. This is the land use category, Industrial Marine I-2. He is going to read verbatim. Manufacture and processing of finished products which are then shipped or stored for shipment to markets that typically extend well beyond the immediate urban area. Storage and distribution facilities are also provided here. There is no maximum height limitation in the Marine Industrial I-2 zoning District in the Zoning Code. Section 22-35(c)(16) requires conditional use approval for building heights exceeding 65 feet. Certainly when they read through that, from their standpoint and a lot of other people in the City, they understand where they are coming from when they don't see any limitation as a compromise, not with respect to container stacking. With all due respect to the Mayor and the City Attorney, he thinks there is a distinction made between materials and cargo containers. And truth be told, he thinks that is why back in 2005 - and there is a lot of folks on staff who weren't here then - if they recall, Code Enforcement came down to the Port and cited them and wrote a violation. They objected to it. There was discussion about it going before a Special Master. They raised the argument of materials are not containers. If they look in the definitions, clearly containers do not qualify as materials. That is where it went away. From that point there really wasn't a lot either way and they went on with life and continued to grow and develop their business. And he doesn't think there has been any detrimental harm done to the City in stacking containers three or four high. So with that said, he would like to move on a little bit and tell them what they are doing now, which may address some of the aesthetic concerns. (Mr. Shields displayed slides.) He is just going to give them an update on some of the things they are doing right now to improve the aesthetics on some of the properties they are at. Once and for all he would like to clarify for the Commission and everybody in the audience right here. Indian River Terminal is Plat #15. They don't have anything to do with the undeveloped PUR, the Bell / Destin Beach property. He knows there is some concern among the Commission and also among people in the City about what is going to happen over here at this property, are they going to have container sprawl, containers going up there. The City has already got that already covered - he (Lloyd Bell) can't stack containers there, he can't do anything there until he comes before the Commission, gets a land use permit or a site permit to do whatever - build a hotel, build a marina, build containers. They are going to have everything to say about what happens there. So they have already got something in place to control what goes on with that property. Right now their offices are contained here, their warehouse and consolidation operation is in this building, and they have a maintenance shed or maintenance facility here along Fisherman's Wharf. They are right now in the process of building new offices in the building they own next door here, which will be contained on the east side of the building. At the same time, they are doing a wonderful redevelopment of the exterior of this property with new fencing and also landscaping, a visual abutment there. An interesting note here and Commissioner Becht brought it up. They applied for a 7-foot fence surrounding this area; and they were told by the Planning Department/Building Department that they couldn't do that, they backed it down to 6 feet. Just for edification, right now if they go to apply for something higher than 6 feet, they don't let them build it. They are planning in December to make the move over here. He would say by January they won't have any of the existing maintenance operations and terminal operations they see on Fisherman's Wharf. Those are going to be contained over here within an area that is going to be landscaped. He thinks that is going to improve some of the aesthetics and some of the concerns they might have for Fisherman's Wharf.

Commissioner Coke asked what are they intending to do with that building that is in existence now?

Mr. Shields asked the building they will be vacating?

Commissioner Coke said yes.

Mr. Shields said currently they don't have any plans. They don't have a tenant. They would like to attract another similar shipping line, but there is nothing imminent at this time.

Commissioner Nelson asked would there be any chance of it being torn down?

Mr. Shields said right now they don't have any plans to tear it down. They would prefer to utilize that building somehow and not go on with an open site there.

Commissioner Alexander said he doesn't mean to put Mr. Shields on the spot, but he recalls him telling them that... He thinks he asked him the question about, he heard someone talking about long-term storage of containers. And he was telling them this was...

Mr. Shields said yes. He think Mayor Benton touched on that when Mr. McCulley was here. He thinks in the sense of the word that people define storing containers, they don't store containers as such. He would characterize a storage facility as a facility where shipping companies or people who own containers would take their containers that they are not utilizing to set somewhere and just leave it. Maybe it is off season and they don't need them for six months. It is similar to citrus crates. They will see citrus crates stored at a packinghouse for six months during the off season because they are not using them. As opposed to a container shipping terminal, the containers are consistently moving in and out. It is very easy for a lay person that is passing by to look over and see the container sitting there and say he doesn't see them moving, they are never moving, they are always there. Well, they all look the same. Unless they stop for a minute and they took an inventory of all the numbers there and went the next week and did another inventory, that is the only way they would see them moving. Because they have a block section where they stack 20-footers and a block section where they stack 40-footers and 45-footers and it looks like they are just always there, but they are not.

Commissioner Alexander said that was an assurance that Mr. Shields gave them.

Mr. Shields said yes. To give them an idea, on an average week they have 200 containers going out and 200 containers coming in on an average of 30 or 40 a day.

Commissioner Alexander said being able to just say he met with Mr. Shields and a couple of other individuals where his support is going to fall, he asked a question of him, what was his capability of stacking; and did he not tell him four high?

Mr. Shields said today they have the capability to stack with their container stacking machine four high. Commissioner Alexander specifically asked about the crane. The crane can stack in far greater heights. But typically that piece of equipment, that asset is not used for stacking, that asset is used for working a vessel. Then the container is picked or plucked with a container handler and taken to stack somewhere. To answer Commissioner Alexander's question, their container handler today stacks four high.

Mayor Benton asked could they go back to one of his first slides where he listed several of the businesses if not all of them that he is doing businesses with out of the Port or Indian River Terminal?

Mr. Shields said yes.

Mayor Benton asked which one of those or how many of those companies are in the container business or would be using containers?

Mr. Shields said Atlantic Caribbean Line uses containers; Moby Marine occasionally uses containers, they are not very active; Great Lakes Dredge and Dock Company uses containers.

Mayor Benton asked but they wouldn't use a volume of containers. The only one that would really use the volume would be Atlantic, right?

Mr. Shields said Atlantic Caribbean Line is a shipping line that is actually headquartered in Fort Pierce; and today they certainly have the far most volume of containers.

Mayor Benton said that is what he wanted to question. They have the roll on/roll off boats. They have what - three of them?

Mr. Shields said the three vessels are all roll on/roll off. They have roll on and roll off capabilities, they all have ramps. One other vessel is utilized and engaged in a roll on/roll off trade which runs to Grand Bahama Island. The other two vessels are actually in what they call a lift on/lift off trade where the vessels are loaded with a crane and the containers are stacked on.

Mayor Benton said they don't appear to be vessels that could hold a large amount of containers. How many do they hold?

Mr. Shields said the largest vessel they have, the Christopher Dean, in her roll on/roll off configuration carries roughly twenty 40-footers and four 20-footers. If they converted her to a low/low, she could carry 120 containers, they can stack them three high on the vessel. The other two ships that are engaged in the low/low can carry roughly 70 containers.

Mayor Benton asked the majority of those containers come in and are basically put on a truck within hours or days?

Mr. Shields said the majority of those containers come in-bound, the majority of them are empty. Probably 95% of what they have in-bound are empty boxes. He would say probably 90% of the equipment that comes in on a vessel is put on a chassis and sent out to a supplier or parked at the warehouse or sent somewhere to get a load within a week.

Mayor Benton asked so how would three or four high difference affect a business like that if they are moving them in and out?

Mr. Shields said the biggest impact is their ability to continue to develop the footprint they are on. They are at a point at the port, at Indian River Terminal Company specifically, where they are just sort of turning the corner. They are just starting to get any sort of a decent ROI (Return On Investment) for the owners. They just need to have the continued ability to continue to grow there. It is important to note, and he is sure a lot of folks watch the Planning Board meeting, that the Planning Board asked some great questions from both sides of the fence on this issue. Please don't let it escape them how important they felt their conditions were. He is not going to say it was Staff's intent, but it certainly seemed like in Staff's presentation tonight that they didn't really highlight those conditions. It leads him to just a couple of things he would like to clarify.

Commissioner Coke asked the footprint of the property that he has available now to stack containers, how many linear feet or square feet does he have available that he is utilizing now for container storage?

Mr. Shields asked that they utilize today?

Commissioner Coke said yes.

Mr. Shields said they have containers, typically empties, that they stack right in this area. That is an area of approximately 90-feet by probably 120-feet deep. And then they have an area here where they stage the loaded boxes that are getting ready to go on this vessel for instance, which is approximately 100-feet to the north and south and probably about 60-feet deep. Then this area right here they use to stage the loaded roll on/roll off trailers, the stuff that remains on wheels, to go on the roll on/roll off vessel. And then this area here, there again they also use to stage and store empty boxes and also empty what is called ISO tanks, containers that hold bulk liquids.

Commissioner Coke asked so with that footprint they have available currently, were they to stack three high...? She knows he has different size containers, but let's just take the average size. Where they to stack them three high in that particular footprint, how many containers could they stack?

Mr. Shields said he doesn't have that answer. He doesn't have that calculation.

Commissioner Coke asked they know it is 200, right? Because they have 200 coming and going on a weekly basis.

Mr. Shields said they could say roughly 200.

Commissioner Coke asked do they have extra room?

Mr. Shields said they don't have extra room and that is what he wants to allude to here, to look at that.

Commissioner Coke said let her ask one more question so long as they are going there. She wishes they had the answer to how many containers he can fit there now if he were to go three high. They don't have an answer to that. But they do have the answer to, how large is the building they are vacating?

Mr. Shields said the building they are vacating is roughly 30,000 square feet, maybe a little over.

Commissioner Coke said so technically were they to take that building down and expand their area of where they want to put their containers, they doubled the area that they have available now. That building looks pretty big.

Mr. Shields said if they took that down they would add a large footprint, sure. And he is not saying that is out of the question. But from a lot of the comments on the Commission and some of the other folks, they are trying to enclose as much as they can. Understand right now that building houses a lot of materials that are being shipped, cargo. He understands what Commissioner Coke is saying. And it is a trade off, it is. They need to arrive at a consensus or something they can all live with. The one issue they have to be cognizant of if they talk about reducing height is now the containers are going to sprawl. One of the things they have the ability to continue to do right now to go vertical is to save a lot of space to move around the Port. If they can imagine, they have trucks all the time, they have a pretty short stroke here for delivery trucks. The way they have it set up right now it allows them to contain a lot of that traffic within their own Port. They don't see any traffic on 2nd Street and Fisherman's Wharf, people waiting to get in their facility. They bring them in and wait. If they get to a situation where he has to sprawl these containers out more, traffic is going to be an issue and there are going to be some cars and trucks that are going to be backed out. One more issue he would like to clarify on the Staff's report. Condition #2 in Mr. Buchwald's report is misstated, inaccurate, and misleading. Mr. Buchwald's language suggests that one of the Planning Board's conditions regarding visual abatement was to require landscaping and a wall. In actuality, one of the Planning Board's conditions for

approval was to allow landscaping in place of a wall. They had the similar concerns that all the Commissioners do with walls and, as Mr. Margotta drew reference to, building canyons, building castles, however they want to refer to it. If they are going to talk about visual abatement, landscaping he thinks for all concerned with the conditions for green development and all these other issues, it is important. They are going to see here in the next month or so some beautiful landscaping around the property adjacent to them, they are going to be pleased with that. But Mr. Buchwald's language, maybe it is just their interpretation of the way he wrote it, maybe he just didn't quite put the language down, but they need to clarify that point, that is all.

