

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 2, 2006.

Reverend Ted Rice, St. Peter 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.

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

Letter from Tom Loveland, Florida Department of Children & Families, commending Fort Pierce Police Officer Perry Martin for assistance above and beyond normal law enforcement.

Ordinance No. K-442 entitled, "AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING SECTION 13-24; EXCLUDING FROM MEMBERSHIP IN RETIREMENT SYSTEM FORMER EMPLOYEES WHO RECEIVING RETIREMENT BENEFITS FROM PARTICIPATING EMPLOYER WHO ARE SUBSEQUENTLY REINSTATED IN EMPLOYMENT; CREATING SECTION 13-25.1; RELATING TO **EMPLOYMENT AFTER RETIREMENT**; PROVIDING FOR SUSPENSION OF BENEFITS UNDER CHAPTER 13 DURING PERIOD OF REEMPLOYMENT; ESTABLISHING NOTIFICATION PROCEDURES FOR MEMBER EMPLOYERS AND PERSONS WHO ARE REEMPLOYED; PROVIDING FOR REIMBURSEMENT OF RETIREMENT BENEFITS WHICH PAID DURING PERIOD OF REEMPLOYMENT; REPEALING ORDINANCES OR PARTS THEREOF IN CONFLICT; PROVIDING FOR AN EFFECTIVE DATE." was placed on first reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-442 in session and asked if anyone in the audience wished to be heard.

Mr. Kenneth Crooks, Attorney for Fort Pierce Fire District, said he is here to voice the Fire District's objection to the adoption of this ordinance as currently written. The Fire District's entire workforce remains subject to the rules and regulations of the City Retirement System; that is, until the Fire District's intended withdrawal from the system is finalized. A final plan for that withdrawal is scheduled to be presented to the Fire Board on October 18th and the City Retirement Board on October 20th and the City Commission immediately thereafter. The Fire District has some concerns with the language of this ordinance. For example, it is unclear to them whether the work after retirement aspects or regulations are intended to be enforced retroactively or just prospectively. Second, he is not sure that the potential liability placed on participating employers such as the Fire District for violating the provisions of this ordinance is something that the Fire District is willing to take on. It certainly hasn't been presented to the Fire Board at this time. As a result, it is hereby requested that the City Commission table this item until one of two things occur. One, the Fire District is allowed to withdraw from the City Retirement System, or two, the ordinance is amended to exempt the Fire District from its application. They don't want to create a problem for the City. They just don't want to be part of this ordinance. That is it. Are there any questions?

Commissioner Nelson asked does Mr. Crooks currently have any members who will be affected, i.e. do they have people who are in fact scheduled to retire and come back to work within the next three to six months?

Mr. Crooks said no.

Commissioner Nelson asked Mr. Crooks doesn't know of any?

Mr. Crooks said none.

Commissioner Nelson said Mr. Crooks alluded to the potential withdrawal of the Fire District from the Fort Pierce Retirement System.

Mr. Crooks said as Commissioner Nelson is aware.

Commissioner Nelson asked does Mr. Crooks have a guesstimate as to what that time frame would be when they will make submittal for withdrawal?

Mr. Crooks said as he indicated, at the Retirement Board meeting the Fire Board is going to review and adopt a final plan October 18th. And as a result of that, it is going to be presented to the Retirement Board two days later, and directly to the City Commission as soon thereafter as possible.

Commissioner Nelson asked does Mr. Crooks know of any particular adverse effects that this will have on the Fire Department or Fire Board as a result of them changing this ordinance, which happens to be a Fort Pierce ordinance that is solely under control of the City of Fort Pierce?

Mr. Crooks said they are aware of that. No, he doesn't know of any direct implications or any application to the Fire Board. But they are concerned about the language of it affecting them down the road if in fact they are still part of the Retirement System. That is, there are things in this ordinance that are required of participating employers and a liability if they fail to do certain things that they do not want to be involved in.

Commissioner Nelson asked did Mr. Crooks say liabilities of employers?

Mr. Crooks said employers, yes.

Commissioner Nelson said which would translate to be the Fire District if in the event and whenever it is passed.

Mr. Crooks said that is correct.

Commissioner Nelson said but when there is a severing of relationship, i.e. when they withdraw, those liabilities don't go with them.

Mr. Crooks said no, and that is what they want to occur.

Commissioner Nelson asked is Mr. Crooks in fact diligently reviewing their desire to withdraw if they anticipate some level of liability?

Mr. Crooks said no. They intend to withdraw, regardless.

Commissioner Becht said this is not a question of Mr. Crooks but of City staff. Are there any employees that they are aware of that... What he wants to do is state the same question that Commissioner Nelson asked the Fire District Attorney, he wants to pose it to the City. Are there any City employees or Fort Pierce Utilities Authority employees they are expecting to come back on who would be affected one way or the other by this ordinance?

City Manager Beach said he can't speak for the Fort Pierce Utilities Authority. There are no City employees expected to be impacted by this ordinance in the current process. There have been requests in the past, but this Commission has always denied those requests.

Commissioner Becht asked is there any harm and what is the nature of the harm if they were to delay this for 30 or 60 days?

City Attorney Schwerer said first of all, the ordinance is not retroactive so it does not affect anybody. It also does not affect the Fire Chief since he is an exempt employee.

Commissioner Becht said he appreciates getting that on record. But the question was, what is the harm?

City Attorney Schwerer said they have a legal challenge pending that has yet to be disposed of concerning some of these issues dealing with work after retirement. The City has always taken the position that the ordinances as written do not allow that to come back unless it is a special type relationship as a true independent contractor. That position has been sustained, but with the condition that they develop some standards on how those independent contractors can come back. That is what is in this ordinance. So they have some legal jeopardy if they delay this to any degree. He does want them to understand that is the case.

Commissioner Becht said he doesn't understand. They have some legal jeopardy if they delay - what does that mean?

City Attorney Schwerer said he doesn't want to discuss open litigation currently.

Commissioner Becht asked so the litigation is still pending?

City Attorney Schwerer said there are a number of issues, that is correct.

Commissioner Becht said so the litigation is not concluded.

City Attorney Schwerer said it is not finally concluded, correct.

Commissioner Becht asked this ordinance will help close out that litigation?

City Attorney Schwerer said that and preclude some additional issues from arising if there are any other member employees. This ordinance also applies to the Utilities Authority as a member of the system. He is not aware of what is happening with that.

Commissioner Becht asked what would the harm be if they exempted or culled out the Fire District from the ordinance?

City Attorney Schwerer said they couldn't legally exempt them because they are a member of the employer system. Recall the Fire District was part of the City system when it was the Fort Pierce Fire District. That is why it is part of the system. When they became countywide, whenever that occurred, they still remained a part of the Retirement System. They were originally the Fort Pierce Fire District.

Commissioner Becht said he understands the history. What he doesn't understand is that he thought that there were other differences between various plans, say between the Fire District plan and the plan of the City, that there were some nuances that were different between employees of the Fire District and the employees of the City.

City Attorney Schwerer said that may be with respect to their 175 Plan, but not the City Retirement. They have a separate Board that administers a separate retirement, if he is not mistaken.

Mr. Crooks said yes. Florida Statute 175 is a supplemental retirement.

City Attorney Schwerer said special rules. It is governed by statute. It has nothing to do with City code, correct?

Mr. Crooks said it does. That is why they want to withdraw, or one of the reasons.

City Attorney Schwerer said but it is not affected by this ordinance. It is special rules for their retirement.

Commissioner Becht said the point he has made is that there are no differences between the plans. He is going to get clarification on that, because he thought there were differences between the plans.

Commissioner Coke said the Retirement Board came up with this proposal because the City Commission requested it. It was long deliberations, several meetings, many hours of deliberations; and by a majority vote, which is the Fire District is represented, the Police Department, the City people are represented, the Utilities Authority people are represented, so this is the ordinance that was proposed by the majority vote of the Retirement System. She just wanted to clarify that.

Mayor Benton said he knows it is the intent for the Fire District to pull out of the retirement system in a matter of a couple of months. Unless they have some employees who are ready to retire today...

Mr. Crooks said there would be no impact.

Mayor Benton asked so what difference does it matter? If they were to postpone it, they are going to have to advertise it again, versus in a couple of months they set their own rules. It is very simple.

Mr. Crooks said yes, it is simple by just keeping the Fire District out. The point is, they have not had an opportunity to even present this to their Board to be reviewed, approved, denied, anything to this point.

Mayor Benton asked he means this ordinance they are working on now?

Mr. Crooks said yes. They have never been given copies of this ordinance prior to last week, which was what he said in his letter to Mr. Beach. They have a difference of opinion on how the work after retirement was dealt with by the Retirement Board itself. Be that as it may, the Fire District doesn't really care what the City does with this ordinance as long as they are not a part of it or affected by it.

Mayor Benton said he would imagine it would take two readings, so if they have this in front of the City Commission at their next meeting as far as the Fire District withdrawing in the matter of a 30 days.

Mr. Crooks said if he can guarantee that they are going to be able to finalize this withdrawal in that same time frame, they wouldn't have a problem with this ordinance.

Mayor Benton asked has the Fire Board voted on the withdrawal?

Mr. Crooks said no. They are going to do it October 18th.

Commissioner Nelson said he fails to understand Mr. Crooks's statements relative to their Fire Board or other Commissioners not being aware of what the Retirement Board and this Commission was planning to do.

Mr. Crooks said he didn't say that. He said they have never seen the ordinance.

Commissioner Nelson said the ordinance is written and made available. He has one here

dated the 2nd of August and here it is now the 2nd of October. Being a lawyer, he deals with the fact that ignorance of the law is no excuse. He is sure Mr. Crooks is familiar with that term. But that notwithstanding, he speaks as a member of this Commission and also a member of the Retirement Board for some ten years or so. The responsibility for the overall Retirement System is that of the City of Fort Pierce. The responsibility of the Retirement Board is for the welfare of all of its members, both active and retired. A question he would have with respect to their withdrawal is whether or not those people who are not fire fighters are being taken care of as they go through their withdrawal. How are they going to handle those sums of monies that are going to be invariably reallocated to them and are they capable of handling those? But he is not dwelling on that at this juncture. He is dwelling on right now the fact that this ordinance as proposed by the City of Fort Pierce, recommended to be adopted by the Retirement Board, should be acted upon. And if there is no harm to the Fire District, which the system, the Retirement Board, the Fire District being a member has responsibilities for, if they are not being harmed, he can't see where they should delay this any further.

Commissioner Alexander said their next meeting is on October 16th. For them to postpone this to the 16th for first reading, what harm would that do? That would give the Fire District a chance to present this to the Fire Board on the 18th. They can follow up with the next first meeting in November for the second reading.

Commissioner Nelson asked what benefits are they going to derive during that interim?

Commissioner Alexander said he doesn't know because they all gave this paper here on Friday and it has already been since August 2nd. Commissioner Nelson serves on the Retirement Board, he has the privilege to this.

Commissioner Nelson said no, this came to the Commission on the 2nd of August.

Mayor Benton said this is the second reading.

Commissioner Alexander said this says it is the first reading.

Commissioner Coke said they postponed the first reading because it wasn't advertised properly.

Mayor Benton said so it has the second reading at the next meeting.

Commissioner Alexander said that will be two days prior to the Fire District Board meeting. If it no harm...

City Manager Beach asked is it a foregone conclusion that the Fire Board is going to approve the withdrawal of the system?

Mr. Crooks said he would say yes. Certainly it has been indicated in the past.

City Manager Beach asked how was that determined?

Mr. Crooks said because they have done many things to this point to indicate their approval of this withdrawal.

Commissioner Becht said if he may elaborate on that. The issue has been discussed he thinks at two different meetings at the Fire Board level in concept. It has not been voted on, but it has been discussed; and nobody yet - other than himself - had a whole lot of rancor about it, after much questioning. They have had the attorney for the 175 Board and they have had the Actuary for the Retirement Board appear before the Fire Board on two different occasions. They have assured them verbally and they are going to assure them in writing that there is no cost to the Fire District, there is no cost to the City, that there is no

harm to the employees who stay with the City and there is no harm to the general employees of the Fire District. The point is, it has been discussed and the general consensus is that it is going to happen.

City Manager Beach said his point is that it is meaningless to be sitting here having this discussion about putting this off.

Mayor Benton said that is what he is trying to get to the bottom of. He believes it is a done deal. He thinks the formality needs to be made and the votes taken and move forward with this, because this is the first reading. They have two Fire Board members here. They haven't voted on it yet. But he has been discussing this for months. He sees it happening within the next 30 to 60 days. This is just another thing they would have to bring back again.

City Clerk Steele said maybe something that might perhaps simplify it is to go ahead and have their first and second readings, but on the second reading amend the effective date to November 1st. And they don't have to re-advertise, they don't have to stop the passage, and it would not affect them on the 18th.

Mayor Benton said he is just trying to look to avoid spending more money advertising and then bringing something else back.

City Clerk Steele said that would do it. On the second reading amend the effective date. It is a simple solution.

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 Nelson, that Ordinance No. K-442 be passed on first reading.

Commissioner Becht asked does that include postponing the effective date to November 1st?

Commissioner Coke said she would like to see if they can make that determination at the second reading, because she would like to find out from Mr. Schwerer in the interim period exactly what other liabilities it might leave the rest of the Retirement System open for.

