

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 15, 2007.

Mayor Benton called the meeting to order.

Chaplain Freddie Torres, Lighthouse International Worship Center, 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 first item considered was Comments from the Public: Mr. Mike James, The Young Millionaires Group, Inc., concerning utility costs at properties in the northwest section of Fort Pierce.

Mayor Benton said they are going to allow two speakers to present their case tonight. They have several public hearings that normally would be first. But because there are so many folks here, they are going to allow fifteen minutes to the two speakers; and then they have to get on with the scheduled public hearings that have been advertised.

Mr. Rodney McGill, 2110 N.E. Art Street in Jensen Beach, said the people are voters. The people are here today and they are not here today to harass the City or to bother the City in any way, but they have issues concerning Fort Pierce utilities. In the past the leaders that have come before them have come and said what he is getting ready to say now and they walked away and left it alone. They are here today to say enough is enough. They are not giving up. They are going to vote. They are going to stand strong. They looked at him a couple of weeks ago and he looked at them and said he is going to fight this all the way through and they are going to fight it all the way through also. They are going to vote. They have had enough of this here Fort Pierce utility. Commissioner Alexander and Commissioner Nelson as well as the other Commissioners as well as the Mayor. There is a \$900 light bill for one month, there is a \$598 for one month, there is a \$972 for two months, and it goes on over and over again. Come to find out the City gets back \$5 million from a non-profit organization. Non-profit means there is no profit. Profit means there is a profit. The City is given this money. They feel as though the City should give this money back to the people because that is where it came from. They feel as though by them owning this Fort Pierce Utilities Authority, they think it needs to be dissolved. They are going to keep on fighting. The Commission can have their jobs if they are fighting the right way. Because this is not fair that older people can't afford to pay their light bills and pay their mortgage and put gas in their cars and pay for their medicine, all the things that politics is all about. Enough is enough, they say today. He has come down here himself, a pastor in this area, and some other pastors are here. A lot of people are outside. As they came inside they probably seen a lot of them outside. There are thousands and thousands of people who are willing to walk the streets to give somebody out there a voters registration form to let them know that either they get this straightened out today or they will come back again to vote in either the next Commissioner or the next Mayor. But they are seriously tired of everything. They are coming back again for everything. He wants Reverend Ingram to come forth. He is one of their pastors in the area who has a high light bill also.

Pastor Jonathan Ingram, 921 Orange Avenue, said his light bill there is prorated on \$150 a day. But that really didn't bother him until he was able to review so many other light bills and he really don't know how some of these people really have been. And he noticed the collection plate is low in all of their churches now. No wonder, the Utilities Authority is getting it all. On their way up here he was standing on the other side of the street and a lady came by. He is not going to even say what color she was. But she wanted to know what reason or what right do they have to come up here today? What she needs to know, if she is present, that they own this place. They are citizens and they are taxpayers. He

was born on 511 North 11th Street in Fort Pierce 72 years ago. And it has got to the place now where they say enough is enough. The City should find some kind of way, the Utilities Authority should find some kind of way. And he was just thinking just today why some of their bills are so high at their church. They pay for the water coming in and pay for the same water going out. Does that make sense? Not to him it doesn't. And he is not just here looking for no publicity. They all know he is a quiet person. But just like Moses, he spoke to him the other day saying he has seen the tears and heard the cries of the people. And somewhere down the line the City officials need to find some kind of way to make some kind of adjustment to help them out. He knows it can be done and if they need him to advise them how it can be done. He knows they all know every thing. But the first thing he would advise the City to do in order to give them a little break is to get out of the real estate business. Leave the real estate business to Hoyt C. Murphy. That is number one. And number two, what he would do is all of these people that work for the City utilities for 30 years go away on retirement, stay one month, and come back with a big \$100,000-something salary, that doesn't make sense. He was talking to some people just the other day and they told him the reason they have to do that is because they hadn't trained nobody to take their place. If they work for somebody 30 years and they haven't trained nobody to take their place, that means they ought to have to give the City all the money back that they paid them because they haven't done their job.

Mr. McGill said they will vote in December.