Commissioner Becht said it sounded like he was picking on him earlier this evening and he didn't mean to. But this affects his business and he wants to understand how it affects his business so he can try to make an intelligent decision tonight. That is why he wanted him to draw him a line from where the three or four limitation restricts him. But he has a specific question to that point. The building on the south that they asked about, what is the height at the peak of that building?

Mr. Shields said the height at the peak of the building is roughly a little less than 50 feet he believes.

Commissioner Becht said so right now it obscures...

Mr. Shields said it obscures very well, yes.

Commissioner Becht said if he is standing on the other side of it, it obscures containers up to at least 40 feet, and if he is right there on the street, probably higher. But they really don't want to go there tonight. Mr. Shields came to see him a while ago and they talked about landscaping back then. Maybe he is mistaken, but he thought they did some before the storms.

Mr. Shields said they did, they did some before the storms. It was either earlier this year or late last year they actually put in new landscaping. The hedges and some of the trees they had around there took a beating as a result of the storms and just didn't grow and develop. So they did put in some new landscaping, new hedges that are coming up now. They are roughly half way or maybe two-thirds up the fence right now.

Commissioner Becht said as the footprint exists today, he has a total of 15-1/2 acres. That is what his presentation as he was flying through it, he did catch that number somewhere. They do have some of it covered with buildings. He was thinking they could use the buildings to store containers, but Mr. Shields is saying they are using the buildings to store the materials that will eventually go in those containers.

Mr. Shields said correct.

Commissioner Becht said which he did not understand that before this evening. The question that Commissioner Coke asked him, he was going to ask him, about how many containers can they process? Mr. Shields says they can process 30 a day.

Mr. Shields said they could process far greater than that.

Commissioner Becht said currently they are processing... He is sorry, Mr. Shields didn't say that, he said they are processing 30 a day.

Mr. Shields said on an average, yes.

Commissioner Becht said with the restrictions that are on him in terms of the amount of berthing space he controls as an owner, with the size of the vessels that can come into the Port because of the depth of the Port, he is wondering with current technology what the real

number is, even if they could max out that? How long does it take them to load a vessel? But that is not fair. They both off load it and load it. So how long does it take for an 80 or 70 container vessel?

Mr. Shields said the vessel they see in the picture right there is the Caribe Sun.

Commissioner Becht asked which one is it?

Mr. Shields said right here on the north berth. They will typically discharge between 60 and 70 containers and reload between 60 and 70 containers in roughly a 12 to 18 hour period.

Commissioner Becht said okay. Even if they ran at night, they are probably looking at 100 a day.

Mr. Shields said they could, sure.

Commissioner Becht said his concern then becomes was that his expectation was that this was a shipping terminal, not a storage terminal. If the maximum they can move in and out a day is 100 and they have 15 acres, help him understand how any restriction that allows them to have 100 containers on site impairs their business? He doesn't know if he understands what he is saying.

Mr. Shields said he doesn't think so. He guesses the simpler way for him to look at it is...

Commissioner Becht said let him try again. His assumptions are that he is not doing it today, but with a lot of focus and efficiency, he might be able to process 100 containers out of that location in a day. Why would they need to store more than 100 or 200 - and he really doesn't think they are supposed to store on site - but why would they need to store more than 100 containers on site in a given day if that is all they can move in and out in a day? Because then it sounds to him like they are storing on site and that is what starts to bother him.

Mr. Shields said no, they are not storing on site. But when they talk about 100 in and 100 out, it is not an exact science. The throughput is largely dependent on the schedule of the vessel that is coming and going. When he says what they are doing on an average... For instance, today they didn't load a vessel, tomorrow they might load one, and Wednesday they might load two. Today they maybe didn't move a lot across the terminal, but tomorrow they may move 60 and Wednesday there may be 110 moves. So it is up and down. It is hard to pinpoint averages. To him the better way to look at it... And they are talking three versus four is what a lot of the conversation has been today. They are talking about a 25% reduction in their volume throughput. If he has the ability to stack four high throughout and now they are saying he only has the ability to stack three high or today he has the ability to stack an infinite number high...

Commissioner Becht said right, but he doesn't think they would be having this discussion if they had said ten. He doesn't think Mr. Shields would even be here.

Mr. Shields said he thinks Commissioner Becht is exactly right. Sold, he will take it.

Commissioner Becht said on the other hand, if they had said one, he would have five or six lawyers coming up here in pretty suits talking to them. So the point he is trying to understand is, he is not understanding how the ordinance affects his business at all today. Throw the fencing aside and all that other and put the limitation on it. The ability to expand the business is, as he appreciates his efforts...

Mr. Shields asked does Commissioner Becht want to answer his question real quick?

Commissioner Becht said yes.

Mr. Shields said if they put that limitation on the owners and they don't have the ability to continue forth to achieve the ROI they need for that property, they lock it up and walk away. And maybe that is the agenda. He would hate to think that.

Commissioner Becht said that is not his agenda.

Mr. Shields said he is not implying that is their agenda. But he asked that question and that is exactly it.

Commissioner Becht said that is not his agenda. That is why he is trying to understand the connection. Because from his perspective - he doesn't know his business - Mr. Shields tells him the maximum he is going to move in and out in a day is 110, he thinks is the figure he just gave him when they process two vessels. And he is looking at 15 acres of property. It seems to him that if they efficiently used their property that they could do that stacking two high, much less three high. Again, he is trying to understand why the limitation hurts them; and that is why he is looking to Mr. Shields to educate him on how this hurts him. He appreciates he just cut 25% of his stacking ability...

Mr. Shields said he thinks he just laid it out there for them. It is very hard for him to sit here and explain it to them. It would be like him trying to understand from Commissioner Becht, how can an attorney possibly charge \$450 an hour.

Commissioner Becht said he doesn't understand that either.

Mr. Shields said if he is more efficient and effective, he should be able to charge \$200 an hour. And he is just using that as an... How can a doctor charge so much to go in and change a heart? It is like a guy changing a tire. It is just a little bit more... It is hard to get into it.

Commissioner Becht said Mr. Shields is trying to preserve the ability to expand.

Mr. Shields said he is trying to preserve the ability for them to continue on their business plan, their five-year and ten-year business plan. That is what they are talking about really.

Commissioner Becht said he hopes Mr. Shields understands, it is not his intent to put him out of business, he employs far too many people for them to be...

Mr. Shields said he believes him, he does. He just thinks they need to as a Commission and as custodians of this City and representatives of the people who live and work here, they need to come up with ways to preserve aesthetics and public welfare without cutting to the hearts of businesses. One thing he would like to point out, if they have some visual abatements that make sense, landscaping that they can grow 10, 12, 15, or 20 feet high, what does it matter how high the containers are if they can't see them? Because they are always going to see them from the bridge, unless they build a tunnel. If he puts up some fabulous landscaping that is beautiful palm trees... The Mayor has a beautiful plant that he sees bloom out that he refers to when they come into the City.

Mayor Benton said tabebuias.

Mr. Shields said if they surround the property with that and it is 20 feet high and they stand in the middle of the road using a line of sight formula, that blocks 60 feet up and 100 feet inside the property and they can't see any containers, what does it matter if those are 30, 40, or 50 feet?

Commissioner Becht said the building does that now. They have been able to get the vegetation up that he and Mr. Shields talked about he thinks over a year ago.

Mr. Shields said understood.

Commissioner Nelson asked what is Mr. Shields position over there at the Port?

Mr. Shields said he is the General Manager.

Commissioner Nelson said let him ask the question he tried to extract an answer from their Planning Director. His desire is in trying to reach this monumental solution they are dealing with here tonight...

Mr. Shields said they can do it and make everybody happy.

Commissioner Nelson said that is what he wants to do is make everybody happy. He thinks they are at a certain level of agreement relative to the need for the 30 foot fence. But the question comes to mind as to whether or not they are going to allow for three or four containers high in the stacking area. Would Mr. Shields be satisfied with a limit of three containers that high?

Mr. Shields said no.

Commissioner Nelson asked would he be satisfied with four?

Mr. Shields said he would be much happier.

Commissioner Nelson said he wants to know whether he would be happy with four. He could live with four?

Mr. Shields said at four high with all the other current conditions they have in place today, he doesn't think they would come down here any more to bother them.

Commissioner Nelson said back to the fence. If they were to simply require them to put up a fence around there with appropriate landscape and possibly some elevation due to a berm around there, whether it be wood, metal, or concrete, what would be his desire in that area?

Mr. Shields said today on the Fisherman's Wharf side they have a 7- foot fence. And they would not be adverse to landscaping approved by the Urban Forester to obscure or to provide visual abatement there. He thinks they could do that.

Commissioner Coke said she is going to echo Commissioner Becht's statement that they are not looking to put anybody out of business. She really doesn't want to get into an argumentative stance, but she thinks if these guys had jumped up a couple of years ago when they talked about all this landscaping and done it, they might not even be here having this discussion this evening. Be that as it may, she is a little confused. She likes math, it is her friend. She understands the theory that the difference between four and three is cutting them down there. She doesn't understand if the maximum time to unload a boat and to reload it is going to take 12 to 18 hours, so let's say it takes 12 hours, that means they can do two ships a day if they work 24 hours a day, 100 containers per ship, that is 200 containers. Obviously they can fit 200 there now with no problem. So she is not understanding when they talk about expanding. They can't work any faster. So if the most they can get is two ships in and out of there a day...

Mr. Shields said no, that is where he would beg to differ. They could increase their throughput and what they could handle tremendously two-fold. Right now they have the capital investment in the machinery and the labor to handle x-amount of vessel calls and x-amount of boxes.

Commissioner Coke said she guesses she got confused, because before Mr. Shields said 12 to 18 hours.

Mr. Shields said that is how it is today, yes. That is how they are operating today with the current capital investment and the assets they have to move cargo and move containers and the people involved.

Mr. Margotta asked can he interject something? Staff did some math. They are not mathematicians by any means. But just a couple of areas that Mr. Shields had described were - correct him if he is wrong - but the footprints were generally 120-feet by 90-feet and one 50-feet by 100-feet, and it didn't even include another area that is kind of amorphous. But then they take the cubic feet of one of the containers which is about 2,500 plus or minus square feet. They ended up with a capacity of about 300 containers. He believes this is a matter of... Maybe that is a nice area for everybody to start or understand, that 300 containers in that area is what is described.

Commissioner Coke asked is that three high?

Mr. Margotta said three high. Now it is a matter of logistics. Maybe Mr. Shields can explain why that many more is needed. If he is currently doing the 200 or so that Commissioner Coke is describing on a regular throughput, why another 100 or so is so burdensome.