Those voting in favor of the passage of Ordinance No. K-442 on first reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-447 entitled, "AN ORDINANCE AMENDING THE FUTURE LAND USE DESIGNATION OF THE EASTERLY THREE ACRES OF A PARCEL OF LAND LOCATED AT THE **NORTHEAST CORNER OF SOUTH U.S. #1 AND SOUTHLAND DRIVE**, FROM RM, MEDIUM DENSITY RESIDENTIAL LAND USE, TO CG, GENERAL COMMERCIAL LAND USE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE." and Ordinance No. K-448 entitled "AN ORDINANCE REZONING THE EASTERLY THREE ACRES OF A PARCEL OF LAND LOCATED AT THE NORTHEAST CORNER OF SOUTH U.S. #1 AND SOUTHLAND DRIVE, FROM R-4, MEDIUM DENSITY RESIDENTIAL ZONE, TO C-3, GENERAL COMMERCIAL ZONE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE." were placed on second and final reading and read by title only.

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

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

Hearing closed.

Mayor Benton said this was the item that was brought in front of the Commission at the last meeting where there were concerns about a lot of the project, but his concerns were that the developer and the attorney were telling them about the traffic being at its worst level and that was why he opposed this. Since then, he got to thinking more. He knows there were concerns from this Commission about one garage instead of two, and parking and densities and entrances onto U.S. #1. But since then, he has learned and he gave everyone a copy of this proposed increase to their water and wastewater system that came up last week (Fort Pierce Utilities Authority - Draft Summary of Proposed Increases). When they look at those numbers which is a staggering 22% for water and wastewater this year and next year - that is proposed increases - to support new facilities needed for this growth. Right now their facility on the island is at 65% of capacity. So it is hard for him to understand that a few more homes here and there are going to affect that. But this is for the 250 or 500 units at a shot which the County is approving out along Jenkins Road. He just thinks that here is another example of how much growth is going to cost them. He thinks the numbers are unacceptable. Today is not the time to discuss whether those will be approved or not. But every day they read about the court system. He sits in on those Public Safety Coordinating meetings and basically he hears how far behind they are and how overworked their court system is and the lack of facilities. They have a jail that they opened two pods up and it is full. There is no plans to build more jail space. When he says infrastructure, he is not just talking about roads, they are lacking big time here. To him, there are many reasons. He thinks their attorney gave them an out. They can come back and do something better. But raising the bar is not competing with the folks south of Midway Road, which they can't do and he doesn't think they want to. To him, that is the price of growth and he thinks everyone here ought to reconsider that vote last meeting.

Motion was made by Commissioner Becht, seconded by Commissioner Alexander, that Ordinance Nos. K-447 and K-448 be passed on second and final reading.

Commissioner Coke said just one bit of discussion along those lines. They have long talked and requested a breakdown of impact fees that are collected by the County that the City collects for them, and where those are proposed to be spent or where those have been spent. She is wondering, looking at this very legitimate concern they have, as well as the many concerns they expressed at the last meeting regarding not just this development but other developments, if they as a Commission should not formally request from the County a breakdown of all the different impact fees that have been collected over the last ten years; and where those have either been expended or proposed to be expended.

Mayor Benton said right, especially on utilities. Because it is his understanding the City is still giving the County back some of that money, but it is the City's system that is being affected. They are getting the roads. That was where the discussion went that the impact fees will be coming back very soon at their next meeting to go up. But still it is going to be thinking out of the box, like the County has done with North Jenkins Road requiring developers to pitch in to build the roads over and beyond the impact fees. This was dropped on them last week and those numbers are unacceptable to him.

Commissioner Nelson said he thinks Commissioner Coke is right on target there, but Commissioner Becht had a similar proposal or request regarding some of the tax increases that were going on. Did Commissioner Becht ever get that data?

Commissioner Becht said staff is trying to get the data now on the apportionment of the real estate tax revenue increase portion between new development and annexed areas. But that information, Mr. Furst may or may not have that broken out for them, but it has been requested.

City Manager Beach said that information has been requested. A month or so ago the

Commission asked for a report from staff relating to the impact fees the City had collected, what the source was, and what the use was. That report was provided. After that they asked for the same report from the County that would show the source and use of those impact fees collected. They are waiting on that. He would expect it would come in during October.

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

The next item on the Agenda was application for **Waiver of Distance** submitted by Salem Qaraleh for a 2-APS License to sell packaged beer and wine for off-premises consumption from **Wsam's Food Mart at 2410 Avenue D**; said property zoned C-3, General Commercial Zone.

City Clerk Steele said the Public Hearing was held on September 5th and there was a motion to postpone action to allow the applicant to meet with the Police Department and the Planning Department. This is a report so they can take action on the application.

Mayor Benton asked does Assistant Chief Baldwin have any information on this?

Assistant Chief of Police Sean Baldwin said if they don't mind, he would like to defer to Mr. Buchwald. If they have questions afterward, he would be happy to answer them.

Mr. Peter Buchwald, Zoning Administrator, said at the September 5th Commission meeting, after discussion whether it was appropriate to deny a waiver for a business that has been there for quite some time, or whether granting the waiver could be utilized as an incentive to improve a high visibility corner and an entrance point to the City or whether it should be used as a carrot or stick, the City Commission postponed action on the application to allow the applicant to meet with staff to identify the improvements that could be made. The applicant has met with Code Enforcement and Planning Department staffs and the Police Department to identify and discuss building code violations, security and safety issues, and parking and landscaping issues. As of last Friday, the applicant has addressed 12 of the 14 building code violations. The security and safety improvements completed include the installation of additional exterior lighting and signage. The parking spaces, including the handicap spaces, have been marked. The remaining improvements include the installation of a digital camera system; the installation of landscape strips with trees, shrubs, and mulch along Avenue D and 25th Street; the resurfacing of the parking lot; the replacement of the damaged chain link fence along the north property line with a wooden fence with shrubs; and the removal of the inoperative phone booths and the sign at the corner. The applicant has committed to completing these improvements within 90 days. As the applicant has worked to address the building code violations, safety and security issues, and public nuisance complaints, and appears committed to the completion of the remaining improvements, staff recommends approval of the Waiver of Distance with the condition that the applicant completes the remaining improvements.

Commissioner Alexander said he just wanted to thank Mr. Buchwald for working with this applicant as well as the community. He appreciates his job and efforts he put in his job.

Commissioner Becht said in the report there is a fence recommended. Is that going to be put in or not going to be put in on the north side of the property?

Mr. Buchwald said the fence will be replaced with a wooden fence along with shrubs along the north property boundary to provide additional buffer between the establishment and the residents to the north.

Commissioner Becht said for his information, he thinks the County is re-evaluating whether they want to allow chain link fences any more. He knows that he happened to painfully be at a meeting recently where they put a requirement on someone to put in a concrete block wall. This was in a conditional use setting. So he will just give them that information for what it is worth the next time they get to evaluate this.

Mr. Buchwald said for what it is worth, the City Code requires a site obscuring fence of either wooden or masonry construction, so the chain link fence would not be enough to provide that buffer as required by code.

Commissioner Nelson asked what is the status they are operating now? Do they serve alcohol beverages now or what is going on?

Mr. Buchwald said according to the applicant, he communicated to him that as of right now they are not selling any beer and wine. They are just selling the other items from the convenience store according to the applicant.

Commissioner Nelson said he has historical knowledge of that property and he knows of the complaint that the residents in the northeastern portion of that property has had over the years. Right at the juncture of the resident property and the applicant's property, there is a passageway where trucks go through there and damage their fence. Just as of last week they came to him and told him that someone was throwing bread over the fence so the chickens could get in there and eat it up and all that. Did they address the possibility as Commissioner Becht alluded to of having a more sturdy fence there over and above the site thing. Because vehicles running through there knock down a wood fence, knock down a chain link fence, and they have the problem over and over again. The second question he would ask is, they talked very vividly about landscaping and the parking lot, how have those been addressed?

Mr. Buchwald said with regards to his first question on the fence, the applicant is proposing just a wooden fence with shrubbery, so he is not proposing a masonry fence at this time. With regards to his second question, the parking lot has been striped in accordance with the City code, including the handicap spots. Because of the installation of the landscape strips along Avenue D and 25th Street, it will require the asphalt to be cut and removed in those areas. It doesn't make sense to resurface that parking lot until after the installation of the landscape strips.

Commissioner Nelson asked he is saying the parking lot has been resurfaced and striped?

Mr. Buchwald said no, it has just been re-striped. It hasn't been resurfaced. There have been holes that have been filled up on the western portion of it; however, the eastern portion of it on the east side of the building, there are some holes that Code Enforcement has identified that are required to be filled in. That is one of the building code issues that are still remaining. But the western portion of it, the potholes were filled in and the parking lot has been striped. It hasn't been resurfaced. But staff would not recommend its resurfacing because again, large portions of it are going to be removed in order to install the landscape strips.

Commissioner Nelson asked do they have a landscape plan?

Mr. Buchwald said the applicant has applied for a landscape permit and will be working with the Urban Forester who has provided to him the information that he needs. They will continue to work with him in terms of what is required to be installed to comply with the City Code.

Commissioner Nelson said again going on prior knowledge, is that property was in the past landscaped. Did Mr. Buchwald not review the landscape plan of yesteryear?

Mr. Buchwald said they do not have a landscaping plan for that particular property in their files in the Planning Department. If he might add, the only problem with that, if there was a prior landscape plan, it depends on when that was completed. Because that might not be compliant with today's code, with the current landscaping code, that was enacted several years. Older plans would not be compliant, so they want to bring it into compliance with the current landscape code.

Commissioner Nelson said the Commission talks about trying to come up a little bit. They talk about that being a highly visible corner. He is very much concerned about that. He thinks they need quality there. He thinks here is an opportunity that they can do so. A little more effort on the part of the applicant might facilitate that. He is not sure that Mr. Buchwald has been exercising his due diligence with respect to going back and taking a look at what was there before. He can guarantee they had good shrubbery on the far east side of that property. It looked good.

Mr. Buchwald said they want it to look good. They want it to look better than ever. It is a question of following the Commission's lead in terms of raising the bar. The question for discussion is, how high should that bar be raised and how quickly should that bar be raised. At what extent do they withhold somebody such as this waiver of distance and for what period of time until that bar is met.

Commissioner Nelson said the waiver of distance is not too much of a factor with him. He is talking about the quality. He feels very succinctly that the church was there after the business was there. The business should not be held hostage because the church came there afterwards. But that notwithstanding, his standard is up here for that business and any other business on that corner.

Commissioner Coke said she wants to also commend Mr. Buchwald for working with the applicant and she also wants to commend them because it must have been a lot of work to get so much done in such a short time frame. Personally, she would be inclined to support this. However, she would like if they could schedule now for staff to bring back a report to the City Commission in 90 days to let them have an update on the few things that have not been completed, so they can be assured that those will be completed and the landscaping brought up to code, etc.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve the Waiver of Distance submitted by Salem Qaraleh for a 2-APS license to sell packaged beer and wine for off-premises consumption from Wsam's Food Mart at 2410 Avenue D, with the condition that staff bring back a report in 90 days.

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

Commissioner Nelson said come back in 90 days to tell them what has been done. Show them pictures, good stuff, good landscaping, and flowers.

Mayor Benton said make sure it is irrigated so the landscaping lives longer than the first six months.

The next item on the Agenda was Mr. Christopher Pontello, W. F. McCain & Associates, Inc., representing Shelby Homes, request a minimum six month extension to the approved Site Plan for Mariner Cove to be located on the southeast corner of Jenkins Road and Edwards Road.

Mr. Cary Goldberg said he is representing Shelby Homes.

Commissioner Becht asked what is the status of the dedication of the property to the County along the creek?

Mr. Goldberg said they are in negotiations with the County right now. It is moving forward, but not at a very rapid pace.

Commissioner Becht asked is that going to be a complete dedication of the property or a conservation easement or do they know?

Mr. Goldberg said there is a conservation easement on it to the South Florida Water Management District.

Commissioner Becht asked but they are in negotiations with the County, is that correct?

Mr. Goldberg said correct. They are going to be dedicating to the County the land that runs along the creek as well as the property along Jenkins Road.

Commissioner Becht said he would like the Commission to think about whether they want to authorize Mr. Schwerer to intervene in that process to make sure the City has the right to go on that property that will ultimately be controlled by the County for any purpose consistent with the City and its residents having access to it and the ability to maintain it.

City Attorney Schwerer said he is not familiar with the details, but he understands there is already a conservation easement that is dedicated by deed. Is that correct?

Mr. Goldberg said to South Florida Water Management District.

City Attorney Schwerer asked but it is for public use, is that right?

Mr. Goldberg said no.

City Attorney Schwerer asked what is it for?

Mr. Goldberg said it is for conservation right now, a preserved area.

City Attorney Schwerer asked what is the County's easement going to be for?

Mr. Goldberg said he is not positive on it.

Commissioner Becht said it is for access. If he understands their policy correctly, they are trying to create an interconnected linear park along all of Five Mile Creek and Ten Mile Creek starting west of the Turnpike. All he was interested in doing is making sure that the City has co-extensive rights with the County to go on the property to perform the maintenance that the County may not choose to perform, and that the City has equal rights with them, that the City is an equal beneficial owner of any easement that may be created, or if it is actually deeded out that the City has an easement over the County's property for the City's purposes.

City Attorney Schwerer said at the Commission's request, he will be pleased to research and look at those documents. If there is a dedication, they would make sure that it is not only to the County but also to the City so they would have co-equal rights. But he would ask the developer and their representative to send him the documents as they now exist and any amendments that are proposed both as to SFWMD and the County dedication.

Commissioner Becht said they need a consensus from the Commission, but the point he is trying to make is they have created situations where there are County-controlled parks where the City ends up having to write letters ad nauseam to the County asking them to take care of their parks. If they had the right to go on themselves, they may have the expense but they would have the ability to do it without having to write a bunch of letters.

Mr. Goldberg said he knows they have a six month minimum request on here, but he would like to ask the Commission for a year on it based on the issues they brought forward to them in their package.

Commissioner Alexander said he was just going to say because of the six month extension they requested, can they allow all this coming back from Mr. Schwerer at the same time. But Mr. Goldberg broke his bubble when he spoke of a year. So he is going to leave that up to the rest of the Commissioners.

Commissioner Becht said on the six-month issue, this has already been extended at least one year. They are continuing to re-evaluate where the City wants to be and there are additional requirements that they probably would have imposed on this site plan were they to have started today with their new staff than they imposed on them a year or two years ago. So he for one would be against the longer than six month extension. And he would put him on notice that if he doesn't start getting it built within the next six months, he may not get another extension and he may have to start at square one.

Mr. Goldberg said the reason obviously for them asking for this extension is actually beyond their control.

Commissioner Becht asked market softened?

Mr. Goldberg said no. He is not going to sit here and tell him that is not playing in there, but it is not the main reason. It is in their package there.

Commissioner Becht said he read the packet; and one of the things is that the County changed the rules on him after the fact and they want to do more road improvements there. Well, he want the same shot. If things change six months from now, they may make him go back to square one; or if they want another extension, they may ask for more concessions from him. He is just stating his one position, that is all.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve a six month extension to the approved Site Plan for Mariner Cove to be located on the southeast corner of Jenkins Road and Edwards Road, conditioned upon them getting the documents to the City Attorney so the City would have co-rights to the land dedicated to the County.

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

The next item on the Agenda was Mr. Stanley Synkoski request six month extension of approved **Site Plan** for construction of a Single Family Residence at **1912 Surfside Drive**.

Mr. Stanley Synkoski said he is proud to say since the last time he was here, he is now a Fort Pierce resident. He is looking for a six month extension for the building of his personal residence at 1912 Surfside Drive. They have run into a few issues with the DEP (Florida Department of Environmental Protection) that changed some codes. They had to change the plans. One outstanding issue right now is, although he has submitted all the approval letters the City has given him in the past, they want this exact language. They submitted four letters to DEP and they want this exact language. They are working with Peter Buchwald to provide him a letter with that language and he thinks they should be through the DEP process by then and start construction.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve a six month extension to an approved Site Plan submitted by Stanley Synkoski for construction of a Single Family Residence at 1912 Surfside Drive.

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

Mayor Benton said he knows how much effort he has put into this and he knows the obstacles that DEP has put in front of him, so good luck.

The next item on the Agenda was Concerned Citizens Organization concerning discrimination issues.

Commissioner Alexander said before Mr. Porter starts, he just wants to make sure this is not Concerned Citizens of St. Lucie County. This is Concern Citizen Organization, right?

Mr. George Porter, Concern Citizen Organization of Fort Pierce, said right.

Commissioner Alexander said he just wants that to be clear.

Mayor Benton said before he starts, he would ask that he could try to keep this to five minutes; and then they make a decision if there is a foundation, then a Commissioner or Staff could put this back on at their next meeting.

Mr. Porter is here to address these problems that have been arising in this City for the last month or so. There are such things as problems and a solution. They have a problem here in this City that City management has failed to find a solution to. Problems create more problems. The City Manager has not addressed any of these problems satisfactorily. Let's take a look at some of their problems that have brought them here tonight as concerned citizens of Fort Pierce. The using of the word monkey is a source of discrimination and has no business coming out of the employee or a supervisor's mouth in a public workplace. When referring to a person as a monkey it is not humorous in any way. If management condoned this in any way, then they are just as guilty as the person who said it. Mr. Beach has, in his opinion, condoned the using of this word. He has refused in any way to bring a solution to this problem that the community will accept. That makes Mr. Beach a part of this problem. If the head is wrong, then the body has to be wrong. They have been here in this community too long to let these things keep happening. There are two sets of rules here - one for City Hall and one for their community. Maybe there is three. Let's look back. One for City Hall, one for the northwest section, and one for the south side. They as in the northwest section are tired. There will be some changes. They are tax payers, they are businessmen, they are community workers, and most important they are citizens. They pay Mr. Beach's salary to run their City with the utmost respect. With the money they pay Mr. Beach as citizens, they are supposed to be able to go about their daily lives knowing their City is supposed to be run properly. This is what they pay Mr. Beach for. They will not stand for these kind of conditions to exist in their community any more. Representatives from their organization is in the City Hall daily looking for assistance or some form of help for people who have lost their homes in the hurricane. They wake up and find in their newspaper that there are funds when they are told there was none available. But their employees, people who work in the City, has used them for other uses. This still is from the head. It is an incident that all Afro-American employees are suspended without pay, but yet the Caucasians are demoted or simply suspended with pay. They the concerned citizens will not let Mr. Beach no longer run their City with two sets of rules. They put the people in place to hire him. If they don't find a solution for Mr. Beach and his problem within the City of Fort Pierce, the northwest section of Fort Pierce will rise up and vote to have them removed. They are calling on their Commissioners tonight - Commissioner Alexander, Commissioner Nelson, Commissioner Becht, Commissioner Coke, and the Mayor - to do the right thing to see that their City Commissioners, their City Manager, eliminate the double or triple standards that exist in their City Hall, or they will ask for the City Manager to resign. The citizens are asking tonight for a vote of no confidence on their City Manager.

Commissioner Nelson asked is that the gist of his presentation or are there any other comments? What are they looking for here?

Mayor Benton said they gave him five minutes. There was a request from someone. If he has spoken for them, if everyone here who agrees with what Mr. Porter has said, please raise their hand. (Approximately 12 people raised their hands.)

Commissioner Nelson asked so they are faced now with the question of a no confidence vote?

Mayor Benton said that is what has been posed.

City Attorney Schwerer said that is the request of the group. But this is an issue that the Commission would necessarily have to have briefed and presented in a formal fashion on the Agenda, or it would be a Commission-initiated action. This is not something that the Commission is required to take any action on, it is not before them for vote. They are free to comment or do what they need, but it is not something they can take up in this type of procedure.

Mayor Benton said a citizen or a citizen's group can make a request, but that is up to this Commission to adhere to that request, if there is anyone...

Commissioner Nelson said he is trying to digest what the City Attorney is saying. If they wanted to make a vote at this juncture, they could or could not? Yes they can, no they can't?

City Attorney Schwerer said he can't answer it. It is not a yes or no. Yes, they can; but it is a different type of procedure. The Charter provisions all state that any number of them serve at the pleasure of the Commission. But they have issues dealing with contracts and other things that call for certain types of processes to be followed. They have a contract with the City Manager for his employment. If they feel they wish to take up those issues, they can, but it would have to be by a different procedure, not sitting here responding to a request. Someone on the Commission would have to bring that to the Commission as a scheduled agenda item. They need to read the contract they have with the employee. That doesn't preclude them from agendaing anything they wish to agenda as a Commission.

Commissioner Nelson said if someone wanted to make a motion right now, they could make that motion is his interpretation of the law and the rules that govern this Commission.

City Attorney Schwerer said he guesses they could.

Commissioner Nelson asked the other attorney down there, what is his take on this? He likes to let these potted plants talk.

Commissioner Becht said he is going to have to defer to Mr. Schwerer on the specific issue of whether they can or cannot. But he would take a request for a vote of confidence or no confidence in any City employee with a lot more credibility if it originated from one of the five of the Commissioners than from somebody in the community. So if one of the five Commissioners believe that issue needs to be discussed, he thinks it needs to be discussed in full and not impromptu. So if they have any leanings toward having that discussion, he would like to have a full packet on it so they can have a full discussion on it. He at this time would not be in favor of such a move. He doesn't have anything in front of him that they haven't already talked about, haven't already had fairly detailed reports on. He has had his private conversations with Mr. Beach and other employees about what transpired. He doesn't need to have to have a vote of no confidence on the issue they

have raised tonight. If Commissioner Nelson or anybody else wants to bring it up, then he would listen to them. He listens. He has heard the other side of the story too.

City Attorney Schwerer said he is simply saying that it needs to be a Commission-initiated action and it should be an agendaed item for a full discussion because they do have a contract issue here that could present some technical issues. If it is with or without cause, there is a difference in the contract. He doesn't want to debate all the pros and cons, but they have a with or without cause provision in there and they need to discuss whether they are doing it with or without cause and under what grounds so they can then make a determination by the provisions. But it should be an agenda item, if they so wish it.

Commissioner Coke said certainly she thinks they have had this discussion on several occasions regarding some inappropriate things that have happened in City Hall. She would caution everyone here though that although they appreciate listening to every group of their citizens, to act rashly to take a vote in this manner, she would not support that this evening. Because they have 40,000 citizens and they have heard from a dozen here to voice a concern. She thinks without giving proper notice to the other 39,982 people, they can't very well take a vote. She for one is not going to support moving forward on this. However, if there were three of the Commissioners who felt that they should be voting on this matter, she would request at bare minimum they postpone it until they can hear from the rest of their citizens.

Commissioner Alexander said with his concerns, he reserves his rights to say and speak on his own behalf. But he does question information that comes across that podium to the Commission, especially when they are speaking about the African-American employees of this City Hall and that they have done something wrong. He will not get on a band wagon with someone who is accusing someone for doing something wrong and they are not sure. That is not a proven fact. And he will not. He has stanchd down. He is concerned about the activities that are going on in this City Hall and he has asked the City Manager on several occasions to give him reports on certain incidents. He is not completely satisfied with the results of those. But again, he will not point a finger at any employee and say they have done something wrong until he knows absolutely positively for sure that they have done something wrong. He will not address that in front of anyone, especially the City of Fort Pierce, about some wrong doings of employees unless he knows it is wrong. Mr. Beach knows how he is. He is hard stanchd down the City of Fort Pierce. Now he doesn't know as far as how people feel about coming into this community and working for this City of Fort Pierce and not coming in with a caring heart, because he frowns on that. Again, he is waiting on certain things to come back to him. If it has been done and they covered it up, then surely no one can tell him not to make a motion.

Mayor Benton said Mr. Porter has been to his office and they have talked about these things. Some of the employees who had accusations and had issues with the City have come in to see him. They are going through a process with this EOC investigation on issues. All he can say is that in the 11 years he has been with the City, they have had many investigations and he doesn't think the City has been found guilty one time. To him, there has to be a basis and they will see where those allegations go. But they are being investigated. By no means are they turning a cold shoulder. They have to make changes in this community. They have to accept this community as one - black and white and hispanic, and treat everybody the same and that is his intent. He thinks they just can't act on something that doesn't have a lot of foundation. If these investigations come through with foundation, then they re-address things. But he doesn't feel himself tonight is the night. But his understanding of the way things work, at any point this Commission could always have a motion or a vote of confidence on only three people: The City Manager, the City Attorney, and the City Clerk. He has never seen it happen. But it is his understanding at any point they could.

Commissioner Coke said she has a question for Commissioner Alexander, can he assist

her, because it was her understanding from the name of this organization that this is the organization that has worked in the City of Fort Pierce for years and they were coming in front of the Commission.

Commissioner Alexander said no. That is why he said in the beginning because he saw Concern Citizen Organization of Fort Pierce. There is Concerned Citizens of St. Lucie County.

Commissioner Coke asked this is not the established group that the City has been dealing with for years?

Commissioner Alexander said no. But they are concerned citizens. He doesn't want anyone to think that he won't hear if just one person walks up there. He will listen to one individual. With the names signed here, he knows each and every one of the people, he knows the person. He does have some concerns. He has a zero tolerance with individuals treating anybody or anyone. It is not necessarily the northwest community because it is not all the community as a whole. But he does have a problem with anyone being treated inside this building with no respect. He won't tolerate it. Like the gentleman said it, it is at the head, and that is where he looks. He can't look at any Department Head and have anything to say to them, because he can't. But believe him, the City Attorney, the City Manager, and what other department...? No confidence?

Mayor Benton said the City Clerk.

Commissioner Alexander said he didn't even call her name, right? Because he doesn't have a problem with that. This is a wake up to the Commission. And believe him, he wants them all to know, they are paying attention to every detail.

Commissioner Nelson said he hasn't had a chance to digest these papers he got in his mail today. It alleges a lot of the improprieties in Fort Pierce that probably need to be addressed. He doesn't know if any of the Commissioners got these or not. He doesn't want to belabor them with these right now. But these are the types of things... There is an affidavit, there are Code Enforcement issues, internal auditor thing, Planning Department evaluations, and all these things in there that don't reflect too favorably upon the City and its administration. He would choose to review these in greater detail and possibly have a chance to talk with the City Manager about them one on one; and perhaps they could have a further discussion on this at a later time and have it agendaed for a different time frame, not necessarily a vote of no confidence or anything related thereto, but at least resolve some of these things that are cited in these documents he has here.

Mayor Benton said he sees most of those are City memos and chances are those have come across their desk if they are City memos.

Commissioner Nelson said no, they are not. That is the irony of it. They went to key people - personnel and affidavits. There are none that says a copy furnished to the Commission or other people of this nature.

Commissioner Becht asked can Commissioner Nelson make a copy of that? Because there are times when he doesn't get the same information he or Commissioner Alexander gets.

Commissioner Nelson said look in his box. He thinks he will find it in his box.

Commissioner Becht said he gets different information at times than Commissioner Nelson gets. Sometimes he doesn't get the same feedback.

Commissioner Nelson said he will give him his copies.

Mayor Benton said his suggestion is that they make an appointment with Mr. Beach tomorrow and go over those. There are two sides to every story.

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 06-48

“A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, CERTIFYING THE REAPPOINTMENT OF **THOMAS K. PERONA** AS A MEMBER OF THE **FORT PIERCE UTILITIES AUTHORITY BOARD**; PROVIDING FOR AN EFFECTIVE DATE.”

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, that Resolution No. 06-48 be adopted.