Mayor Benton said he has a question to ask Mr. Shields. All they have been battered with for some years is they are going to put Indian River Terminal out of business, cut all these jobs. If they could go back to that list of businesses once again? Because Ken Roberts came to see him the other day and left some information; and if he recalls correctly, that \$22 million and the jobs, was that over three years or five years? Three years? Okay. That is pretty good income. Allowing them to do business the way they are doing business today, and he thinks they have got one container pile stacked four high, if they were to put up additional landscaping... He is the one who got after them with the landscaping years ago and he is all for it. They just had to put some irrigation in and fertilize it to get it growing and it looks a lot better. But he just wants to know, what jobs are they eliminating and how are they putting them out of business?

Mr. Shields said he thinks he answered the question with Commissioner Becht. Really and truly he will answer his question, but he is a little uncomfortable in having to address the City Staff and the City's questions on what their owner should expect as far as a return. Isn't the sky the limit in this country?

Mayor Benton said the sky is the limit; but like he said, he doesn't see...

Mr. Shields said it seems to him like that is where some of the question is going. Mr. Margotta is doing some math over there. He wants to do a thousand containers. Do that math.

Mayor Benton said they have been going through this for years. They also have considerable investment in undeveloped property to the north, the community does. The City doesn't own the property, but that is their investment, that is their future.

Mr. Shields asked that industrial property?

Mayor Benton said let him finish. How his property and the aesthetics stay... They are not trying to put him out of business, but they are also allowing that property to be developed the way the public wanted it to be developed, the way the property owner... He guesses with the numbers, they are talking about \$70 million plus, they have to take that into consideration, because whatever Mr. Shields does needs to be compatible. When they had their charrette, there was a facility shown where Indian River Terminal and where the old refrigerated building came down, that is what was agreed to way back when with Tropicana. They are allowing them to do business. They want to work with them. They are not trying to put them out of business. But they also have to take into consideration

what is going to be done surrounding their 15 acres in the future and work with everybody, not just one group of people.

Mr. Shields said absolutely. And they respect that, he certainly respects that. There are all sorts of examples of waterfront and port areas where they have huge ports, ports much bigger than their port would ever even approach, smaller terminals at big ports bigger than their entire port will ever be, and they have great mixed-use going on at these areas. They can go all up and down the east coast and see it. They don't have any issue with that.

Mayor Benton said that is what they want him to continue doing.

Mr. Shields said that is what they want to see. Getting back to a few minutes ago, he thinks Commissioner Nelson was on to something. He thinks Commissioner Nelson finally did something good and they need to amplify those comments.

Commissioner Nelson said he wanted to suggest that if there were no more input from the public...

Mayor Benton said he is sure there is going to be more input.

Commissioner Nelson said he thinks they are beating this to death. He is prepared at this juncture to make a motion.

Mayor Benton said he can't, they are in a Public Hearing.

Commissioner Nelson said he can be prepared, but he doesn't have to make one. If the public would recognize that what someone has said already is basically what they want to say, then they can go ahead and make a decision. But if they are contrary to that, let's continue talking about it.

Mayor Benton said for the record, he has met with Mr. Shields, Mr. Roberts, and folks from the Indian River Terminal.

**Mr. Charles Grande**, St. Lucie County Commissioner, said he speaks to them as one of the principal authors of the Port Master Plan, somebody who has been involved in this situation for quite some time. He would like to get some things clear first. He thinks their City Attorney is absolutely correct as always. 15-foot applies across the City. It currently applies at the Port. He would like to thank Mr. Shields for reading verbatim the ordinance he was quoting. If they listen carefully, what he told them was they don't have the same building height limit; and with a conditional use, they can go higher than 65 feet with buildings. There is nothing in that reading that said outside storage, any storage, any containers are handled any differently in the marine area than they are in the City as a whole. He can understand the confusion because of the somewhat ambiguous wording; but clearly after hearing him read it slowly, there is no confusion any more. They are under the 15-foot limit today. And as Mr. Schwerer said, the ordinance they are considering is giving them more height than they have now, not less. He thinks what they heard the South Beach Association come up and say was maybe they could use more height. The people support the three high containers or the 30 foot. Now he would hope he could jog David Recor's memory. When he was fairly new here, he and his friend Jack Cahill met with Mr. Recor on this subject. He said he spoke to the people at the Port; and if they could get to three high, they would never ask for anything else. He would also suggest to them that there are people in the audience who were taken on a tour as members of the Harbor Advisory Committee by Ken Shields at the Port and he guaranteed that three high was all they would ever ask for. The reason was that their equipment, those rolling jobbies, those only would ever handle three high, they could not handle four high. He thinks tonight they heard, well maybe they can handle four high. He doesn't know what the answer is. But he can testify that they were guaranteed on the Harbor Advisory Committee that if they ever got an allowance of three high, they would never need to ask for anything more. He thinks

they heard Mr. Shields use the expression, the sky is the limit. At their last meeting on this, they spoke in terms of 8 or 9 would be ideal. The answer to what they would really like? They would like more. That is what everybody wants. That is what they want. What really needs to happen tonight is, what is the right thing to accommodate them in their current stand? How do they not put them at a competitive disadvantage or put them out of business? Three high is three times what they have, although they may have chosen not to enforce - and he questioned the Mayor on that before - and he has no idea why. With the space they have and three high, there should be no question at all. The next step then becomes fencing, walls. He would suggest to them this is something of a red herring that maybe they don't even want to get finalized tonight. If they take the approach of tonight let's decide on the height. He thinks some of the things that they said regarding the advantageousness of landscaping versus concrete walls or graffiti barriers or whatever they want to call them, there is a lot of merit there. He is not sure any of them are smart enough... And he thinks they were sent an email that he took apart the angle stuff and the eyes on the ground concept. He really doesn't think anybody has put enough thought into this tonight to come to where should they be with walls and fences and setbacks. And if the goal is to finalize that, they are going to be a long time getting there. He suspects they are not going to get a height limit in as quickly as they would like. So his suggestion tonight would be to expand what they are allowed to do tonight from one to three, spend some time with them and staff looking at the actual footprint of their property to see what can be done in terms of vegetative buffers, what can be done in various heights. They may find that a whole lot less is required in walls. He thinks they already have severe fencing requirements for security. And a lot more than they would suspect initially can be accomplished through the intelligent use of vegetation. He thinks they would know a whole lot more about that than he would. But he doesn't think anybody ever intended to say 30 foot in containers should have a 30-foot wall, or the City should have huge expanses of, let's go paint some gang symbols on it. They can handle the cosmetics of it. They are already handling the security of it. He thinks if they do nothing more tonight than finally have the resolve to settle this at three high, as has always been asked for in the past. He would suggest that is where their Staff has been consistently and that is what their Staff is recommending tonight. They get to go home on this one tonight and figure out the fencing, landscaping, walls after some good research is done.

**Mr. Martin Murphy** said he owns Cracker Boy Boat Works in the Port which is at 1602 North 2nd Street. He is here really for a little clarification. As they all know, he has been here many times before and talked about the marine industries and the economic impact it brings to their City and to St. Lucie County. Just for some quick numbers, statewide it is \$18.4 billion. The Treasure Coast share of that is \$930 million and around 1,600 jobs. Part of that is Fort Pierce and St. Lucie County. He is asking for clarification. Mr. Buchwald stated earlier, he thinks on slide two or three or four or whatever, that the height limits proposed tonight did not include boats, masts, citrus crates, crane booms or equipment. He looked in the ordinance that he has and nowhere does it state that. It says that in the backup. He was wondering if they could somehow get that put into the ordinance.

Mayor Benton asked add that language?

Mr. Murphy said yes.

Mayor Benton said he believes when that discussion comes. He thinks he sees heads nodding. He thinks Mr. Murphy will see it added.

**Mr. Ken Roberts** said Section 22-128 of the zoning code allows for protests to be filed. They have gotten their heads together obviously with the port property owners and so forth. Everybody wanted to sign a protest. And that is why he is here, to deliver a package of seven documents representing 14 parcels. That is 93% of the I-2 zone in this protest. That is all he has.

Mayor Benton said just give it to the City Clerk.

**Mr. Steve Weaver** said he is a resident of the Fort Pierce South Beach. As they start to get into drafting a wall ordinance, he just wondered how they would feel it is going to work for companies like Rinker or FEC? Are they going to make a side rail on FEC a place where something is stored?

Mayor Benton said he thinks Mr. Weaver came in late, but he thinks at least three of them have decided that walls or fences of 30 feet aren't going to fly.

Mr. Weaver said even if it is only 8 feet or 15 feet, if they are trying to enclose Rinker or FEC or any of the other businesses served off the railroad, they are creating a big burden over there. If they start putting \$1 million or even \$500,000 into a wall, why don't they consider funding out of the CRA? That is not a bad idea. They are going to get taxed on the value of any improvements they do as well. He just doesn't think they thought through whether this is going to apply to Rinker and FEC and the other companies like that.

**Mr. Marty Laven** said he is a resident of South Beach, but he is here on behalf of the Marine Industry Association of the Treasure Coast. Mr. Murphy covered a couple of points, but they just want to share a couple more with them if they can. The proposed walls and fences of wood or masonry of up to 30 feet high poses a significant safety issue, forcing drivers to pull far out into an intersection to see oncoming traffic. Actually he knows they talked about the 30 feet. But he took a drive down there and he knows there are some hedges already along the two streets and the intersection. He had to pull out; and one fellow said to him, he has to pull out pretty far to get a line of sight down the street to see the oncoming traffic. He just wanted to mention that from his own experience being out there. The proposed walls and fences of wood or masonry up to 30 feet high would pose a significant risk to people and property in the event of a major hurricane. Again, he is just passing on other folks comments, he didn't offer this, he is just here to read it in and make sure it is part of their records. The ordinance indicates that redevelopment and new development would be impacted by nearby incompatible commercial uses. The question is, wouldn't redevelopment and new development be incompatible with existing historical uses of marine commercial, marine industrial, and port activities (working waterfront)? One more item, what does the City propose as mitigation of the incompatibility? Just on a personal note, he has done some business down a way to the south county and some to the north and a few other places around the State and he does think there are quite a lot of communities that do deal with these issues of potential incompatible issues and he hears people use words like fence and the like. He is not here to school anybody, but he just wants to remind them he thinks they are trying to build more bridges and have less walls and less fences. That is just kind of a personal note. He appreciates their time and hope they will consider these comments from the marine industries. As Mr. Murphy pointed out, they do represent a pretty sizable economic impact. Even though some of them are more oriented toward recreation boating, a little bit of solidarity here with the folks down there at the Port and they would like everybody to kind of get along.

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

Commissioner Nelson asked does Staff recall the height on the Harbour Isle wall?

Mr. Margotta said no, he doesn't have that at hand; but he believes it is 8 feet plus, just by standing near it.

Commissioner Nelson said 8 feet to 10 feet he would guesstimate.

Commissioner Coke said they had some discussion earlier about if there were a container at a local store being unloaded, would it need to be fenced or screened. She assumes there is a place in this ordinance or do they need to clearly define temporary?

Mr. Margotta said that is a great thing to bring out. Because temporary, while something is occurring or somebody is moving, those are obviously very temporary things. When it is a very normal part of their regular business to have an area designated for outside storage, that is the kind of thing they are talking about, where things are typically stacked. He understands that the stack may move and morph over time, just logistically things changing. But they are talking about trying to designate the area where this will be and just what the impact of that is, intensity.

Commissioner Coke said she understands that is what they are trying to do. Do they have a definition someplace in this ordinance or somewhere else in the code that defines temporary?

Mr. Margotta said yes, they do. Temporary uses are temporary uses, those are already defined. A construction site is not a permanent thing by nature, it is something that is in transition. These are understood and are general concepts. He doesn't even know if they need to go beyond what is currently in their ordinance. A temporary use is absolutely defined. He did want to add one thing. They are talking about accessories to the primary use. These are accessory uses where they store things and where things are located around the site and so on, it is all whatever was approved for that site to be used.

Commissioner Coke asked is it possible for them to move forward this evening and include the exceptions that were listed on the slide for second reading - boats, masts, equipment, cranes?

City Attorney Schwerer said he would hesitate to do that because he thinks they are substantially changing the ordinance by doing that. Secondly, he is not sure they need to change the ordinance to deal with boats and machinery and equipment, because there is an issue about whether that really is materials.

Commissioner Coke asked if they were to move forward with this and read that into the record, that paragraph again, would that then stand for future?

City Attorney Schwerer said he would say that expresses their intent on what they are doing here and would serve as clarification on this ordinance, that this ordinance is not intended to regulate those activities. However before they do that, he would like to comment about one of the items that is in there, and that is the orange containers. He would ask that they not include those as part of it because those are also containers that are used to store goods or materials in. He would not want to debate staff on that tonight, but certainly that is one of those he saw on that list that may cause a problem.

Commissioner Coke said then if he is saying that would substantially change the ordinance, then the exclusion of the part of the suggested ordinance that discusses the wall, would that substantially change the ordinance, or can they exclude that for now and move forward?

City Attorney Schwerer asked can he have some more clarification? Is she saying can they change the height of the wall; or does she want to eliminate the issue of the wall or fence totally from the ordinance and deal solely with the height of containers?

Commissioner Coke said she is not happy with the 30-foot wall. If they can amend it or change it and have something inclusive with landscaping, she can live with that kind of thing.

Mayor Benton said either/or, some type of buffer.

Commissioner Coke asked but they can change it at this juncture since it was a recommendation of the Planning Board?

City Attorney Schwerer said yes. The recommendation of the Planning Board is not binding on the Commission, so they can change it. The question then becomes is whether they are making a substantial and material change to the ordinance that may require it to go back to be redrafted and then readvertized.

Commissioner Coke said that was the question.

City Attorney Schwerer said let's see what substantial and material changes they may be suggesting. If those are not substantial or material, then they can make the amendments from the dias tonight and have it brought back for second reading with those changes. But if those are substantial and material, it is a simple direction to Staff to bring it back in its draft form and readvertize. It may require a new Planning Board hearing as well, again if it is substantial material, so they can have the benefit of their recommendations.

Mr. Recor said a test they can use in deciding how or if they want to change the ordinance would be in defining a material change is whether or not it is more or less restrictive. In the case of the fence where they have advertized and they have been discussing all along the potential for a 30-foot fence, when what they have heard tonight at least three of the Commissioners say they would rather not go there, that is something that is going to be less restrictive than what has been advertized. So in his opinion, that wouldn't require and constitute a substantial change or material change requiring re-review by the Planning Board. So keep that in mind as they decide what they would like to change.

Mayor Benton said he likes Mr. Recor's opinion.

Commissioner Alexander said along with the definition they were speaking of temporary storage, they got that clarified. But along with the public right-of-ways, he is understanding that is the sight line of their obstruction of properties, to obscure from the public right-of-way?

Mr. Margotta said in addition to that, if this industrial use was located next to a residential use to buffer also between the conflicting land uses.

Commissioner Alexander asked but they are trying to make sure they define that is the public's right-of-way they are trying to set up this obstruction to, right?

Mr. Margotta said that is correct.

Commissioner Nelson said they are talking about the height, the number of containers they stack on top of each other. He is wondering whether or not they need to address a finite height. Even though they can say three would be 30 feet and four would be 40 feet, changes in technology and capacities over the years might evolve to the point that a container, if they say three, now it might be 10 feet but tomorrow it might be 15 feet for a container. He thinks they need to include in there a height in conjunction with the number of containers they stack, so he would like them to consider that.

Commissioner Becht said just a couple of points. The reference earlier to not having thought through FEC or Rinker is misplaced. Those operations would obviously be grandfathered-in, so they are not going to be impacted except if they tried to do something substantial later. And if they would come in today in the locations they are in, he thinks they probably would seek some type of buffering. He would agree with Commissioner Coke that he would like, not an all-inclusive, but a fairly extensive list of excepted things, excepted meaning they are not to be included or covered by this ordinance. They don't have that or they may have that tonight. He thinks they may be off track, which happens sometimes. In his opinion, the goal is buffering and the goal is balancing the impact of ordinances on not just Indian River Terminal but all businesses that are in the City, but particularly Indian River Terminal because they are going to be immediately and directly impacted by this he thinks. But the goal is buffering. So they need to buffer what they are

doing legally and apparently doing it right, because they have increased employees, he thinks the numbers were like 10 to 55 now. They need to buffer the bad things about that business from an aesthetic standpoint. They have a 50 foot building on Fisherman=s Wharf that currently blocks his view of any stacked containers on the north side of the building if he is just on Fisherman=s Wharf. If he is at the top of South Bridge, he gets to see everything. So they have to balance that. What he is getting at is, if the goal is truly buffering, why are they going to make them landscape to 30 foot or whatever high along Fisherman=s Wharf? Although he would like to see them do that. Why are they going to make them to do that to obscure the containers that are on the north side of a 55-foot building? He just throws the question out for consideration. The other thing he would want to suggest to them is it might make more sense, if the goal is buffering, to take the line of sight idea and modify it a little bit. What he would throw out for discussion is, buffering being the goal, setback could help. If they only wanted to go to 10 feet of materials or containers, they have a 10 foot setback from the property line with 20 foot trees and heavy landscaping. He is not saying he does, but if there are three that want to go to 40 feet, then they have a 40-foot setback with a heavy bank of landscaping, trees, and whatnot. He doesn=t have a problem with a 10-foot fence or wall. When they get over 10 foot, he really thinks they start to create an effect that Mr. Laven talked about - they are not building bridges any more, they are creating a problem and not an interconnected community. So he would throw those things out for consideration and see if they can get any traction under any of those ideas.

Commissioner Nelson said let him address an issue he mentioned there relative to landscaping on the north side. Did he say south side or north side?

Commissioner Becht said the building as depicted he is talking about that is 55 feet tall is located on Fisherman=s Wharf. The building is on the north side of Fisherman=s Wharf.

Commissioner Coke said it is on the south side of the property.

Commissioner Becht said it is on the south side of the property. So the landscaping... They are getting very particular at Indian River Terminal and he is really not so comfortable with that, but it points out a flaw he thinks...

Commissioner Nelson said he is trying to look at the perimeter of the property and where they are going to have the fence. Is it going to be around the building or the perimeter of the property?

Commissioner Becht said that is the point he is making. If the goal is buffering, why are they making them incur the expense of fencing on the south side of a 55-foot building? This ordinance as he is reading it, it seems to him that the ordinance as currently drafted would require them to put up a fence along Fisherman=s Wharf on the south side of a 55-foot building, when all the containers are stored on the north side of that building right now.

If they ever store containers on the south side of the building, then obviously they ought to do the buffering. He is going to use the term buffering, because he really thinks that is more consistent with what they are trying to achieve here.

Mr. Margotta said the ordinance describes a perimeter, regardless of whether they have a 55-foot building or a 10-foot building or a 30-foot building.

Commissioner Becht asked so as drafted, it would require that fencing or landscaping buffer on Fisherman=s Wharf being particular to Indian River Terminal, is that correct?

Mr. Margotta said yes, that is correct.

Commissioner Becht said that is where he thinks it is flawed as currently drafted.

Commissioner Nelson said he was thinking on the north side in terms of the perimeter of the property.

Commissioner Becht said let him be clear, because he doesn't want anybody to mistake what he just said. That operation needs to be buffered. And they need to create an ordinance that is fair to that property owner and every other property owner that is going to be impacted by it in the future as far as they can see. When they go out 15 years, this issue is going to be dealt with people who come behind him at least. He doesn't want to deal with this at any more meetings; but they are going to have to because the way it is currently drafted, it would require things that he does not intend. If they want to try and set a parameter tonight on height, whether that is 30 feet or 40 feet, maybe they should do that with direction to Staff. If they want to talk about the setback, maybe they should talk about the setback some more.

Mayor Benton said let him see if they can get a consensus here in a minute. He thinks the big issue here is, the number they wanted these things stacked. That is what at their workshops they have been talking about it for years. A visual buffer, he believes Indian River Terminal already has one. A little fertilizer and soon it will be high enough with some trees that it will be visually blocking those containers if they are three high. He thinks that is what they are looking for is to come out of this. They have debated this, God knows how many hours, maybe 100 hours on this. He is looking for Commissioner Coke to make a motion.

Commissioner Coke said she is going to point out one thing. First of all she wants everybody to remember that what they are talking about is citywide, number one. Number two, they do have the ability to change this in the future. Now specific to Indian River Terminal because they have all been here this evening, they are talking that presently 200 meets their needs, but in the future they might need 300, 400, or 500. She would put to them that is they pass this at 30 feet now, that gives them the capacity to grow their business 50%. If she could grow her business 50% in five years, she would be the happiest girl in town. So if they get to the point where that three is not meeting their needs, certainly future Commissions can come back and revisit this or go from there.

Motion was made by Commissioner Coke, seconded by Commissioner Nelson, (to amend Ordinance No. K-516) to go with the 30 feet as recommended by Staff, understand that this is a citywide ordinance, that they change the 30-foot wall to an 8-foot fence/wall/landscape buffer, and include the exceptions - boats, masts, equipment and cranes (and that Ordinance No. K-516, as amended, be passed on first reading).

Commissioner Nelson said he would like them use the Harbour Isle as the model as to height. Staff did not give them definitive height on that and that is somewhere in between 8 to 10 feet in height; and that they modify the motion to include the words three containers high and/or no more than... 30 feet is it?

Commissioner Coke said yes, that is what she said.

Commissioner Nelson said he didn't hear Commissioner Coke say anything about the number of containers.

Commissioner Coke said 30 feet. She thought that handled it.

Commissioner Nelson said as he indicated earlier, tomorrow the industry might come in with containers 45 feet wide. They got these big jumbo jets now that can carry bigger things and all this kind of stuff. He just wants to have the number of containers and the footage they can contain.

Mayor Benton asked she said three and 30, right?

Commissioner Nelson said if that be the case, that be the case.

City Clerk Steele said she said 30 feet recommended by Staff.