Those voting in favor of the adoption of Resolution No. 06-48 were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Mayor Benton said Mr. Perona has done an excellent job on that Board. He asks about as many questions on every item as Commissioner Nelson does. Mr. Perona was one of the ones who supported him when he wanted to bring the U.A. Board meetings back here and eventually televise it.

The next item on the Agenda was Mayor Benton to discuss creation of a **Marine Industrial Zone** in the Taylor Creek area.

Mayor Benton said everyone has received a copy of the map that he put in the packet. He is sure they have heard him talk about this at the workshop they had. This is the first chance he has had to move forward with it. What he would like to do is, because the Marine Industries of South Florida for years when he sat on the Regional Planning Council for many years, they have had concerns that because of the development of waterfront property in South Florida, they are being pushed out. They basically can't afford to be located along the Indian River, any of the inlets, and basically Dade County, Broward County, and Palm Beach County are pushing them out, and St. Lucie County and Martin County are next. Just knowing what property values along the Port area where they do have some of this business right now where their property values have gone up over 100% this year. How many people out there have boats? In St. Lucie County they have over 10,000 boats and in South Florida there is probably millions of boats. These boats, a lot of them need to have work done on them every year. A lot of jobs are associated with the marine industry business. When he looked at Taylor Creek one time in a helicopter, he thought this isn't going to happen overnight, but if they were to take a spillway and either eliminate it or put in a lock system. An engineer he had spoke to a couple of weeks ago told him that they could put one in there very inexpensively and that meant under \$1 million.

But there is so much potential there. They will see just near the spillway they have a lot of undeveloped property to the north and south. And when they go west of 25th Street, Martin Luther King Boulevard, they have literally 100 acres. That is very inexpensive property versus the property at the mouth of Taylor Creek. So he is thinking he would like to see where they can go with this. He would like to ask staff to support it. First he would like the Commission to support him on this endeavor. It is something that could take five years, it could take ten years, or it could be twenty years, but there is a lot of potential there and a lot of jobs. The reason he brought it in front of this Commission was because they do have a couple of big developments adjacent to some of this property. One is Sheraton Plaza. He just wanted to get the feeling of the Commission before they went to the next step.

Commissioner Nelson said he thinks it has merit. But he just wonders though, they have this group who is trying to acquire those properties down there and possibly do something for development in that area. Do they think it might be appropriate that they turn this idea

over to them and see whether they can incorporate it in the overall scheme of things, if there could be a possible mix or marriage with this?

Mayor Benton said he has had lengthy discussions with Mr. Terpening and some of his partners there and also the property owners on the back side of Publix. He thinks they have been in to see Commissioner Nelson too. Everybody he spoke to thinks it is a great idea. They see the potential and they know the need because they are in the boat business. They would also like to probably get it out of that boat yard. It is not the best use for that boat yard at Harbortown. There is another good thing about it. If they put in a lock system, anything that is done here can be contained, it doesn't run right out into the Indian River Lagoon. He knows all of the Commissioners have traveled over the Turnpike in Martin County. They have looked underneath there and they have seen the Cross Florida Barge Canal which is considerably wider than this. But there is a lot of boat business, big boat business and builders down there, and a lot of jobs. To him there is potential here of widening Taylor Creek in certain areas on both sides.

Commissioner Nelson said they had a group come before the Commission some time ago, trying to convince them to work with the railroad folks to make that a draw bridge or something going across Taylor Creek. And there has been considerable improvements to Taylor creek westward all the way back to the dam area that is going to really be of great benefit to anybody and everybody in the area in years to come. He still maintains that if the City were to try to dovetail this in with some overall development plan as Mayor Benton alluded to on many occasions for that area, and not make it tied to specifically the marine type thing. Now it might well be 99% marine. But let's see it from an overall standpoint and see what shakes out. He agrees in concept.

Mayor Benton said one of the reasons he brings it up is because they are in the process now of looking at and updating their Comprehensive Plan. He doesn't know whether it can be done, but that is why before he went to staff and went to the public and to the marine interests any further than he has - some of them are here tonight - he would want to know whether part of that property could be the future land use designation Marine Industrial. That way they don't run into obstacles every time somebody wants to do something. That is why Don Root is here. This is something he has talked to him in depth about and he is willing to help take this on. He thinks it is a great potential for this community. They have another canal to the north with even more undeveloped land. He has talked to South Florida Water Management District. They said it could be done. It is adjacent to the Fort Pierce Redevelopment Agency area. There is talk with the charrette that is coming up on that area from Taylor Creek all the way to Riverside Marina which is the border of St. Lucie Village and all the way west behind Publix on Juanita Avenue. So this is the area where Fort Pierce is going in the near future. There is a lot of interest there and there is going to be a lot of money spent there in the next five to ten years. He just thinks this adds to it.

Commissioner Alexander said he alluded to this area here about a couple of months ago. He met with Mr. Root and a couple of property owners up there. He is in support of anything they can do to push an effort to go into that area because there is a lot of potential there and they should not handicap themselves from going into that area. The City limits is just north of Publix and they have Paradise Park is just coming in hopefully in the next year or so. He is just looking at encompassing all that area. He is in support of whatever efforts they want to put in that area.

Commissioner Nelson said he supports the concept, but he would like to hear some more details on it.

Commissioner Becht asked what they are talking about is the area highlighted in yellow on the map?

Mayor Benton said that looked like the biggest potential. But if they look at the whole

length of Taylor Creek from the spillway west, at least the first block and the second block east of Martin Luther King Boulevard is very limited development in there. For what the marine industries is paying along the Indian River Lagoon or anywhere to the south, they could buy city blocks without a problem down there.

Commissioner Becht said he will start off saying yes, he likes the idea. They are aware already of a couple of the problems they have to overcome. Terpening, Huizenga, and Kosar have assembled quite a nice block of properties in the location of Taylor Creek Marina. They are planning a charrette at their own expense, he believes, in that area which is east of U.S. #1. If the City were able to get the railroad trestle, whatever they can do to open that up so they can have boat traffic through there, Taylor Creek and the canal to the north of it automatically becomes prime residential waterfront property. If they designate anything east of 25th Street as Marine Industrial, they are going to eliminate the potential use of that for residential. Now that may make sense. Mr. Margotta might come back to them and say it makes a lot of sense. The area they have out here west in the area of 41st Street seems to be far enough out where Marine Industrial designation would make sense except that he would point out to Commissioner Alexander and Commissioner Nelson that they are going to get bombarded with a lot of calls from the people on both sides of it saying they have ruined their nice quiet residential neighborhood. He is in favor of the concept. It doesn't matter where they do it, they are going to have somebody who is going to have their feathers ruffled about it. The final point he wanted to make is that he really likes the idea, but before they start assembling or having Mr. Root try to assemble for the City these properties out at 41st Street, he would tell them that the timing of this needs to be critical. As soon as they get commitments from FEC that they can get a different railroad there where it opens up, all of this property is going to go up substantially. So it might be better to try to tie it up first, and then approach FEC and see if they can get the railroad trestle...

Mayor Benton said to address some of the concerns they had, he had a lengthy conversation with Mr. Terpening and Mr. Orvak who is orchestrating this charrette. And they want to also, he believes, include to the west and include behind Publix. That group now has grown considerably larger, so they are looking at everything on the other side.

Commissioner Becht said but it is still east of Taylor Creek.

Mayor Benton said right, but it is west of U.S. #1.

Commissioner Becht asked what is this?

Mayor Benton said Belcher Canal.

Commissioner Becht said so it is still east of Belcher Canal.

Mayor Benton said that is the thing, when he looked at it up there, it is undeveloped. There is so much possibility. But that is where he wants the experts to get a chance to look at it.

Commissioner Alexander said looking in this area, he was speaking mostly of the eastern portion over by U.S. #1. But when they are coming out here in this area that is highlighted in yellow, they have a big temple out there and a proposed church in that area now. That 55 acres plus is adjacent to an existing park. If they are going to encompass that park and make sure there is a park area more than just those little few acres there, then he is submissive to that too.

Mayor Benton said that is why he wanted to bring it here, because this stuck out because it was undeveloped.

Commissioner Alexander said they have a development of homes right there just west of

the border line.

Mayor Benton said the thing is, they could have a buffer for this type of business. He would ask them to go by Cracker Boy and see. That type of business doesn't exist at night, at least today it doesn't. They don't make a lot of noise, at least from what he has seen. He thinks it can be buffered very well, but those are questions and answers he is looking to get. He is just asking that they can take a look at this and have staff and some of the experts come back with some ideas.

Commissioner Nelson said let him throw out some information that they probably don't have at this time. In the vicinity of that spillway, from the spillway back toward U.S. #1 they made substantial improvements by digging out and shoring up the banks and everything. To remove that spillway would be a monumental task that they would have to get through South Florida Water Management District people. Their dear friends in St. Lucie County are in the process of getting ready to pave that Paradise Park area in there with streets and roads and sidewalks. They are also trying to acquire properties to serve as retention ponds before they dump into Taylor Creek. So take all those things into consideration when they are trying to assess whether or not they want to move forward on this.

Mayor Benton said they might want to talk to the County because he believes these are County parks adjacent to this property out here. This would be a County/City effort with the Marine Industries, everybody needs to be a partner in this to make it reality. He has just looked at it for years and thought now is the perfect time with all the interest between the Indian River and the back side of Taylor Creek there. Let's see what they can do. He talked about moving the spillway, but the better thought was to keep the depth.

Commissioner Nelson asked are they going to move the spillway?

Mayor Benton said no. Instead of moving spillways, from what he hears they can put in a lock system from what the engineers tell him, specifically Mr. Terpening who has done it before.

Commissioner Nelson said Mayor Benton is a fisherman. Let him tell him that is the best snook fishing area in the County.

Mayor Benton said he wishes Commissioner Nelson hadn't said that. He has been fishing there for about 30 years. He is not supposed to tell everybody these things. They are on T.V. The whole world knows.

The next item on the Agenda was Discussion of proposed **Media Relations Policy**.

City Manager Beach said this came about as a result of some events over the past few months regarding how they had dealt with media issues relating to certain events. This is a draft proposal. It was actually sent to the Commission about 30 days ago asking for input. It is on the Commission Agenda this evening requesting additional input and feedback from the City Commission regarding the content of it and any changes or proposed additions that the Commission may have to it.

Mayor Benton said his concern is there in the summary (in the cover memo from Anne Satterlee dated September 25, 2006) where it included the Fort Pierce City Commission. He just would have some concerns there, because they have to deal with the press and the public a little bit differently than City staff does.

Commissioner Coke said in theory she likes the idea. She shares the Mayor's concern that they think some place along the line City Management is going to try to tell the City Commission what they are going to say, because they can try all they want but they are not going to be successful at that. On a larger scale the second line of this says, management

function of City. She believes that this policy - with the exception of the inclusion of the City Commission in it - should be just that, a management function of the City. She has concerns that they are looking for them to discuss it this evening and draft a resolution. Her theory would be a media relations policy should be just that, a policy that is drafted by management to affect City staff and run by management. It should not be an ordinance. City Manager Beach said this is in front of the Commission this evening for that kind of feedback. Give them some information, tell them what works, what doesn't work, and then they will move further.

Commissioner Nelson said he looked at this a few weeks back and he wanted to get with Ms. Satterlee. He did tell her he had some comments on it. He had some trying things in his family that prevented him from doing so. But he endorses the comments made by Commissioner Coke and Mayor Benton. Getting a little more specific, in the introduction (of the Media Relations Policy) in the first paragraph, that those served always feel welcome. He doesn't know where they are going with that. The second paragraph in the second sentence, person contact. He guesses she is trying to say something about personal contact. Coming down to the third line on that, citizen questions. He is not sure City staff responds thoroughly and fully to citizen questions. He doesn't know whether that should be a sentence. It should be made a sentence. And the following sentence, City department directors and supervisors recognize the importance of a close working relationship with the media. That might have been incorporated up in the front for a lead paragraph. In the third paragraph, the Communication Plan works to use communications outreach as an education tool to keep the community informed about how the City operates. They might say something there that the City strives to use communication as an outreach program. Then the second to the last sentence in that paragraph, it aims to meet these objectives. Nowhere did they talk about objectives prior to the use of the word objectives at that point. It should have something related to goals and then objectives of how they are going to get there later on. The Mission - To serve as a management function of the City. A management function as he knows it is not to build and maintain good working relations. That may be a goal or objective or something. Management function is planning, organizing, directing, controlling. That is what management function is about. He hates to say this but he is an expert in that field. In Goals, are they talking about, with this policy, he would think about something in terms of openness and timeliness and accuracy. They want to give the media something on a timely fashion that is accurate and that in fact make them feel they are open to them.

City Manager Beach asked what page is Commissioner Nelson on?

Commissioner Nelson said Page 1 and there are 15 pages. He will tell them, he has this all written up here and documented. He didn't have anything to do while he was sitting in the hospital with his mother, so he read this thing. As he said before, he wants to give this to Ms. Satterlee, but he hasn't had time. But he has some detailed critiques on it. He thinks it is frankly poorly written. In some places there is not even a sentence in there.

Ms. Anne Satterlee, Assistant to City Manager, said if they would like, with Commissioner Nelson's critique and his changes he would like to have incorporated into the proposed policy, she will be happy to take that, get with him, and work on that along with Commissioner Coke or any other Commissioners that have any other information.

City Manager Beach said they will even work on the syntax and the sentence structuring and if the verbs are in the right place. They will do the whole thing. Commissioner Nelson said why don't they take it back and play with it a little more. He thinks they can get a better product in this.

Mayor Benton said that is their first try at it. That is what it is here for.

Ms. Satterlee said that is exactly right.

Commissioner Becht said he thanks Ms. Satterlee for this attempt at getting the Commission a policy on a complicated issue. He had conversations with Mr. Beach about it toward trying to make sure they get accurate information out to the public in times of crisis, during the hurricanes and that type of situation. He is okay with the policy. He thinks it is going to be a document that is in evolution. As they play with it, they are going to have to straighten it out. But other organizations have a Public Relations Officer. He doesn't know that they are at that stage yet. He is very reluctant to create additional Departments as Commissioner Nelson will let them know. But a Public Relations Officer he thinks is a sole person and doesn't create a whole department immediately. So at some point in time they might want to consider that.

Commissioner Alexander said the concern he has is that if he didn't take the News Tribune he wouldn't know half of the things that are going on in this City Hall. He thinks it is a travesty that the Commissioners have to read in the newspaper about what is going on under these roofs. That is the problem he has with it. For instance, he doesn't want to call anything out in particular, but it is just time and time again. He gets up at 5:30 in the morning and the newspaper comes at 6:00 a.m. He sits on his throne and reads the newspaper. He is just letting them know that is what makes his days and breaks his days, because he reads some things that he knows he has been in City Hall two or three or four hours and he checks his box constantly to make sure he picks up all the memos. It has become problematic to him that he reads it in the newspaper because he can't believe half of what he reads.

Mayor Benton said he is glad he made that comment, because a lot of times they take a story and twist it around.

Commissioner Alexander said he just wanted to say City employees keep the Commissioners... He is on the Fire Board and he has had firemen call him early in the morning with some drastic happenings. It doesn't bother him to be alerted about some things. He just hates to get it through those avenues or venues.

Mayor Benton said he thanks Ms. Satterlee. Maybe she can sit down with all of them one on one and they can talk to her about their concerns and they can get this back in front of them soon.

The next item on the Agenda was Director of Planning to advise of his approval of a Minor Amendment to the Site Plan for **Platts Creek at 4000 South U.S. #1.**

Mr. Matthew Margotta, Director of Planning, said tonight he is bringing before the Commission an advisement of a minor amendment to an approved Site Plan that he approved and he will give them reasons why or answer any questions they may have. Platts Creek is an already approved townhome type of development. It was approved back in February 7, 2005. There are 210 multi-family units on this site. It is located along U.S. #1 just a little bit north of Tumblin Kling. The applicant bought this property and then decided after some further look that they would like to amend the approval and that is what is before the Commission. Generally speaking what the whole amendment consists of is they shifted some things around. The building footprints moved a little bit. They moved one building and combined them. The lake system, initially the approval had a retention pond out on U.S. #1. That is removed and has been incorporated back with the retention area. They have expanded the recreation facility somewhat and the architectural elevation, certainly the style of the buildings, has changed. There is no net increase in the overall impervious coverage, there is no increase in height, there is no reduction of the open space, and there is no increase in density, there are 210 units. All those are the quantitative things. What this whole issue came down to is whether they saw a major character difference in the style. The initial style was described as being Key West. Now it is pretty much the style they see fairly common in their area and it is very common to multi-

family buildings. He decided as they have been discussing this for several months with the applicant, as the whole project and everything is incorporated and is looked at, there is no effective change to the development as far as its character is concerned. So he deemed it to be a minor amendment. He is looking for the Commission's input.

Commissioner Becht said he wants to thank Mr. Margotta for working with the property owner. He suspects that this property owner and many other property owners are going to be coming back to them for extensions of a Site Plan; and he would like for Mr. Margotta to be in a position to tell the Commission how they can tighten these things down and tighten their land development regulations down so they have major commitments at the time they commit to their Site Plan. What he fears is that they are going to come in and they are going to have constructed a sales office and that is going to be construction sufficient to warrant that they have an active site plan. He thinks they might want to address their LDR's and get that changed so they have major construction going on to make sure that the Site Plan is active. They already had one request for an extension to the Site Plan. He has heard from this applicant, they did talk to him about the minor amendment. He suspects they are going to want an extension for theirs. This is an old one. He thinks it goes back to February 2005. And he thinks if it came through today there are certain things that the Planning Department Staff would be wanting from them that are not in this plan. So the more they can tighten up what it takes to get an extension, the happier he will be.

Mr. Margotta said certainly. If he can respond somewhat to that request on their ordinance. If the City Commission could provide some guidance on that, they would like to see certain things as far as amendments are concerned, and also what constitutes the beginning of a development. He is operating right now under the understanding that if an applicant pulls a building permit and starts to work, they are talking about a footprint for a permanent building, not a temporary sales structure or clearing the land, that is not heavily engaged in keeping the development permit active. They actually have to start a building that is part of a phase that the Commission agreed to approve. So he draws that line at them actually constructing a building.

Commissioner Becht said as one Commissioner he is looking to Mr. Margotta for some direction on what are the steps to trigger that it really is construction as opposed to just a way to delay doing construction. He doesn't know how to do that, but that is what he is looking for. They should probably should have a separate discussion on it, because this is just a minor amendment.

Mayor Benton said it should be an item on the Agenda because of all these developments that have sort of been put on hold and the market is relaxed a little bit. He has a question on this. He has met with the applicant and he agrees to this. From what he was told, the other development couldn't work the way it was set up on the site plan. He knows several of the developments that have come in front of the Commission recently, it is not in stone yet and in writing, but they asked them to maybe harden the clubhouses a little bit. In case of a hurricane there is a place for a percentage of folks that stay would feel comfortable, because not everybody can evacuate. If they did make that a condition, please make sure they did go along with it; and if not, maybe they can request that the developer look at hardening the clubhouse a little bit.

Mr. Margotta said the applicant is here tonight and might be able to directly respond right now, but he would certainly follow that up.

Mayor Benton said he doesn't want to put the applicant on the spot tonight. If it is something the Commission did require, because he knows several they have required now or they have asked them to do it and they have gone along with it. Please if Mr. Margotta would check the Minutes of the meeting and the conditions the Commission put on it. And if not, maybe they will do it anyway. To him it is a selling point, it makes sense.

Mr. Margotta said absolutely. He understands.

Commissioner Coke said she thanks Mr. Margotta for this report. She has some concerns that were raised at the end of the presentation, not by the report he gave them, when he started talking about a change in the elevation of the building and not necessarily with this project. However quite often sitting up here they practically asked developers to sign in blood that their building is going to look like what they have approved. So now she is going to all of a sudden have a level of concern it the Commissioners beat the guy over the head - not necessarily this person - to get the architectural enhancements and the elevation they wanted, what they felt was raising the bar, and now it is going to be a minor amendment to change the elevation completely of a building. She has a great deal of concern over that.

Mr. Margotta said in each one of these minor amendments, he goes through every single page of the Minutes. In fact their Minutes are like seconds to his experience, they are very detailed. He looks at them, he takes into consideration everything that is discussed. Many times he has to boil it down to what the actual motion was about and certainly how much it ties back to the discussion. In this case there was a lot of discussion about the elevations, but the elevations weren't necessarily the approval. He now has a different understanding of what they mean when there is discussion about an elevation. He will take that into consideration, what the look of the building is and the whole site.

Commissioner Coke said if they discuss the elevation, just because they didn't necessarily condition it, it has become their understanding up here that when they approve a site plan and they see the elevation, that is what is going to be built. She has several site plans in the drawer of her office that she guarantees she goes past as it is being built to be sure that it looks the way they told them it would. So not for Mr. Margotta to fall into a pitfall later on in life, but be assured that she believes everyone up here understands that even if they don't specify this is the elevation they are going to build, they are assuming that is what it is going to be without the Commission having to say it.

Mr. David Recor, Deputy City Manager, said the City is well on its way to establishing the Design Review Board. So pretty soon she is not going to have to worry about that. The elevations will actually be approved as part of the project.

Commissioner Coke said she understands that; however, they already approved elevations for this project originally and now they are being changed as part of a minor amendment.

Mayor Benton said but the good thing about it is they are going from four stories to three stories.

Commissioner Coke said she is not saying this project in particular. She would just caution Mr. Margotta for the future, to change the elevation might not always be the best thing as a minor amendment.

Mr. Margotta said consider him so cautioned.

Commissioner Nelson said he would state for the record that he too has met with the developer and is pleased with the amendments that have been proposed, particularly the reduction of the height from four stories to three stories and the location of the clubhouse and of course the relocation of the retention pond area. He thinks it is a viable product and he commends him for it.

Commissioner Becht said he would just echo real quickly the idea of hardening community centers, making sure they have hurricane shutters, is enticing to him. And that will be also applicable for a next Agenda item.

Commissioner Nelson asked do they not require that hurricane shutters be on all their new buildings now?

Mr. Margotta said it is a building code.

The next item on the Agenda was Director of Planning to advise of his approval of a Minor Amendment to the Site Plan for **Coconut Cove Marina at 443 Fernandina Street.**

Mayor Benton said he is very glad to hear this one because he thinks they finally put common sense into Historical Preservation. Unfortunately it was a circumstance beyond their control he hears.

Mr. Matthew Margotta, Director of Planning, said an advisement of a Minor Amendment he has approved and he is looking for any feedback. Coconut Cove Marina certainly has a history to it and there has been a lot of discussion. If they remember the approved site plan, it includes the Lion's Den, an existing structure. Some of it was two story, but it had two residential units within it. The rest of the site plan was three new townhouse condominium type units that have six units each. So that is 18 new units and two rehab units in this Lion's Den. The location of this property is over on Hutchinson Island along Fernandina Street. He thinks it is pretty well known to most of the community. One of the things that occurred on this minor amendment... And understand that it has nothing to do with the quantitative side of it, this is yet another one where they are not talking about the quantitative difference in what made this decision so critical. It is along the character of the development. He read line by line through the Minutes and he listened to a lot of discussion. It kept being referred to as a historic structure or historic site and something that the City would like to see rehabbed and brought up to today's standard. But then they got into a long lengthy discussion about density. The original approval was certainly reduced down quite a bit down to 18 new units and 2 rehab units for a total of 20 units. The site was also looked at for just what its impact is in the neighborhood and so on. He guesses where he is going with all this is that the applicant discovered there are some problems with DDT being permeating throughout the building and asked to demolish the building. The Historic Preservation Board looked for some test results of course and then looked for more test results. And ultimately the Historic Preservation Board at its meeting on August 28th decided that this structure can be removed, reluctantly. There was quite a bit of discussion. So his decision looked at the quantitative issues and then what was it that got this approval through. There were several conditions that were placed on this property and one of them being the 18 new units and two rehab units. But if that structure goes away and there are no two rehab units, they are down to 18 units on the site. Coincidentally that is 8 units per acre on South Beach, which he understands is the line that they are drawing. And he believes they are going in the right direction. If the building can't stay and they are losing 2 units, it seems to him that the applicant came forward and the Historic Preservation Board made the right decision. So he approved the minor amendment.

Commissioner Becht said the other point is that they have 20 boat slips instead of 18 boat slips on the drawing he is looking at. That is going to be cut down to 18 boat slips, right?

Mr. Margotta said the approval should be for 18 boat slips. That needs to be a condition then of his approval. It is his understanding that the approval is the exact same conditions that were placed on this original approval - one dock slip per unit. It was stated as succinctly as possible.

Commissioner Becht said they need to redesign the docks.

Mr. Margotta said exactly.

Mayor Benton said compared to what was there, this is a blessing. When the developer

first came in he wanted to put 36 units on it. So he did work with the City. And he hates to see him tied up because he has been tied up now ready to pour the slab for three months. Thanks for getting this straightened out and hopefully they will have a nice product over there. He has to look at it every day.

City Clerk Steele said before they go to the Consent Agenda, there are some people here from the **American Cancer Society**.

Ms. Nancy Madsen said she is Area Executive for the American Cancer Society for the Treasure Coast area.

Ms. Jeni Brock Steele said some of the Commissioners have known her for a couple of years, a couple of centuries it seems like, it has been a long time. She knows they are tired and she is not going to keep them but just a minute. They are going to come back in a couple of weeks and go into a little bit of detail. But she does want to share something with all of them that is very important to them and she hopes it will be to all of the Commissioners. As a staff member of the American Cancer Society, as a community representative for St. Lucie County, they have a Signature Fund Raising Event that helps them in the fight against cancer which is the leading health concern of all Americans in this Country today. It is a brutal beast. It does not discriminate. It attacks at the path of least resistance regardless of age, gender, skin color, creed, religion. It goes everywhere. There are some of them here tonight who are survivors and that puts them in as members of a club that they really did not want to join. They didn't ask them, but that does put them in a select group. One of those is their esteemed City Commissioner and a life-long friend of hers, Eddie Becht. She too is a survivor. So Commissioner Becht and she are members of that club.

Commissioner Becht said not by choice.