City Attorney Schwerer said his recommendation would be to stay with the foot height. Because however many they can fit in there, if the industry standard changes and they are only 8 feet tall or 6 feet tall. 30 feet he is more comfortable with than doing numbers now. Commissioner Nelson said okay. The one portion there about the Harbour Isle as a template to go by, 8 to 10 feet?

Commissioner Alexander said Harbour Isle has a wall. They are speaking of a barrier.

Commissioner Nelson said height, wall, landscaped, and all this kind of stuff that they want there. Whether it be a wire fence, a wooden fence, or a concrete fence, he doesn't care. Are they specifying that?

Commissioner Coke said that is why she said 8 foot, because she believes that is what Harbour Isle was supposed to be, but they bermed it up.

Mayor Benton said he believes it is 8 feet, because it is sitting on a little bit of a hill. But he believes that is what the code... He doesn't think their codes allowed for a fence or wall higher than that.

City Clerk Steele said her motion was an 8 foot fence/wall/landscape buffer.

Commissioner Coke asked could they please verify that Staff will issue a permit for that?

Commissioner Alexander asked his question of concern is, they said the perimeter, are they talking about 100%?

Mr. Margotta said he didn't mean to mislead them on this one. It is public road, the right-of-ways, or if there is a change in zoning or a change in land use in between the two. Incompatible would be industrial next to residential. So he didn't mean to imply it is 100% perimeter. It is only where they have those things butt up against each other.

Commissioner Alexander said okay. Because his question goes to he thinks Mr. Turner was here, he is out on Orange Avenue. If he was to do the frontage on the public right-of-way, then he wouldn't necessarily have to do anything on the rear of his properties.

Mr. Margotta said provided he has similar zoning around it, in this case industrial.

Commissioner Alexander asked there are no roads or streets? Again, just on the ordinance itself he thinks they should consider... He will just back up and leave that alone.

Commissioner Becht said he is not following the application of Mr. Margotta's interpretation of the requirement to the Indian River Terminal property. Are they going to have to put up the fence/landscape/wall buffer all along Fisherman's Wharf?

Mr. Margotta said and 2nd Street.

Mayor Benton said it would be from the end of the building.

Commissioner Becht said this is his problem. Those two guys (Mr. Margotta and Mr. Buchwald) don't have a clear understanding between them about what it means. How are they expecting the public to understand what it means?

City Attorney Schwerer said he can answer Commissioner Becht's questions. In his interpretation of the code - he sees where Commissioner Becht is going - they have always interpreted the code as to be screened from public view. So if something else screens besides a wall, then they have not interpreted the code to allow a wall to be placed in front

of a building. They have always reviewed anything in the code where it says screened, to be screened from public view. So a building would suffice in place of a wall, so that the code should not be interpreted as requiring a wall to be built in front of that 50-foot tall building.

Commissioner Alexander said that is what they wanted to clarify.

Commissioner Becht said that is the clarity he was looking for.

City Attorney Schwerer said that is what his office has viewed in the code. He is not sure they have had to interpret that for Staff because they haven't had cases where someone had questioned this. It has always been, screened from view.

Commissioner Becht said these two have caucused now. Are they in agreement with that?

Mr. Margotta said he understands what he is talking about and that is a reasonable interpretation by all means.

Mayor Benton said the Commission sets the policy, so that is what they are saying, if the building is obscuring it, they don't build a wall or plant in front of the building.

Commissioner Coke said they wouldn't object to any landscaping.

City Clerk Steele said point of order. What was in front of the Commission tonight was an ordinance. Did she mean to pass the ordinance with these changes, or did she want to rewrite the ordinance?

Commissioner Coke said they are going to pass the ordinance with those changes.

City Clerk Steele said so that is part of her motion, is that it be passed with these amendments.

Commissioner Coke said yes.

Commissioner Becht said just one last point. They are not going to address the setback issue that he threw out.

Commissioner Alexander said there is a setback already in the ordinance.

Commissioner Becht said the setback he is talking about is that if they want to go to 30 feet, they have to be 30 feet off the property line.

City Clerk Steele said that was not part of her motion.

Commissioner Becht said there is no traction to put it in there.

Mayor Benton said in their case they couldn't do it without losing a lot of...

Commissioner Becht said if they look at the pictures, they are not losing anything.

Mayor Benton said he has been to their site enough to know.

Those voting in favor of the passage of Ordinance No. K-516, as amended, were: Commissioners Becht, Coke, Nelson, and Benton. Those opposed: Commissioner Alexander.

Mayor Benton said they will have that back here at their next meeting with the changes.

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City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 07-41

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, CERTIFYING THE REAPPOINTMENT OF **ROBERT W. SUMMERHAYS, JR.** AS A MEMBER OF THE **FORT PIERCE UTILITIES AUTHORITY BOARD**; PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Commissioner Alexander, seconded by Commissioner Becht, that Resolution No. 07-41 be adopted.

Those voting in favor of the adoption of Resolution No. 07-41 were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

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City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 07-42

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, REAPPOINTING **GLORIA J. JOHNSON** AS A MEMBER OF THE **POLICE OFFICERS RETIREMENT FUND BOARD OF TRUSTEES**; PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, that Resolution No. 07-42 be adopted.

Those voting in favor of the adoption of Resolution No. 07-42 were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

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City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 07-43

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, CERTIFYING THE REAPPOINTMENT OF **CLYDE G. KILLER** AND CERTIFYING THE APPOINTMENT OF **ELISE ANN ROLLINS** AS MEMBERS OF THE **COMMUNITYWIDE COUNCIL**; PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, that Resolution No. 07-43 be adopted.

Those voting in favor of the adoption of Resolution No. 07-43 were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

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The next item on the Agenda was Resolution No. 07-44, Appointment to the **City Planning Board**.

City Clerk Steele said the next item is a Resolution to appoint a member to the City Planning Board. The City Commission has several applications that they took home to review two weeks ago. In order to read the resolution, someone will have to suggest a name be placed in the Resolution.

Commissioner Nelson asked did they get any additional applications from people in District #1?

City Clerk Steele said had they gotten additional applications, those would have been in their package.

Commissioner Becht said he would suggest William Dannahower.

Commissioner Coke said she would second that.

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 07-44

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, APPOINTING **WILLIAM D. DANNAHOWER** TO THE **CITY PLANNING BOARD**; PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Commissioner Becht, seconded by Commissioner Alexander, that Resolution No. 07-44 be adopted.

Those voting in favor of the adoption of Resolution No. 07-44 were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Commissioner Becht said he thinks they are very lucky. Four years ago when he came on board, they were having a hard time getting people to offer to serve. They have six people who have applied; and in his opinion, it is a very close call as to who is most qualified. They have six people applying for one position. He thinks that speaks well for Fort Pierce.

Mayor Benton said especially knowing these meetings. When Commissioner Becht and he sat on the Planning Board, he can remember when they had 20 minute meetings or an hour long meeting in the back room. And now they go to midnight, some of them. So that is a commitment.

Commissioner Alexander said come January they are going to have several other vacancies, so he thinks that is a good start.

Commissioner Nelson said he had asked the question about other applicants because he is desirous that they have representation from throughout their City on these various boards because people need to know what is going on. And through those district representatives who live and dwell with the people, they make more comprehensive representation. So right now he thinks that board is skewed a little bit toward District #2, the Planning Board. Mayor Benton said they need to work on it, recruit.

Commissioner Nelson said he has been trying.

City Clerk Steele said it is five to four.

Commissioner Nelson said good. He thought it was three.

Mayor Benton said they have alternates on the Planning Board. He is just wondering in the future when it comes to somebody moving up, he would think one of those alternates might have taken a permanent position. That is something they need to talk about. Because sometimes that is why they are there.

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

City Clerk Steele said they have an application for consideration and there will be a resolution for appointment on their next meeting.

Commissioner Coke said it seems to her, she knows a lot of people had put in applications for the Advisory Board initially. Do they still have those names?

City Clerk Steele said she has about 12 applications, but this is the only City resident and it is a City resident slot that must be filled. Everybody else was County.

Commissioner Alexander asked how many vacancies do they have?

City Clerk Steele said just one City resident vacancy.

Commissioner Coke said she likes Robin Dannahower, she thinks she would do a fine job. But she gets concerned because they have a couple of people from the same family sitting on the same Board.

City Clerk Steele said Suzanne Dannahower is Robin Dannahower=s sister-in-law.

Commissioner Coke said if it doesn=t bother anybody else, fine. If it does, maybe they should extend the...

Commissioner Alexander said it doesn=t bother him, but he is just trying to see what kind of disparity they have on the Board as far as District #1 and District #2.

City Clerk Steele said from the City they have three District #2's and two District #1's. They have two from St. Lucie County, two from Port St. Lucie, one from Martin County, one from Indian River County, and then they have a high school students from District #2, and one City Commissioner - Commissioner Coke.

Commissioner Alexander said she is speaking of six representatives from District #2?

City Clerk Steele said of the City residents there are five and then they have a high school representative.

Commissioner Alexander asked they have no high school student representative from District #1?

City Clerk Steele said there was only one opening and there was only one application. That was back when they first set up the Board.

Motion was made by Commissioner Alexander, seconded by Commissioner Nelson, to extend the time to ask for additional applications for the Sunrise Theatre Advisory Board.

City Attorney Schwerer asked by when?

City Clerk Steele said she will bring whatever applications she gets to the next meeting.

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 Submittal of Applications for Appointment to the **Historic Preservation Board.**

City Clerk Steele said they have applications in front of them and there will be a resolution on the next meeting Agenda.

Commissioner Alexander asked what is the representation on the Historical Preservation Board?

City Clerk Steele said on the Historical Preservation Board they have three from District #1, three from District #2, and one from the County.

Commissioner Alexander said they have one vacancy.

City Clerk Steele said the vacancy is from District #2.

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The next item on the Agenda was Mayor to discuss proposal to implement **Senior Homestead Property Tax Exemption**.

Mayor Benton said they discussed this item in May (May 21, 2007). They received some other information that it possibly would cost the City \$70,000 versus what the newspaper said \$110,000. It was something that was voted on in a referendum at the time of tax reform. He wanted to bring it back. This is just a little bit of unfinished business. This is for exemptions for seniors that make less than \$20,000 in income. This would exempt them an additional \$25,000.

Commissioner Becht asked can somebody tell him what the age limit is if they were to pass this? They are taking a step back. What they are talking about is enabling a senior citizen - which somebody is going to define for him - with an income of less than something - that someone is going to define for him - to receive a second \$25,000 homestead exemption. Is that what Mayor Benton is proposing?

Mayor Benton said that is correct.

Commissioner Becht said it is limited to \$25,000. It is not going to change if something weird happens by the Legislature and they yank that up to \$50,000. Is that correct?

Mayor Benton said that is correct.

Commissioner Becht asked what is the age that one would be entitled for this?

Mayor Benton said he believes it is 65.

Commissioner Becht said he wants to know, he doesn't want to believe, with all due respect.

Commissioner Nelson said he really doesn't know.

Commissioner Becht asked who does know?

Mayor Benton said he voted on it, so he believes the language, everything is done by 65 today, that is retirement age.