Ms. Steele said not by choice, like she said. They didn't ask them if they wanted to be members. But she has been battling breast cancer for three and a half years and she is doing it very successfully she might add. They have an event in Fort Pierce that is called the Relay for Life. It is the American Cancer Society's Signature Fund Raising event. It is an 18 hour fund raising event because cancer never sleeps, so for that 18 hours they don't either. It is a slumberless party with a purpose, is what they call it. And the Relay for Life in Fort Pierce is having some new life breathed in it. They have spoken to the City and they have met with Mr. Recor. And Mr. Beach, it is good to see him too. They are going to bring to them what they call their system's program that introduces them to preventative healthy measures for their City employees that will help them prevent this disease. And in return they are going to ask them all to get active with their party with a purpose, Relay for Life. Their City Commissioner has graciously accepted the position as the Honorary Chair for the Fort Pierce Relay for Life. They thank Commissioner Becht. She wants to give him a purple ribbon that says he is a survivor, because this sets him apart. Their event will be March 16th and 17th of 2007. It will be at John Carroll High School. It will start at 6:00 o'clock on Friday night and it will go to noon on Saturday. They want everybody in Fort Pierce to be there. It is a smoke-free, alcohol-free event. Extremely family oriented, so bring everybody's kids, their neighbor's kids. It will be so much fun. Once they have relayed, they never stop. If they have ever been to one relay, they want to be at every one from then on. They are asking for some of the expertise of the City to help them plan this event. So they are having a rally this Thursday night. It will be at Lawnwood Regional Medical Center from 5:00 p.m. to 8:00 p.m. They are asking them all to come. They have some hors d'oeuvres and some food. They would like for people who want to be a part of this event to sign up to help them plan. It is a community driven event, so they want it to be especially important to reflect the culture that is right here in the City of Fort Pierce. As a life-long resident of this City, it is extremely important to her. Her late father retired from the City of Fort Pierce. Her mother retired from the County. She lives here by choice. She still lives here by choice. To her it is the best City in the world and she continues to live here

because she loves it. She wants each and every one of the Commissioners to participate and relay with them to help end this despicable illness that attacks too many people today. She wants each and every one of them to know that when they come and they join them, there are special places for all of them. So she is going to ask that they come and be with them on Thursday night at Lawnwood Regional Medical Center's cafeteria from 5:00 p.m. to 8:00 p.m. Please sign on to help them with this event. Give them their ideas. Tell them what they can do for them. They want them to be a part of this. So she looks forward to seeing each and every one of them on Thursday night. They will be back on the 16th of October as an agendaed part of their meeting to tell them about their assistance program for the City of Fort Pierce and what they can do to benefit each and every one of their employees, especially when it comes to prevention and early detection.

Mayor Benton said he thanks them for all their hard work.

The next item considered was the Consent Agenda.

City Clerk Steele said Consent Agenda Item 17k (Code Enforcement lien against 735 Delaware Avenue) and Item 17o (Code Enforcement lien/fine against 1416 North 16th Street) have been removed by staff.

Mayor Benton asked does any Commissioner wish to remove an item?

Commissioner Coke said she would like Items 17n (Code Enforcement lien/fine against 323 North 15th Street) and 17r (Waiver of interest, fees, and penalties against 1504 Florida Avenue) be removed for discussion.

Commissioner Alexander said he would like Items 17g (Florida Municipal Insurance Trust) and 17l (Code Enforcement lien/fine against 2910 Avenue B) be removed for discussion.

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

- a. Approve Blanket Purchase Orders for purchase of parts, services, and materials by various Divisions of the **Public Works** Department.
- b. Approve increase of \$1,000 to Blanket Purchase Order with Southern Eagle Distributing for purchase of beer for resale at the **Indian Hills Golf Course**.
- c. Approve increase of \$1,000 to Blanket Purchase Order with Williams Scotsman, Inc. for rent increase of temporary trailer at the **Indian Hills Golf Course**.
- d. Approve Blanket Purchase Orders for supplies, resale items, trailer, golf cart lease, etc. by the **Indian Hills Golf Course**.
- e. Approve purchase by Police Department of a **Desk Officer Online Reporting System** and Annual Maintenance from Coplogic, Inc. (sole source) in the amount of \$18,200; Funds from Law Enforcement Trust Fund.
- f. Approve expenditure of \$23,500 from the Law Enforcement Trust Fund for **Management Consulting Services and Training** to be provided by Dr. Rachel Boba (single source).
- h. Approve funds in an amount not to exceed \$40,000 to complete **Florida Department of Transportation Joint Participation Agreement** for replacement of palm trees at I-95 (Okeechobee Road/Virginia Avenue) from Jenkins Road to Peters Road.
- i. Approve travel and attendance by Commissioner Alexander and Commissioner Nelson to the 2006 **Florida League of Cities** Legislative Policy Council Meeting in Orlando on

October 20, 2006.

j. Approve travel and attendance by Commissioner Alexander to the 10th Annual **Healthy Communities - Healthy Youth Conference** on October 26-28, 2006, in Minneapolis, Minnesota.

m. Approve waiver of \$884.72 in Code Enforcement fines, interest, and costs against **2105 Avenue E**, owned by James Merritt, upon owner paying the demolition lien in the amount of \$2,688.37 in monthly payments or \$200 until paid in full.

p. Waive Code Enforcement fines, interest, and penalties of \$5,853.47 against **120 North 12th Street**, owned by Chandrowti Sahadeo, upon payment of lot clearing and demolition liens in the amount of \$9,304.33 within 60 days.

q. Approve recommendation of Special Magistrate that the lien/fine of \$22,100 against **801 Texas Court**, owned by Marcus Adderley, be reduced to \$5,000 and that the fine plus the administrative costs of \$845.37 be paid within 60 days (\$5,845.37 total).

The next item considered was Item 17g, which had previously been removed from the Consent Agenda: Accept proposal from **Florida Municipal Insurance Trust** to continue property, scheduled equipment, general liability, automobile liability, law enforcement liability, and automobile physical damage coverage through the Florida League of Cities for FY 2006-07 for the estimated premium of \$1,733,525.

Commissioner Alexander said just for his information. They just had a budget hearing and where are these dollars coming from?

Mr. George Bergalis, Director of Finance, said the monies are included throughout the budget of the City to pay for all these different lines of insurance.

Commissioner Alexander asked so why wasn't that accepted with their budget when they accepted their budget?

Mr. Bergalis said what was included in the budget was an estimate of what he felt was going to be this cost. They didn't have these final costs until after the budget was already prepared. But they have enough money in the budget to pay for these.

Motion was made by Commissioner Alexander, seconded by Commissioner Nelson, to accept proposal from Florida Municipal Insurance Trust to continue property, scheduled equipment, general liability, automobile liability, law enforcement liability, and automobile physical damage coverage through the Florida League of Cities for FY 2006-07 for the estimated premium of \$1,733,525.

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

The next item considered was item 17l, which had previously been removed from the Consent Agenda: Approve recommendation by Code Enforcement Board that the lien/fine of \$23,370 against **2910 Avenue B**, owned by JoAnn Coleman, remain in full force as to the original violator, Willie Ruffin; and that Mrs. Coleman pay the administrative costs of \$536.67 within 60 days.

Commissioner Alexander said just a question on this for his information. The Code Enforcement Board agreed to approve the fines and liens, but he is looking here that they want it to remain full force on the original violator. They had this come before them before and they never did get back to him on those items, and now he sees this item. He is understanding that these costs have been rescinded for the full force as to the original violator to stay intact. Now this is a property owner and the cost has been rescinded. Are

they going to apply it to someone else, the original owner?

Mr. Marc Meyers, Deputy Building Director, said that is the situation. He is not sure if this is the one that perhaps the estate is the previous owner.

Commissioner Alexander said he is not sure, he is just asking the question.

City Manager Beach said as he understands this process, if they have a property owner who has multiple properties, whenever there is an assessment against one of his properties, that assessment can apply to all of them. Here they have a situation apparently where there is a new owner and that new owner is trying to get this title cleaned up. What is being apparently approved or recommended by the City staff and the Special Master or the Code Enforcement Board is that they relieve the new property owners of those past fines, but they take those past fines and apply it to other property owned by the previous owner. Is that accurate?

Mr. Meyers said yes.

Commissioner Alexander said this is why he pulled this, because they had this come before them before where they had one property owner sold a piece of property to several people and it never did come back to him because he questioned that, that what type of a property owner can sell a property to two or three people? Once that property, he guesses if they didn't pay it, he foreclosed on it and turned around and sold it to someone else. Again, he is saying this person has multiple properties. That is fine if they attach that to that, he won't quail about that. But he has never gotten back from staff about this other property owner that he thought was a crook in this community. For him to sell one piece of property to four people, he doesn't care who it is or what the name was, they can take their label with them. They sell one piece of property to several owners and they never did come back before them. He wanted to know what happened to that. He is not going to quail about this. If this is the way they are going to do it, they treat everybody with the same playing field.

Commissioner Coke said she does remember the case that Commissioner Alexander is talking about, but she thinks that in the end - and she agrees they were going to get an answer back from staff - but they did not make the person who ended up owning the property suffer. She has a question of staff. It seems to her that the fines and costs on this property were \$23,906. She just wants to know if she is understanding this correctly? The woman came to the Code Enforcement Board and asked could she please give them \$6,000 to settle this? And the Code Enforcement Board said no thank you, they would like \$536. Is that what happened?

Mr. Meyers said he does not know. He was not present.

Commissioner Coke said according to the Code Enforcement Board Minutes (August 9, 2006), this woman came and asked if she could pay \$6,536.67; and the Code Enforcement Board said no, they will just take the \$536.67. She is not quite sure that she follows how that happened.

Mr. Meyers said he doesn't understand the reasoning either.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve recommendation by Code Enforcement Board that the lien/fine of \$23,370 against 2910 Avenue B, owned by JoAnn Coleman, remain in full force as to the original violator, Willis Ruffin; and that Mrs. Coleman pay the administrative costs of \$536.67 within 60 days.

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

The next item considered was Item 17n, which had previously been removed from the Consent Agenda: Approve recommendation by Code Enforcement Board that the lien/fine of \$16,700 against 323 North 15th Street be placed on Jupiter Isles of Florida Associates (previous owner) and that Jean Michael Fils-Aime pay the administrative costs of \$798.92 within 60 days.

Commissioner Coke said she read the minutes of the Code Enforcement Board meeting and she had two concerns. The Code Enforcement Board recommended that they keep the original lien of \$16,700 against Jupiter Isles of Florida Associates; however, they were informed during that meeting that is a defunct corporation. So why they would keep a lien against a defunct organization is beyond her, number one. And number two, this property has also changed hands she believes twice and both times there were title companies involved. It would seem to her that is exactly why these people bought title insurance. She for one cannot support waiving a lien when there is title insurance in place from two different title companies to pay it.

Commissioner Alexander said not only was the title company remiss of the property owner purchasing these, because it leaves his mind on what the situation was, but if the title company had monies in reserves for this, he wants to defer to their own and let him have an input on this.

Commissioner Coke said her theory is, if they didn't have it in reserve, they still have title insurance, that is what that is for. But she could be wrong. Commissioner Alexander is right, let's ask Commissioner Becht.

Commissioner Becht said reading the Minutes (Code Enforcement Board dated August 9, 2006), it appears that a local title company had a closing and they held back in escrow \$16,000.

Motion was made by Commissioner Becht, seconded by Commissioner Coke, to deny the request; and ask the City Attorney to call the title company and see if they can get the City's \$16,000 out of escrow.

Mr. Chris Underhill said he is with A-1 Realty said this is Mr. Jean Fils-Aime. Mr. Fils-Aime closed on this property...

Commissioner Coke said point of order.

Mayor Benton said they have a motion and second. Unless the Commission wants to pull the motion, it is not the appropriate time.

Commissioner Becht said he has a simple question at the pleasure of the Commission, which is to ask this gentleman - it is attributed to him - it says Chris Underhill said St. Lucie Title is holding \$16,000. Is that true or not true?

Mr. Underhill said this is true.

Commissioner Becht said then motion stands.

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

Mayor Benton said he suggests Mr. Underhill contact the City Attorney's office.

City Attorney Schwerer said they just send him the funds. They give them a release after the funds are received.

The next item considered was Item 17r, which had previously been removed from the Consent Agenda: Approve recommendation of Special Magistrate to waive \$50,000 in interest, fees, and penalties against 1504 Florida Avenue, owned by Marcus Van Winkle, contingent upon: (1) The owner paving the driveway and parking area per City Codes; (2) The owner placing sod on all unpaved lawn areas to the City's satisfaction; and (3) The owner making payment of \$33,408.42 to the City and completing Items (1) and (2) within 60 days.

Commissioner Coke said first of all, it appears to her that this gentleman sold the property to himself - he set up a company, but it is the exact same mailing address as his personal address. So she has concerns about that. It was sold. They have a list of requirements that they are looking to make this lowering of the fine contingent upon. She is not quite sure they are going to be able to do that. She was thinking that she saw some place in here also that there was title insurance. If that is the case then she doesn't see why, if there was title insurance involved in the sale, they would be looking to waive it. But she could be wrong on this.

Commissioner Alexander said does Commissioner Coke recall this came before the Commission a while back. He also had wanted to pull this for only one concern and maybe this is to Mr. Schwerer. As the City of Fort Pierce can they demand that a person pave any driveway and put sod down? What if they want to just seed properties? He just wants to know where they stand at with demanding this individual do those?

City Attorney Schwerer said this case apparently has a long history so let him try to answer Commissioner Alexander very quickly. He thinks it was staff's position that because this gentleman owned a number of different properties throughout the City where there were a number of different code violations, that they felt if they were going to recommend that as to this property that this big lien of \$80,000 something be reduced to the \$30,000 they see, that he be required to do these things on that property to raise the bar as to that property. It is up to him whether he wants to do that or not. All they are doing is making it a condition to reducing the lien by \$50,000 that he do these. So the answer is yes, they can do that.

Commissioner Alexander asked they can demand that of a person? He passed through that neighborhood, he counted maybe two paved driveways in that whole neighborhood. And definitely there is no sod. His concern is where are they with Code Enforcement when he has the concern of the City being not a gestapo. He has concerns with the City demanding someone to lay sod in a neighborhood where there is no sod nowhere in the surrounding area. This gentleman had problems, he doesn't know if it is personal or what, but he remembers Charlie Cangianelli had given this gentleman a pass on this property. He remembers the letters. He can't remember precisely. But they all should remember this. This is nothing new. This is something that Charlie Cangianelli had given this gentleman a clear... Is he misunderstanding or is this the wrong property?