City Attorney Schwerer said he is sorry, he does not know what that age is. It is whatever the statute specifies. He thinks the County ordinance that was adopted parroted the statute that allowed the additional exemption.

Commissioner Becht asked what is the income restriction, does anybody know that?

City Attorney Schwerer said the Commission wouldn't be voting on the ordinance tonight. It would be back before them. He would ask that they request staff to provide them with that information at the time.

Mayor Benton said he believes it was \$20,000.

City Clerk Steele said \$24,214 according to the newspaper article.

Mayor Benton asked what was the age limit?

City Clerk Steele said it doesn't say.

Commissioner Becht asked how is it verified? He doesn't want his questions to come across like he is in opposition of this. He just wants to know what it is before they pass it, so they are not caught later with they passed a \$25,000 exemption but it is tied to a statute that when the Legislature raises the homestead exemption to \$50,000 it automatically goes to \$50,000, and if Legislature changes the age from 65 it automatically drops to 55, if the Legislature does that. The final thing he wants to know is, how is the income verified and who is it verified to? Is it verified to Bob Davis? And through what mechanism? A little letter that says that person doesn't make more than \$20,000 or \$24,000? Or is it a tax return?

Mayor Benton said he has been told it was a tax return seen by the Property Appraiser.

Commissioner Becht said he needs answers to those questions.

Commissioner Nelson said he can't see where that is appropriate. There are many seniors who don't file tax returns who have homestead exemptions.

Mayor Benton said they have to prove it somehow.

Commissioner Nelson said if they don't file a tax return based on the fact that their income is not listed, how are they going to get blood out of a turnip?

City Attorney Schwerer said the process to qualify for this additional exemption is already set up in the law. The verification process would require a third party, not the Commission. It would be the Tax Collector's office to obtain that. All that is set up in the process. So they wouldn't necessarily be setting up in the ordinance the process, it has already been done; and they would parrot what the County did by taking advantage of that additional exemption.

Mayor Benton said by the time it is brought back to this Commission, he will see that Mr. Furst has all the conditions on it in front of them.

City Attorney Schwerer said they can ask him what he gets from the applicant as far as verification is concerned. That question should be directed to the Tax Collector's office.

Commissioner Becht said he is going to direct to Mr. Schwerer, if he could get him the statute on what is in the statute.

City Attorney Schwerer said they can ask for a report on that and get it from his staff.

Commissioner Becht said he is not looking for a report. All he wants is a copy of the statute. He can read the statute if Mr. Schwerer can just get him the statute.

Mayor Benton asked are there three votes to move forward with this to advertise it?

Commissioner Nelson said he has some real concerns about this. He is convinced that there are many of their citizens out here right now on fixed income and making less than \$20,000 or whatever the case may be who do not file a tax return. They might just be encroaching on their privacy when they ask them to...

Mayor Benton said then they won't get an exemption. If they want an exemption, there are rules to go by. If they are not willing to fill out the proper paperwork, they won't get the exemption.

Commissioner Becht said they don't know what that process is. The questions he is asking are designed to make sure that this benefit that they are attempting to bestow on the senior citizens, that they know what they are supposed to do. And if there are flaws with it, maybe they can work with the Property Appraiser to make it more accessible.

Commissioner Nelson said it won't hurt them to find out.

Mayor Benton said the County has already enacted it. They did it maybe a couple of years ago or a year and a half ago.

Commissioner Becht said he is in favor of proceeding with it.

Commissioner Coke said so is she.

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The next item on the Agenda was Discussion on proposed Seminar by Florida League of Cities and the Florida Conflict Resolution Consortium to help make City Councils and Advisory Boards more effective.

Ms. Anne Satterlee, Assistant to the City Manager, said she wanted to present this to the Commission tonight to see if there is any input and interest in pursuing this. The Florida League of Cities is offering a seminar that would cost them nothing as a City government, other than for the registrants who would come to the four hour event. It basically would be helping advisory boards be more effective in communicating with each other and to the public. The Florida League of Cities would be handling all the arrangements as far as scheduling the speaker for the four-hour event, advertising, and registration. In addition to this, it won't be just for the City of Fort Pierce, they can offer it to city and county governments and other advisory boards in Indian River County, St. Lucie County, Martin County, any one on the Treasure Coast in their general vicinity.

Mayor Benton said he thinks it would be a good idea.

Commissioner Alexander asked did he see a number attached to this, the number of applicants?

Ms. Satterlee said yes, 40 to 60 applicants they can take.

Commissioner Alexander asked so if they open it up to Indian River County and the entire St. Lucie County, they are going to be losing some representation, right?

Ms. Satterlee asked does he mean from Fort Pierce?

Commissioner Alexander said if they open it up to the tri-county area, it is going to be more than 40.

Ms. Satterlee said that could be. But she thinks typically in this range they have done this for a couple of years and they feel comfortable that number of about 40 to 60.

Commissioner Becht asked if Ms. Satterlee could take a poll of the City boards, he would be interested in attending it. He doesn't mean this in a sarcastic way, but he is really not anxious to make either Vero Beach or Indian River County or St. Lucie County or Port St. Lucie or Martin County or Stuart more efficient. What he is really trying to do is get an edge on them. If the seminar gives Fort Pierce an edge, he really doesn't want to open it up to them. That is the way he feels. He hopes that doesn't sound ugly.

Mayor Benton asked does everyone agree? Three of them agree at least.

Ms. Satterlee asked just for clarification, this will be for St. Lucie County?

Mayor Benton said he thinks Commissioner Becht just wanted it for Fort Pierce.

Commissioner Becht said he is serious, he is not making a joke. He would want to give the City's advisory boards and the City Commission an advantage. He would rather not include St. Lucie County or Port St. Lucie. So if that comes across wrong...

Mayor Benton said if they can get the appropriate number of people to have interest.

Ms. Satterlee said to offset the cost.

Mayor Benton said if not, they will have to go outside.

Ms. Satterlee said okay.

Commissioner Nelson said they are talking about \$45 per registrant and they put 60 people out there. That is 60 times \$45. Do they have the money to handle that?

City Manager Beach said \$325 by his math.

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The next item on the Agenda is Presentation from Chief of Police on **Take Home Vehicle Program** - Employee Surcharge.

Chief of Police Sean Baldwin said they should have a copy of his report (dated September 19, 2007) to Mr. Beach regarding the Police Department's take home vehicle program. He knows from past experience that all of them have read through it, so he won't bother going through that line by line. He does want to point out that the report addresses all of the issues that were brought up during their budget review and some questions maybe that they had as a group and then individually. It starts out by outlining some of the benefits that the program provides for the City, describes their policy, how the policy came to be in place, and how it has been implemented at the Police Department. It takes a stab at trying to provide the cost of the program. And then finally the purpose why this item has been agendaed tonight is it considers a surcharge to employees to offset the ever-increasing cost of fuel it is taking to continue the program. Before he gets started with that specific issue and they delve into that, he wanted to point out just a few things that he has noticed as he is reviewing this. First of all, they have fewer take home cars this year than they did last year. Last year, in July of 2006 when they reviewed the program, they had a 112 take-home vehicles, 12 of those were issued to non-sworn personnel and there were 6 exceptions to the distance limitations on the policy. Today there is 105 take-home vehicles.

The non-sworn personnel assigned to take-home vehicles has been reduced to 7 and there are only two exceptions to the distance limitations for personnel. They can discuss those in detail if they want to. He wants to point out that their study concluded that the cost of the Police Department's take-home vehicle program is about \$60,000 a year, which is far less than the article he sees here about West Palm Beach, their expenses. Thirdly, it is important as they discuss this that there truly is a real benefit to the City of Fort Pierce in continuing with the take-home vehicle program. They could go through a lengthy process and do the cost/benefit analysis, all of that they have heard before. But he wanted to point out just one thing. He sat here and did some numbers. When he talked about the benefits, one of the things he talked about is the time it saves the officers at the beginning and end of every shift as they prepare. He can tell them from his experience that is at least 30 minutes every shift they work, they are saving 15 minutes in the beginning and 15 minutes at the end of the shift. What does that produce in terms of a cost benefit? If they multiply that savings times the number of shifts that officers are working and then by the number of officers and detectives they have participating in the program, he gets about 7,600 hours a year that are saved just in saving that 15 minutes at the beginning and ending of the shift. That approaches \$190,000 in a benefit to the citizens of Fort Pierce. From there they need to talk about the idea of an employee surcharge or an employee fee. He explored the idea of charging \$10 per pay period to each employee who has a take-home vehicle who lives outside of the City of Fort Pierce. The reason he says outside the City of Fort Pierce is

because really the program he believes is cost neutral when they talk about parking a vehicle on one side of the City as opposed to the other side of the City, so they exclude those. It is actually not \$10 per pay period, he wants to make that clear. For administrative purposes if they are going to do this, it needs to be an annual fee they spread out over the year; otherwise it will be absolutely impossible to track day to day who is at work, who is sick, who is on vacation leave, who is not here. So if they average that out, it is \$260 a year per employee. Roughly that would generate about \$18,000 to \$20,000 a year to help offset the fuel charges.

Commissioner Coke asked did the Chief talk to any of their officers regarding this? And what kind of feedback did he get?

Chief Baldwin said he wants to be careful about making this a union issue and something that needs to be negotiated and so forth. But he has had conversations with several of the employees around the Police Department, both supervisory staff and non-supervisory staff. He purposely notified the union, both the supervisor=s union and the employee=s union, that this was an issue they are considering and discussing. He doesn=t want to misrepresent them, but his experience is that he has not gotten a huge objection to considering something like this.

Commissioner Coke said she is just one person here, but her theory would be for \$18,000 a year it is probably not worth Mr. Bergalis doing the paperwork and implementing a whole other system. Her concern is that quite often when they have done things in the past - and please don=t take this wrong - that affected people at City Hall, everybody was thank you, they appreciate it, etc. When they do things over there, people just kind of take it for granted. So what she doesn=t want to do is go ahead and pursue this issue and have them all say that was nice of them not to pursue it, but it is not that they should be grateful that this is a benefit they have. She thinks it needs to be recognized as a benefit that they have.

Commissioner Becht said he agrees that the cost of administering the program will probably burn up the initial benefit of the \$18,200 that they are talking about. What he doesn=t think that analysis gets to is what it might mean to the police officer who is not living in Fort Pierce now. As the cost of the take-home vehicle goes up over time, and it will, to those who live outside Fort Pierce it might motivate more of them to live within Fort Pierce. \$260 probably isn=t going to do it today, but it may. If they know they don=t have to pay that \$260 out of their pay if they live in Fort Pierce, maybe more of them would live in Fort Pierce. And with the salaries these guys are getting, which is earned, he would like for those salaries to be spent in Fort Pierce; and if they live in Fort Pierce it will more than likely be spent in Fort Pierce. He appreciates the comments that they are probably not going to have a real tangible benefit of \$18,200 when the cost of administering it is factored in, but he thinks there is an intangible benefit that warrants proceeding with it.

Commissioner Coke said that is a valid point.

Commissioner Alexander said he thinks it is a good idea. He doesn=t know how many individuals they have who live outside of Fort Pierce, the range Chief Baldwin is speaking of. Do they have any type of numbers on that?

Chief Baldwin said he can give him the exact numbers. They actually divided this up by sworn and non-sworn personnel. They have 30 officers who have take-home vehicles who live within the City, they have 59 who live somewhere within the County, and then eight who live most likely in the southern parts of Indian River County, but are still within the 10-mile limit. Their non-sworn personnel, they have one who lives in the County, five who live in the City limits, and they have one who is outside both the County and the 10-mile limit - that is their Public Information Officer who lives 18 miles from the City limits. While he is here, so he makes sure all of them have heard this, they have made two exceptions and these are exceptions that they have made for the last couple of years for both of these

employees. They have one detective who lives 11.1 miles from the City limits and they have a Public Information Officer who lives 18 miles from the City limits. Those employees both have had vehicles since they have been on their assignments.

Commissioner Alexander asked out of those eight individuals, he just said he made two exceptions. Are there any other officers who, once they get in their car, they are 10-8 (In Service)?

Chief Baldwin said that is correct. When the officers get in the car, that is one of the benefits. When they get in their car and they are traveling to work, they have to be available for service.

Commissioner Nelson said first of all, let him thank Chief Baldwin for the information. He submitted to him an article that appeared in the Palm Beach Post which he thinks they all have copies of. This is a serious issue. In West Palm Beach considerable monies are being spent and they are looking at it from the standpoint that an internal auditor address the issue to portray very vividly that the system they have is being abused. Extrapolating that to this situation, there is a possibility that they might have a similar situation here in Fort Pierce. They as Commissioners are required to live in Fort Pierce, live in their Districts, and all that. When they have a governing body with those kinds of mandates or dictates governing them, of course it should be moved forward to the point that the people who are enforcing their laws should be among their midst to make sure their laws are being adequately adjusted to and addressed in every respect. He was amazed the other day when he learned that even though they give some of their officers free housing, that they are not getting them committed to living in some of their areas. Specifically he thinks they had a case over at the Housing Authority there on 13th Street and Avenue M, a beautiful facility over there. They do have some of them living as security officers at their schools. They have some who are in fact using vehicles to provide security at banks and grocery stores. Sometimes they even go to the point of having Supervisors go in and check on those officers at those isolated satellite type duties. Is it the Chief's policy to have a Supervisor check on an off-duty officer at a grocery store for example, or a bank? How does that work?

Chief Baldwin said yes, one of their Shift Supervisor's responsibilities are to check on those officers who are working at those details.

Commissioner Nelson said so they are not only allowing the officer to do the off-duty work, but they also are using an on-duty Sergeant or Lieutenant to supervise him in an off-duty capacity.

Chief Baldwin said yes. Actually his staff has prepared a proposal to collect an administrative fee for the off-duty detail program that he has not submitted yet because they have been going through their budget process and there are some issues with that. He didn't want to convolute their budget process by talking about bringing on another employee to administer that program. But that will be submitted for consideration. It is something they have been working on for a couple of months. What he is trying to say is yes, there are some administrative expenses with taking care of the off-duty detail program. There is a way to fix that, just like this proposal, so they make sure the citizens of Fort Pierce aren't paying for that. But again, just like the take-home vehicle program, he wants to remind them that there is a very clear benefit to having the hospital and the Publix and the convenience stores pay for officers to do security at those sites. They are handling police business on somebody else's dime and not the taxpayer's. So there is a true benefit to that.

Commissioner Nelson said when they are doing that at these hospitals and grocery stores, that is good, those are secure. But when they are robbing him and stealing air conditioners from his house and from his properties, that is bad, or they are killing each other down the street from where he lives, that is bad. If that officer is not there... If the officer were there

in proximity of those places where these kinds of activities go on, there is a chance in his opinion of the crime not being committed.

Chief Baldwin said he is sorry, but he doesn't understand the connection between an off-duty detail officer working at the hospital and an air conditioner being stolen from Commissioner Nelson's property.

Commissioner Nelson said he is talking about they have a vehicle that nine times out of ten the officer is living some other place and is working now at a private enterprise in his City. He is not protecting him as a private citizen in his neighborhood.

Mayor Benton said maybe not in his neighborhood, but he is protecting his constituents when they go shopping down the street and at other various functions. They are only doing this inside the City limits.

Commissioner Nelson said maybe he is, maybe he is not - he doesn't know.

Mayor Benton said seeing an officer in front of Publix is definitely an advantage for all of them.

Commissioner Nelson asked are there any restrictions relative to them working outside of the City - in Stuart, in Port St. Lucie?

Chief Baldwin said their officers cannot work off-duty details outside of the City limits because they don't have law enforcement authority to that extent outside the City limits. So no, they cannot do that.

City Manager Beach said this agenda item is presented to the Commission for the Commission to either ask staff to move forward with it or to cast it aside. If they decide to move forward with it, the City Attorney needs to add a comment or two before it moves forward.

Commissioner Coke said she thinks they should move forward with it.

Commissioner Nelson asked what is moving forward?

Commissioner Coke said the Chief's suggestion as presented.

Commissioner Nelson said he is for moving forward, but he is also amenable to some logical discussion of it. They need to visit this. This is a high ticket item.

Mayor Benton said they are discussing it.

Commissioner Nelson said good, let's continue discussing it.

Mayor Benton said where they are at with it is bringing it back if there are three Commissioners, which he sees there is, to bring it back. The City Attorney has something he would like to add.

Commissioner Coke said Chief Baldwin did a good job on this report.

Commissioner Nelson said he thinks it is an excellent report, factual.

City Attorney Schwerer said if it is the will of the Commission that this policy be put in place, it is likely that it will require some impact bargaining. But they will be in session with these contracts he believes for the October 1st fiscal year starting today, so this could be added to the number of subjects that will be on the table when it is discussed. They simply just can't do this unilaterally is what he is simply saying. So they want to be sure that if the

Commissioner wants this done that they instruct the bargaining folks to get it accomplished, if it requires bargaining, and he is pretty sure it does.

Mayor Benton said let's find out.

Commissioner Becht said obviously he would like to move forward with it. The concern he has is that \$260. He appreciates Chief Baldwin has a very detailed report on that. But if he remembers correctly, he thinks the State of Florida charges like \$5 per child support check that is routed through them. So he doesn't know why they would not have some kind of charge on the \$260.00 if they are going to make it convenient for them to take it out over 26 checks. The employee could have the option. Chief Baldwin said he wanted to take it out over the year. Regardless, he just thinks \$260... He knows they have the backup information on it. He thinks for the employee having this convenience, he thinks they could raise that up to \$300 and he doesn't think they are going to get much gripe about that either, or whatever number he wants to that is greater than \$260. He is just saying he is willing to go higher than that. He doesn't know if they have to have backup data to go higher than that.

Chief Baldwin said he thinks the number can be whatever it is that they decide, if they put this in the realm of negotiations. By the way, he thinks technically the City Attorney is correct. They have avoided this issue in the past. But when they started assigning a dollar amount to this and they are start talking about taking things out of people's checks, they probably do need to bargain this. This is a perfect opportunity to do that. He will represent that position as they go through the bargaining process and ask that it be considered. He imagines they will hear about this in the next month or two months as a contract proposal is presented to them.

Mayor Benton said he for one would like to look at the details and the numbers. \$60,000 isn't a whole lot of money, but he wants to see when it comes to the contract negotiations what they are going to hear.

Commissioner Alexander said he just wants to make them cognizant of one thing. He asked the Chief this for a reason. Once an officer gets in that vehicle, either they are going to pay him overtime when he goes 10-8, or he is going to go to the station and take in roll call, or if he leaves from the moment he gets in his car. When they are talking about bargaining, they are just trying to be fair to these officers. That is what he is looking for, is being fair to those individuals. They are almost 24/7. If the Police Officer is out to the theater, he is on call. Does he misunderstand this? If an officer is at Sunrise Theatre and something jumps off, he is a Police Officer, isn't he?

Chief Baldwin said he hears his concern and he understands that. And on behalf of the police officers, he appreciates that. He thinks the perfect way to resolve that is to talk about this during the contract negotiations and come to terms that all of their officers can agree to with the Commission. He thinks that is a perfect way to resolve this.

Commissioner Alexander said he is in agreement with that. He just thinks they need to be considerate of their officers that they are officers and not just 8:00 to 5:00.

Mayor Benton said if there is any information the Chief can get... This take-home policy is something they enacted not too long ago and they did it for a reason. They also thought it would save vehicles, by people taking better care of them. Can Chief Baldwin check into the past versus now to see? In the monthly reports from his office, he doesn't see the number of vehicles having problems like he did in the past.

Chief Baldwin said they unfortunately still do have crashes and probably more than what they would like to have. Probably the easiest way to describe this is he will go back and compare what they were doing maybe 10 years ago in terms of replacing vehicles to what they are doing today. They could do that. It would be extremely complicated to do an

expansive cost/benefit analysis at this point just because of the data, but he will see if he can express that somehow simply to them.

Commissioner Nelson said he read in Chief Baldwin's report where he indicated that officers were not required to account for their vehicle. They could take their vehicles on vacation if it is no more than three days. How does that read?

Chief Baldwin said he wants to clarify that. The policy says if an officer is going to be on leave, for instance vacation or family medical leave or whatever it is for more than three days, they have to bring their car to the station and park it there. What they are trying to do is avoid leaving a police vehicle in a driveway that is unintended and it may get damaged or vandalized. No, they cannot take their police cars on vacation.

Commissioner Nelson said that is whether the vehicle is marked or unmarked.

Chief Baldwin said it applies to both cases.

Commissioner Nelson asked they use the marked or unmarked vehicle in their moonlight duties as well?

Chief Baldwin said most of those require a marked vehicle. There are occasions where an unmarked vehicle could be used, like for example at the hospital where the officers are actually working out of a desk inside.

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

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

- a. Approve Grant Agreement between the City and the State of Florida Department of Community Affairs in the amount of \$4,770.00 for reimbursement of staff labor and equipment purchases to complete address update for **U.S. Census**.
- b. Approve Grant Agreement between the City of Fort Pierce **Keep Fort Pierce Beautiful Program** and the Florida Department of Transportation for a Litter Control and Prevention Grant reimbursement in the amount of \$12,972.97.
- c. Approve Application for Florida Department of Environmental Protection, Florida Recreation Development Assistance Program (FRDAP) Grant, in the amount of \$200,000 for reconstruction of **Kimberly Bergalis Park** and **Surfside Park**.
- d. Accept proposal submitted by Mastec North America Inc. for **State Road A1A - Phase III Underground Street Lighting Improvements** - in the amount of \$723,484.10. SMU Bond No. 2 - Reimbursement by FDOT per Joint Project Agreement.
- e. Approve list of **Blanket Purchase Orders** for FY 2007-2008 to Vendors for **Parts, Services, and Materials** for Department of **Public Works** for citywide repairs and maintenance.
- f. Approve list of **Blanket Purchase Orders** for FY 2007-2008 to Vendors for **Services and Products** for the **Indian River Hills Golf Course** for day to day operations.
- g. Approve **Vacation Leave** for City Manager Dennis Beach from October 4-5, 2007.

h. Approve reduction of lien against 1150 South 4th Street, owned by S&S Land Company LLC, from \$28,600.00 to \$2,860.00, plus administrative costs of \$736.94 (totaling \$3,596.94) upon payment within 30 days.

i. Approve reduction of lien against 1010 Jamaica Avenue, owned by Roman Arana & Josefina Gutierrez, from \$22,000.00 to \$1,100.00, plus administrative costs of \$1,306.01 (totaling \$2,406.01) payable at closing or within 120 days.

j. approve rescinding lien of \$55,500.00 against 1404 North 22nd Street, owned by Lorshawn Vickers, upon payment of administrative costs of \$605.00 within six months.

k. Approve rescinding lien of \$28,750.00 and administrative costs of \$1,241.68 against 426 North 26th Street, owned by Elizabeth Zackery, due to extenuating circumstances.