City Attorney Schwerer said he is not as knowledgeable on this case as some of his staff, but he thinks these issues were all hashed out with the Special Master. This gentleman is represented by one or more attorneys and they presented he thinks similar to the case Commissioner Alexander is mentioning to the Special Master below. They also presented that case to the Code Enforcement Officer and an attorney member of his staff. That was all discussed at the Special Master hearing. So whatever their position was with respect to that, they can assume the Special Master heard it and made a decision on whether or not the fine should either be totally reduced or partial.

Commissioner Alexander said he made a recommendation.

City Attorney Schwerer said yes, they made a recommendation.

Commissioner Alexander said the Special Master doesn't make the decisions. The Commission is here tonight to make the decision.

City Attorney Schwerer said the Special Master made a decision on the original violation; and then from then on out the fine reduction is, of course, a recommendation only.

Commissioner Alexander said he is just looking at properties being fined \$33,000 and there has been so much confusion with this particular property. He doesn't know the gentleman personally. He doesn't know if he is in this audience. He couldn't tell them. But he went by that property. He doesn't see the City of Fort Pierce demanding anybody to pave a driveway and lay sod. Again, if they say seed or whatever.

City Attorney Schwerer said the Commission can accept it or not accept it. It is a recommendation only.

Commissioner Coke said she guesses the reason that she is looking further at this, that she pulled it and wanted them all to be very aware of it, is first of all she was not sure that they could legally make these demands on someone. The City Attorney says the Commission can make those conditions. But secondly, this is an absentee landlord that has many properties, and it is the impression she gets from the Code Enforcement Board hearings that many properties with many different violations. They all need to be very aware of absentee landlords who are not maintaining their properties the way they should. Since the City Attorney said these conditions are legal, she would move approval.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve recommendation of Special Magistrate to waive \$50,000 in interest, fees, and penalties against 1504 Florida Avenue, owned by Marcus Van Winkle, contingent upon: (1) The owner paving the driveway and parking area per City Codes; (2) The owner placing sod on all unpaved lawn areas to the City's satisfaction; and (3) The owner making payment of \$33,408.42 to the City and completing Items (1) and (2) within 60 days.

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

Mayor Benton said he would like to address an item that was taken off tonight by staff, Agenda Item 17k - Approve reduction in Code Enforcement lien of \$378,500 against **735 Delaware Avenue** requested by Mary Monica Hood Young & Kirk Young to 1% of the original amount at \$3,785; and in addition, the administrative costs of \$804.40 be paid within 60 days and to release the lien (total to be paid is \$4,589.40).

Mayor Benton said Mr. Young came to see him, it has got to be a couple of years ago now, over an item he was trying to get straightened out. He does not own this property any more. If there is a code violation today, he thinks the present owners... The information he has here is Monica Young and Kirk Young aren't the owners today. And if there is a code violation today, and it is a management company so they are probably renting the property, he thinks they should be responsible and they can clear this up.

Mr. Kirk Young said it goes back a long way and it is kind of a flabbergasting type situation for both of them. He doesn't want to go too far back, but at some point Monica Young owned the property. They got a divorce.

Commissioner Becht said if he could cut to the chase here, really the reason it got pulled tonight is that it has a code violation to date. Does Mr. Young own it today?

Mr. Young said no.

Commissioner Becht asked he doesn't own any interest in the company that owns it?

Mr. Young said no.

Commissioner Becht asked he receives no economic benefit from it today?

Mr. Young said no.

Mayor Benton said this went through the Code Enforcement Board with a recommendation for the 1%. So to him, he thinks the new owner should be fined for this and don't hold it against these folks.

Commissioner Becht asked can they proceed with the recommendation of staff; and allow staff to start a new proceeding against the new owner?

Mr. Marc Meyers, Deputy Building Director, said he had pictures taken of all the properties that were before the Commission this evening. Two of them came up as currently having code violations against them, that is why he had those pulled. He was not aware that these were not the owners of the property any more.

Mayor Benton said Mr. Young has been trying to clear this up for a couple of years with the legal department. And he hates to send him back, because he was here at the last meeting and they have been sitting here all night tonight.

Commissioner Alexander said this goes back to his concern. How can they say tonight that these are not the owners? Why would they not know who the owners were before they came here tonight?

Mayor Benton said it is in here, it is in this information in their packet. It says they were in front of the Code Enforcement Board.

Commissioner Alexander said Mary Monica Hood Young and Kirk Young. His concerns are, who was receiving the mail? They are talking about \$378,500 against these owners who no longer owns properties.

Mayor Benton said only because Mr. Young has come to him several times over the years. Knowing he doesn't own this, he knew that personally.

Commissioner Alexander said that is why he will be glad that individuals come to him, because he has concerns of the City of Fort Pierce doing their job. Someone is not doing their job.

Mayor Benton said he thinks that clears it up.

Commissioner Nelson asked officially it has been pulled from the Agenda, has it not?

Mayor Benton said that is not up to staff he doesn't think to pull items from the Agenda once it has been advertised. He would ask the City Clerk. But he thinks it is something they could address.

City Clerk Steele said Staff has traditionally been allowed to pull any item that is incorrect or needs work or whatever.

Commissioner Becht asked if Staff pulled it, can the Commission put it back on there?

City Attorney Schwerer said the Commission can put it back on if they want to.

Motion was made by Commissioner Becht, seconded by Commissioner Coke, and unanimously carried, to put Consent Agenda Item 17k back on the Agenda.

Mayor Benton asked does that mean they can act on it now?

City Attorney Schwerer said they need to be a little careful here. The way it is presented is there are two people being relieved of this lien, the current owner of the property and these folks here who were the former owners. They cannot legally waive it on the owner of the property because that was why it was pulled because the property is not in compliance with codes today. If the motion is to relieve the former owner of the lien, that is the only motion they can make, is to the former owner.

Mayor Benton said the motion should be to relieve them of the lien with the conditions that the Code Enforcement Board put on it.

City Attorney Schwerer said as to the former owners.

Mayor Benton said right, the former owners and the former lien on the property.

Commissioner Becht said let him take a stab at this, if Mr. Schwerer will just look very carefully over his shoulder, the motion that he would like to make is to relieve the former owners of their liability on the lien upon their payment of what the Code Enforcement Board recommended, which he thinks is \$4,589.40. Is that the right motion?

Motion was made by Commissioner Becht, seconded by Commissioner Coke, to relieve Mary Monica Hood Young and Kirk Young of the Code Enforcement Board lien against 735 Delaware Avenue upon their payment of \$4,589.40 within 60 days.

Commissioner Alexander asked they are relieving the owners of the liens for \$378,500?

Commissioner Becht said the former owners.

Commissioner Alexander asked so why are they paying \$4,589.40?

Mayor Benton said because that was the recommendation from the Code Enforcement Board.

Commissioner Alexander asked if these are not their liens or fines, then why are they charging those folks \$4,500?

Mayor Benton said that was from a previous fine.

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

Ms. Zadia Rowe Rosson said she is on the Consent Agenda here under Item 17o - Rescind Code Enforcement lien/fine of \$10,500 against 1416 North 16th Street and previous owner Zadia Rowe pay the administrative costs of \$750.84 within 60 days.

Ms. Rosson said they have her listed as Zadia Rowe. She was pulled with the same circumstance as the gentleman who just left from up here.

Mayor Benton asked is she the current owner of the property?

Ms. Rosson said no.

Commissioner Alexander asked why was this item pulled?

Mr. Marc Meyers, Deputy Building Official, said he has a picture taken today that shows code violations against this property. At one time it was in compliance, as of today it is not in compliance. There is non-operable vehicles as well as a lot of debris.

Commissioner Alexander asked who is the property owner?

Mayor Benton said it appears there is a new owner (Farid Nathoo).

Commissioner Coke said had staff not pulled this, she was going to pull it. She has some concerns that the new owner is an absentee owner. However, the original owner sold the property to them. So obviously there was money made by the sale of the property. She doesn't understand how the City's interest in this lien can go by the wayside when people are making a profit on something.

Ms. Rosson asked can she just clarify something for the Commission? Upon the mailings of this lien that the City had, she was not informed of it because they had the address of record incorrect. Unknown to her knowledge, it had gotten changed from her home address. All the mail regarding it was returned. Had she not been in the middle of a sale, there is no telling when she would have even known that the lien was there. When she discussed it with Code Enforcement, she immediately did what they wanted with the vehicle that needed to be moved. She moved it right away. They cleared the land as being in compliance. Because all the mail was returned to them, they recommended that the lien be rescinded and that she pay the administrative costs.

Commissioner Coke said she understands what Ms. Rosson is saying, but she sees she has sold this property for \$50,000 and the amount of the lien is being held in escrow for the City of Fort Pierce. She just has concerns because there was a legitimate lien put on there. They are looking to raise the bar in the City. Not that she has a problem with anybody making a profit on the sale of a piece of property, however it appears to her that Ms. Rosson made a \$20,000 profit on it and in the meantime the City lived with a property that was a problem for them.

Commissioner Alexander said not that he is coming in the defense of anyone, but they are speaking about a violation of an unregistered vehicle. Was Ms. Rosson living at this residence or is this rental property?

Ms. Rosson said rental property.

Commissioner Alexander said rental property. They tend to punish the landlords because of a vehicle. Again, if Code Enforcement said rescind those fines and liens and pay the administrative cost, regardless what kind of bar they are raising, he just can't see punishing individuals in this community once they come in compliance. He doesn't know the circumstances of a vehicle being parked unregistered. If she wasn't getting correspondence, then how would they expect for an individual to...?

Mayor Benton said the point is the car is gone, there is a new owner, and she is willing to pay.

Motion was made by Commissioner Alexander, seconded by Commissioner Nelson, to rescind the lien/fine of \$10,500 against 1416 North 16th Street and former owner, Zadie Rowe Rosson, pay administrative costs of \$750.84 within 60 days.

Commissioner Becht said he is going to vote against this and he is going to vote against it because the money is sitting in a title company to pay the lien. He needs to be consistent and earlier tonight he voted that way because the money was sitting in... Mr. Underhill is sitting back there waiting to talk to them. But he just wanted them to understand, because the money is sitting in a title company, he is going to vote against it.

Mayor Benton asked if the money is sitting in the title company, the City is going to get it, right?

Commissioner Coke said not if they approve this motion. She is going to vote against it also only because they have a situation, and she has consistently voted, where they have absentee landlord or one within the City of Fort Pierce, they have an obligation to maintain their property. People are making money renting property and have an obligation to make sure that is maintained properly.

City Attorney Schwerer said he wants to point something out. He has a duty to tell them this and he doesn't want to say this as to this case or any other, but the City Attorney's office is very specifically aware that every title company in the City of Fort Pierce when they close on these properties and they have City of Fort Pierce liens, they get payoffs from the City. Those owners then are told by the title company, they are going to hold it back but they can go ask the City to forgive it, they forgive all liens. He is not being facetious, but those are the statements he has been hearing from his office. When those title companies call, the City Attorney's office says no, they do not forgive liens. There is a process they have to file and go through it. So people are being told after the sale to come here and just ask the Commission to forgive it and then they can get the money released.

Mayor Benton said it is held in escrow. The minute they approve this, that check comes to the City.

City Attorney Schwerer said no, the minute the Commission disapproves this, the title company sends the check to the City that they are withholding from the proceeds of the sale.

Commissioner Coke said if they approve the motion as stated, the City gets nothing.

Mayor Benton asked so does the City not have legal help at the Code Enforcement Board? Did they know this? Why would they make this recommendation?

City Attorney Schwerer said they know this because the Minutes tell them that. The Minutes are telling them right here that they sold the property and the monies are being held.

Commissioner Alexander asked when Mr. Schwerer is speaking of the City of Fort Pierce sending anyone a letter and they don't receive that letter, whatever the circumstance is. The City of Fort Pierce has sent letters a school playground. He is aware of that. When they talk about \$10,000 for a car that is sitting on property, they see cars up and down this community. He just doesn't see punishing individuals for \$10,000 for rental properties with a car parked not being used. If a car breaks down people just don't have funds. He doesn't see the City punishing individuals because it was rectified. She said she took care of the problem. Why are they punishing? \$10,000?

Commissioner Nelson asked has the car been moved to date?

Mr. Meyers said the original car was probably moved, but today there are several cars there.

Commissioner Alexander asked but this is a new owner, right?

Mr. Meyers said yes.

Commissioner Alexander asked why is he bringing it before him tonight if there is a new owner? That is another process they need to take care of, right? It has nothing to do with tonight. That property has been sold, just as the prior individuals who left out of here - they

are sold property and they are talking about \$378,000. Now they are talking about \$10,000 for a vehicle?

Commissioner Nelson asked are the new owners here?

Ms. Rosson said no, he is not here. First of all, the title company did not really discuss this with her at all on whether or not she would be able to get money back. But the young lady at the Code Enforcement Board, she talked to her and she told her the necessary steps to go about getting it rescinded or changed or whatever, because all the mail had been returned and she was not aware of the lien. As soon as she talked to her and became aware of it, she took care of it. That is why the lien amount was set at that specific amount, otherwise it would still be ongoing. As soon as the day she spoke to the lady, she had the car removed. The lady had someone check and record that it was in compliance. That is why that amount held. She did what she knew to do when she knew to do it. She doesn't know what else she could say.

Commissioner Alexander said call the question.

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

MOTION FAILED TO PASS.

Mayor Benton said he guesses she has to pay that fine.

Ms. Rosson said they just did something that really is different from what they did just a moment prior (Agenda Item 17k).

Mayor Benton said no, before these people paid a settlement and that is what was in front of them. She will be paying a settlement now. She wouldn't have had that motion passed. Now she will be doing the same thing they did.

Mr. Chris Underhill said he is here for Consent Agenda Item 17n (**323 North 15th Street**).