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**Ms. Arden Peck** said the budget cuts were deep and painful, but necessary. To help the City meet its functional needs and to continue to do business, she proposes they institute the **Sunrise City Corps**, a group of volunteers committed to fill in gaps of service or add to the ongoing activities of the City. They can tap into high school students who now have to declare a major in their Freshman year whether it be in vocational or the academic track. What better way to educate these students than to give them hands-on experience at an early age? They also have schools that have a community service requirement for graduation, they have the Mayor=s concept of a Youth Council, and they have a retired population who possess a myriad of talents. They already have her proposal of setting aside x-percent of some code fines to assist with paint, lumber, etc. to those who are financially unable to come into compliance. Now coupled with volunteers, it becomes a total package. The County is trying to implement a similar project. She is sure every department would benefit from some help - whether it be filing, gardening, maintenance, patrolling for code violations, or initial run through of site plans - the possibilities are endless. And with the proper hype, it could be an exciting innovation. She of course would be happy to work with staff in implementing this project if they deem it worthy. Sign her up. She can=t build steps, but can paint with the best of them. Not good with numbers, so reading site plans is out. But she knows her alphabet, so she could file. She likes to weed. And she usually is smarter than a xerox machine.

Mayor Benton said that is a great idea. She had brought that to his attention some time ago and to probably most of the Commissioners. He thinks it is a great idea. He would ask Mr. Beach to contact Ms. Peck and see what it would take to at least get those volunteers and find out where they can volunteer at City Hall and maybe throughout the community.

Ms. Peck said she would suggest that each department bring up in a department meeting what their needs are, what their wishes are, what they would like, and would they be willing to mentor a volunteer. Because they can=t just find someone and slap them at a desk and say file this, because that is the quickest way to lose a volunteer. They have to feel important. So it would seem to her if they have some sort of idea of what a department needs, then they can go out and almost advertise for volunteers.

Mayor Benton asked doesn=t Chief Baldwin already have a program for volunteers?

Chief Baldwin said they have several volunteers who are extremely valuable, but there is a need to expand even what they are doing. He thinks it is a great idea.

Mayor Benton said that is the answer to these tax cuts.

Mr. David Recor, Deputy City Manager, said Mr. Margotta and he have talked and they have already signed Ms. Peck up for her first project in the Planning Department.

Mayor Benton said he thanks Ms. Peck because he knows she spends a lot of time with the South Beach Association and works for this community already.

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**Mr. Chris Dzadovsky**, Interim Director/President of the **Fort Pierce Jazz & Blues Society**, said he tried to reach all of the Commissioners today to remind them of the fantastic opportunity, the show they are going to have on October 4th at the Sunrise Theatre. He hopes they all join them. 10:00 a.m. is the first show and 1:00 p.m. is the second show. Also there will be some available seating in the second show. So if they have friends, neighbors, dignitaries, and even some members of the citizenry here, they can stop by and take a look. It is going to be a fantastic show. They have the opportunity to educate some 2,400 students that day. Again, from the Board of Directors of the Fort Pierce Jazz & Blues Society, they want to thank the City, the Fort Pierce Redevelopment Agency, and the Staff at the Sunrise Theatre. They have done a fantastic job in helping them with this monumental logistics issue. And of course the Police Department, Chief Baldwin and his officers and the logistics folks have been fantastic, he wants to thank them for that. Additionally, the St. Lucie County School District, Superintendent Lannon=s folks and especially Mr. Karl Haas (Director of Curriculum & School Improvement), who has been helping organize that with the students. He wants to thank them publicly. It is October 4th, Caribbean Sound. They hope to see them there on Thursday.

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Commissioner Nelson said they just passed **September 11th**. He doesn=t know whether or not they have been remiss or the nation was remiss or what, but there was a young lady who was a member of an airline who played a major role in diverting a plane that was destined by many accounts to probably destroy the White House and/or the Capital Building. They have a some sort of statue at one of their parks, the eyes have been gouged out. His point is, why aren=t they pushing their legislative people in Tallahassee and Washington perhaps to give greater recognition for that person within their midst, within their City? They have a connection with the Police Department, they have a connection with the family. And it is a national type thing that this young lady was involved with and gave her life. When the funeral was there, they had a big ceremony out at a temple, the airline and everybody and his brother came. 9/11 came now in 2007, he doesn=t know anything that went on. They have got to start recognizing and appreciating. This person in his opinion stands in the same threshold as Patrick Henry or perhaps Martin Luther King or George Washington or whoever the case may be. Why aren=t they doing something to try to push for recognition of that individual in the eyes of the nation and definitely in the eyes of the citizens and family here in Fort Pierce?

Mayor Benton asked would Commissioner Nelson like them to put a letter from the City together to one of their Congressmen and Senator Nelson and Senator Martinez to see what can be done to honor her?

Commissioner Nelson said he thinks that is an excellent idea. Do they all see the sentiment which he is trying to express here? Their founding father, Benjamin Pierce, is virtually almost forgotten in this City. Unless they start recognizing the people who have contributed to their being, they as a City don=t represent the character which he thinks this City rightfully represents.

Mayor Benton said they will draft a letter.

Commissioner Nelson said he thinks if Senator Nelson and Representative Hastings and many others and the airline itself gets behind this. Does Mr. Hood have a point he wants to make on this issue?

Mr. Bob Hood, Director of Public Works, said he wouldn=t ordinarily take this opportunity to speak to them, but this is the second time he has heard that the eyes on the CeeCee Ross Lyles statue have been damaged. They have not. That is the artists rendition. It is a bronze and that is the way it was intended to be cast. It is in good shape.

Commissioner Nelson said the eyes have been removed.

Mr. Hood said there are no eyes. That is the artists rendition. It is representative of what the eyes would be. There are no eyes in the bronze.

Commissioner Nelson said not now.

Mr. Hood said there never have been.

Commissioner Nelson said he thought at one time when they started to put that in, it had marbles in there.

Mayor Benton said the first one was not a real bronze statue. There was a replica when they first dedicated it. So maybe that is what he remembers.

Commissioner Nelson said that might be the case.

Mr. Hood said it is. He just didn't want that rumor to continue on in the public perception, that somehow it was being vandalized, and hopefully it won't be. It is a beautiful work. He looked at photos he took when it was installed and he has been there himself. It is in the same condition it was in and it is in good condition.

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Commissioner Nelson said this is October 1st. There is a big thing out here called the **Downtown Parking Garage**. They said it was going to be ready and operational in October.

Mayor Benton said no, they said December. And now they are holding their breath because it could be earlier. The contractor told them the end of the year, he believes December 20th or something. But they are looking at sooner than that.

Commissioner Nelson said they are on television, they need to make sure the public knows when it is going to come about. They have that Project Manager. When is it going to happen?

Mayor Benton said he is smiling because he is going to get Orange Avenue open again for them.

Mr. Matthew Margotta, Director of Planning, said in the contract December 29th is the substantial completion date.

Commissioner Nelson asked what about the merchants using the road?

Mr. Margotta said as they are able to open the road back up. It is just a matter of the logistics on the site. They will be able to open the road and have to close it again. It will be back and forth for another month or so.

Commissioner Alexander said he knows they don't meet but twice a month, but they could allow them to park right there on Orange Avenue. If the road is completely closed, they have 10 or 15 parking spaces. But it is very dangerous for people running across that highway there.

Mayor Benton said it just takes twenty minutes to move those fences. He watched them the other night.

Commissioner Alexander asked one of those little blockades? He was parking there just by squeezing through one of them.

Mr. Margotta said it is a matter of safety to be able to secure the site of course. The Mayor is correct, to be able to open it back up and close it is a very short amount of time. But they try to make it as good a call as they can at the moment.

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Commissioner Alexander said in the beginning of the meeting they gave recognition to the **Fort Pierce Utilities Authority** and everybody deserves recognition. But he wants them all to know it is a hotbed out there now in this community concerning those rates of the FPUA. He wants them all to be aware of it, he doesn't want it to come up and bite them like a snake in the grass. But they are very serious about it. He doesn't know the particulars, but they need to recognize and he is saying it to the public that the City of Fort Pierce citizens own the Fort Pierce Utilities Authority. Is he correct?

Mayor Benton said he is correct. Just so he knows, of all the public utilities in the State of Florida, FPUA is in the middle.

Commissioner Alexander said he still just wants them to know who owns the Fort Pierce Utilities Authority, not the City Commission. If they want to have a say, they have Fort Pierce Utilities Authority Board meetings and they can attend those.

Mayor Benton said the Board meetings are televised.

Commissioner Alexander said the citizens are the owners and that is what they need to be aware of.

Mayor Benton said tomorrow in here at 4:00 p.m. is the U. A. meeting. Just so everyone knows, as they see their gasoline prices go up, now they are talking \$85.00 plus a barrel. Natural gas is clean but very expensive. All those fuels used to create electricity have gone way up in price and all they do is pass the cost. As they close down their power plant and depend on the grid - when he says the grid, several different areas for power - that is where this price is going up. They are not in the business of creating power after May 2008.

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Commissioner Becht said the FPUA announced tonight that they had bought their first **hybrid vehicle** and he would hope the City could look at that and see if they can have any cost savings there with fuel.

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Commissioner Becht said the new **Fire Station** on South Beach should open this month, that is what he has been told. He doesn't know if Chief Baldwin has had a chance to talk to Chief Parrish or not about using that as a substation, the space they have for them.

Chief of Police Sean Baldwin said they have staff who is working on getting that squared away so they will be able to use it. It is a great asset for them.

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Mayor Benton said after bringing up at the FPRA meeting about **Lighting on the South Jetty**, his phone has been ringing off the hook. It appears that they can't fish on the bridges anymore. About the only place that is open for the public to fish is the Jetty. As the tourists come down, it is very unsafe out there. So if they could get something back as soon as possible

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There being no further business, Mayor Benton declared the meeting adjourned at 10:05 p.m.

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Adjournment.

ATTEST:

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CITY CLERK

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MAYOR COMMISSIONER