He just wants to add some comments to that. The public relies on title insurance to protect them in the events of liens or whatever may be on the property before they bought it. Mr. Fils-Aime had closed on this property. He has a copy of the closing statement here with First American Title, just downtown here, in June 2004. The lien was filed four months after he took possession of the property. It was in motion. The title insurance company couldn't find it. It was filed against a previous owner four months later. He wouldn't have bought the property if he knew there was a lien on it, he would have asked the owner to pay for it. Furthermore, there is a notice of compliance here that Jupiter Isles of Florida Associates complied with it and satisfied it and took care of the fence in December. So he is misunderstanding something here with the ruling. Yes, the \$16,000 was set aside so they could come before the Commission tonight. But Mr. Fils-Aime would have never bought the property if he knew there was a lien on it in the first place.

Commissioner Alexander asked for his own information, the gentleman didn't buy the liens did he?

Mr. Underhill said no, he thought he was buying a property that didn't have a lien on it.

Commissioner Alexander asked who was the lien applied to now?

Mr. Underhill said the previous owner, Jupiter Isles.

Commissioner Alexander said it wasn't Mr. Fils-Aime, so he is not going to be tagged with those figures. It is Jupiter Isles.

Mr. Underhill said Jupiter Isles is a defunct corporation. It is no more.

Commissioner Alexander asked there is funds available for this, right?

City Attorney Schwerer said he doesn't know the specifics. He understands the man bought the property from the record. He has no personal knowledge of the case. He had title insurance. Apparently he sold the property.

Commissioner Alexander asked who sold it, Jupiter Isles?

Mr. Underhill said Jupiter Isles sold it to Mr. Fils-Aime; and the title search was done and no lien was found on the property during the title search.

City Attorney Schwerer said now this gentleman sold the property again. Mr. Fils-Aime sold it. How much did he sell it for? This time he sold it and there is money sitting in escrow to pay the City's lien. How much was disbursed to Mr. Fils-Aime? What was the sale price?

Mr. Underhill said the sales price to Mr. Fils-Aime was...

City Attorney Schwerer said he bought it for a sum. He then turned around and sold it for a sum. There was obviously a profit on the property because they held back the lien. He does not know that for a fact.

Commissioner Alexander asked why was the lien attached Mr. Fils-Aime instead of Jupiter Isles? These are the same things he has asked City Attorney in the past and he is asking him again today.

City Attorney Schwerer said he doesn't have individual knowledge of these cases. These are brought to the Code Enforcement Board or the Special Master by staff. They must have 200 cases a month that they are working. He doesn't have the personal knowledge. He is looking at the records. What he sees from the records is essentially that when the lien is filed, it goes against the property as well as the former owner. This gentleman bought the property. If he had a legal or factual argument, he needed to make that to the Special Master or the Code Board. He assumes that has been done. It is up here for a recommendation to the Commission; and they have the ability, as the Commission, to follow what the Board or the Special Master recommended or modify it. Apparently they already acted on it. That is all he can advise them. The Commission has the ability under the code to accept what the Special Master or the Board recommends or reject it or modify it. They have those three options - either accept it, reject it, or modify it.

Commissioner Alexander said he is speaking today for the people who don't have this knowledge. Constantly the community is being brutalized when it comes down to the dollars in their pocket. He is telling him Jupiter Isles has no other properties in their name, no holdings, no nothing? It happened prior to this gentleman selling his property.

City Attorney Schwerer said no, he doesn't know that. He doesn't have any of that knowledge. The only thing he has is what is in the records that were presented to the board below.

Commissioner Alexander said they as a City as a whole are allowing this type of business to go on in this City and no one is saying anything about it.

City Attorney Schwerer said he can assure Commissioner Alexander that when liens are filed by the City, if the property owners, especially when they sell these properties, feel those liens are invalid, they have an ability in a different forum to take that up with.

Mayor Benton said that is what the Code Board did. They made their recommendation.

City Attorney Schwerer said that is correct.

Commissioner Alexander said send it back to Jupiter Isles.

Mr. Underhill said what is interesting to note is that Jupiter Isles complied with it in December of 2004. October it was recorded and then two months later they complied, they fixed the problem.

Commissioner Nelson said unfortunately the Commission has made a ruling on it. It has been reviewed by the Code Board. Is there another route by which this gentleman can travel to get some relief with his concern, i.e. get his own attorney or file an appeal? Where can they go from here? Mr. Attorney or City Manager, somebody who can answer the question.

City Attorney Schwerer said in an effort to move the meeting along, he will answer it. He doesn't know where he can go. The Commission is the board of last appeal when it comes to their discretion that they exercise on any of these lien reduction requests. So the Commission is the court of last appeal, so to speak, with respect to this request. Does Mr. Fils-Aime have other options? He doesn't know enough about the facts. But the Commission is the board of last request.

Commissioner Alexander said he just doesn't see how they can put monies in the City coffer from sales and that type of sales that is going on in this community and they are not the watchdog on individuals. This gentleman came to him six months ago with this problem and no one has resolved this problem yet. It is sad that people take advantage. If they take advantage of the elderly, there are state laws against that. And they sit here as a City wanting to fatten their coffers for this foolishness?

Mayor Benton said he would suggest maybe he should call the City Attorney's office.

Mr. Underhill said for the public in the future when they get title insurance from whoever it may be - First American, St. Lucie Title, Republic Title, Fidelity Title - how are they to be protected when they do a title search and the lien gets filed four months after they buy the property against the former owner.

Mayor Benton said he has heard some real stories about title searches, not just government related. His wife is a realtor. He doesn't have an answer.

Commissioner Becht said there is a way. Do a municipal lien search. Ask the title company to do that. It is his understanding that First American and St. Lucie Title have changed their policies and that they are doing that now, perhaps in response to the situation they are in with his client. He needs to stop there. There may be avenues for his client to pursue, but he is going to have to go to a forum outside this Commission.

Mr. Underhill said they will do that.

Commissioner Coke said they had a citizen stand up here a couple of meetings ago and suggest that they explore the possibility of when they do collect **code enforcement fines** that have been against people's property that they set up a special fund that would be used to assist elderly or poor people to make improvements toward their property, if not all of the money but part of it. She would like to see if they have a consensus here to have staff pursue utilizing those funds to help other people.

Commissioner Becht said it sounds like a good idea to him.

Mr. David Recor, Deputy City Manager , said he has already tasked the Director of Building & Code Enforcement with coordinating with the Legal Department and investigating whether or not they can do that.

City Attorney Schwerer said he has a legal memo on his desk that he can share with Mr. Recor on that.

Commissioner Nelson asked could he exercise his right of privilege to raise the question for a **City Auditor** for reconsideration?

Mayor Benton said he is sure he can ask it, but he doesn't see anybody changing their minds up there.

Commissioner Becht said he has to be out of his mind. No, he is not interested in talking about it any more.

Mayor Benton said himself either.

Commissioner Nelson said he has a lot of concern about the **Sunrise Theatre parking lot**. What has been done or what can be done to make that a more attractive useable facility?

City Manager Beach said they are having the Engineering Department do a relining program to change the configuration of the parking. He has memored the Director of the Theatre, giving him the conditions under which the City would authorize towing of vehicles from that parking lot. They have already removed the barricades that were around it. The Commissioners will be getting copies of his communication both with the Engineering Department and the Theatre Director on that subject.

Commissioner Nelson said there was a problem on **1707 Avenue D** at a church, a pastor and the police. They were saying they were going to investigate that and get a report back within a limited period of time. What is the status on that?

City Manager Beach said he does not have that report. Does Assistant Chief Baldwin have anything to report on that subject?

Assistant Chief of Police Chief Sean Baldwin said he expects that report any day. There were a number of people who had to be interviewed because of the number of the people who were in the church.

Commissioner Nelson said experiencing quite a few delays in various **capital projects**, particularly he cites for them: 7th Street, the Human Development & Resources Centre, and resurfacing several of the streets throughout the City. It amazes him that they approve certain projects, certain capital outlays and they are done before the first of the year. He will bet them right now, several of the projects which they approved in the last budget as the day being the 2nd of October have already been purchased, installed, fixed, or whatever the case may be. Why can't they have some degree of urgency on some of these projects that they have in fact approved two and three years ago, coming out of the ground and moving ahead.

The parking lot for the Police Substation is another classic example.

City Manager Beach asked does Commissioner Nelson want a discussion of that, is that what he is asking for; or does he just want to express that frustration?

Commissioner Nelson said he really doesn't want a discussion, he wants some action. He thinks they are in fact been delaying long enough. The trolley is another example.

Mayor Benton said they had that discussion the other day at the FPRA meeting.

Commissioner Nelson said he is sorry he wasn't there.

Mayor Benton said he knows. He is just telling him those issues were dealt with at the meeting last week - the trolley and the Police Substation parking lot. They approved it, right?

Commissioner Nelson said they approved them two or three years ago.

Mayor Benton said he is just telling him what happened the other day. The trolley is supposed to be up and running on October 16th.

Mr. David Recor, Deputy City Manager, said Monday.

Commissioner Nelson said another key thing they have dealing out there is that **City Parking Garage** with an 18 month time frame. He would be remiss if he didn't mention it.

Mayor Benton said Mr. Ward said last Wednesday at the FPRA meeting that the plans would be in that afternoon. Mr. Ward is not here tonight, he is on vacation.

Commissioner Nelson said let him share his frustration with them. They say they are going to do these things, and they go off on vacation and leave or whatever the case may be and the job doesn't get done. They don't do a darn thing about it. It is delayed.

Mayor Benton said there is no delay. The plans were brought in.

Commissioner Nelson said he is using that as an example. That is only one example. There are many projects in this City that are not being carried out and have been on the drawing board, have been approved, have been funded, have been designed for years, and they are not being executed. People are not being held accountable for them. He thinks it is time that they do something about that. He is quite serious about that. When purchasing goes off and takes two or three weeks vacation and the project falls off or the hurricane comes, he is concerned about results.

Mayor Benton said his suggestion would be to put a list together of those projects, because the three Commissioner Nelson just mentioned they had a status report and he wasn't at the meeting, so he didn't hear that.

Commissioner Nelson said he can't be at every meeting. If they would be so kind to recognize he wasn't at the meeting because he was with a woman who happened to be his mother in the hospital. He will not be at the next meeting if she is in the hospital. They could have 15 meetings and he will not be there. But tonight he is talking about the fact that their major projects are being delayed and people are not being held accountable for them. He is asking that they do something about that. There is no reason for them to continue to delay. They are not going to have delays out on 2nd Street. They didn't have this kind of delays out on 2nd Street down by Tickle Tummy Hill bridge area. But projects that are in his area which he is concerned about...

Mayor Benton said the Human Development & Resources Centre, Commissioner Nelson's name is on the head of it.

Commissioner Nelson said Mayor Benton has asked over and over again, what happened to the Human Development & Resources Centre. He gets that question ten times a day. He cannot go to the toilet unless they are talking about it. On the other hand, they had an emergency for a golf cart down here at the golf course and they acted and bought the golf cart. They had an emergency for somebody to put a house over here or get some lodging

over here on 2nd Street over there and they have given them money for that. But they have 8th Street out there with that bridge and it has been out of action. It is an emergency, it is a safety hazard for how long? They have emergency funds and nothing is being done about it. He is asking the Commission to look at the fact that there is not a degree of urgency being placed on various projects in certain areas in the City.

City Manager Beach asked does Commissioner Nelson have a recommendation? Is there something he would like to propose?

Commissioner Nelson said he would like to propose that in private to Mr. Beach.

City Manager Beach said then he would be happy to do that at his convenience.

Commissioner Nelson said he is telling him he is very much concerned about that. There should not be these consistent delays that they are having. That is all he has.

Mayor Benton said he will tell him there is a State road on the beach. It happens in every area.

Commissioner Nelson said he is not saying it is not.

Mayor Benton said a lot of it is beyond their control.

Mayor Benton said his only issue he has to talk about tonight is he wants to make sure after the discussion they had, they asked it to be brought back about the **funding for non-profits**. He did get the City Attorney's response. He expected that response. They have been through this before. Is this going to be on their next's meeting Agenda, please?

Mr. David Recor, Deputy City Manager, said the City Manager has tasked him with additional research. He doesn't know off the top of his head exactly the expected turn around date. They are going to follow up with it.

Mayor Benton said he thinks this bit of information says almost all they need to hear, at least for himself anyway.

Commissioner Nelson said social security numbers of key officials in this City are on this document. Whoever publishes this document, please recognize that they don't give out for public consumption social security numbers.

Mr. David Recor, Deputy City Manager, asked what is that?

Commissioner Becht said he would rather Commissioner Nelson not say. He can take that up with the City Manager.

Commissioner Nelson asked say that again?

Commissioner Becht said he would rather Commissioner Nelson not identify the document on TV.

Commissioner Nelson said he deliberately did not call the names of the people involved, but they are key people.

Commissioner Alexander asked could he piggyback on him with that non-profit? He would like to know when did Fort Pierce start supporting non-profits. He knows it is before his time. He has a problem with it when it comes in his time and his task that they want to delete that. He wants to know how long has it been going on in this City of Fort Pierce where they have supported non-profits?

Mayor Benton said since he has been here in 11 years, it has taken on a new life. When he first came on board, he thinks most of the non-profits that received funding were through the Community Development Block Grant money, a request here and there. But in the recent future it has taken on a new life. To him, it is just something to look at.

Commissioner Alexander said he just wants to know for his information how long has it been done? He is not asking who it was given to, he is just asking how long?

There being no further business, Mayor Benton declared this meeting adjourned at 9:20 p.m.

Adjournment.

ATTEST:

CITY CLERK

MAYOR COMMISSIONER