The next item on the agenda was Approval of Minutes of the Regular Meeting on October 1, 2007.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve the Minutes of the Regular Meeting on October 1, 2007.

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

Mayor Benton proclaimed October 15-20, 2007 as **NATIONAL BUSINESS WOMEN'S WEEK.**

Ms. Peggy Murphy said she thanks the Commission. It is an honor and she hopes everyone remembers that October 15th through the 20th is National Business Women's Week in honor of the many millions of women who are working women in this Country. She accepts this on behalf of the Fort Pierce Business and Professional Women's Club.

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

Letter from Cynthia Cobb, St. Lucie Elementary, thanking Fort Pierce Police Officers Dan Gilroy and Caleb Gillette for their assistance.

Letter from Bruce and June-Ann Degraw in appreciation of the efficiency and assistance from Kia Powers, Historic Preservation Officer.

Announcement - The Marine Industries Association of the Treasure Coast recognized top Industry leaders at the various 2007 Business and Industry Appreciation events that took place recently on the Treasure Coast. The St. Lucie County Chamber of Commerce concluded the week's events with its awards banquet on the evening of September 20th. The Marine Industries Association of the Treasure Coast nominated Fort Pierce City Marina for the 2007 community partners award. They were chosen as the top community partner with less than 25 employees. Dean Kubitschek, the Marine Manager, was on hand to receive the award.

Mayor Benton said they are real proud of Mr. Kubitschek and the job he does at the Fort Pierce City Marina. Keep up the good work.

The next item on the Agenda was Public Hearing on Application for **Conditional Use** submitted by Carl & Jackie Lederman to construct a single family home at **1710 Coconut Drive** in Fort Pierce, Florida, at a height of 34 feet 10 inches above base flood elevation; said property zoned R-1, Single Family Low Density Zone.

Mr. David Carlin, Development Review Planner, said tonight in accordance with Section 22-16(a)(3)(b)(1) of the City Code, the applicants are requesting conditional use approval to construct a single family home that is greater than 28 feet, a height requirement as specified by the South Beach Overlay District. The 0.63 acre vacant parcel is located at 1710 Coconut Drive. The 5,400 square foot two-story house will be situated in the middle of the property and will also include a pool toward the rear. The proposed house will meet all setback requirements in the R-1 zoning district. The property is zoned R-1, Single Family Low Density Residential, and is surrounded on the east and west by other R-1 and South Beach Overlay zoning districts consisting of single-family homes. The survey indicates that the subject property has a base flood zone designation of AE with the base flood elevation of six feet. Based on the South Beach Overlay District guidelines pertaining to height, the maximum structure of height shall be calculated from the FEMA base flood elevation to the highest point of the roof excluding non-habitable architectural design elements of the structure. The conditional use approval allows 35 feet and the proposed height for this particular project is 34 feet 10 inches tall. This diagram was incorporated as part of the South Beach Overlay District which shows how height is calculated; and this is the actual architectural renderings for this particular home which shows that the height is 34 feet 10 inches above base flood elevation, which is underneath the 35 foot height requirement established by the South Beach Overlay District. A total of 33 notifications of the conditional use were mailed to property owners located within 500 feet. As of today eight responses have been received - seven of which approved the conditional use and one which opposed. All affected departments have reviewed the proposed conditional use and approved it based on it meeting the requirements of the City Code. At the September 11, 2007 meeting, the Planning Board voted unanimously to recommend approval of the Conditional Use. As the proposed conditional use meets the requirements of the City Code, staff recommends approval.

Commissioner Becht said looking through the Minutes of the Planning Board meeting, he thinks at least one of the Planning Board members asked about notice in this particular instance. This is a conditional use application. Is notice mailed out prior to the Planning Board meeting?

Mr. Carlin said his understanding is the conditional use process requires notifications to be mailed prior to the City Commission hearings, so he doesn't believe those were mailed before the Planning Board meeting.

Commissioner Becht asked do they require before the City Commission meeting signage on the lot?

Mr. Peter Buchwald, Zoning Administrator, said the notification procedures are spelled out in Chapter 22 of the Code. For a conditional use application, it is notification by mail prior to the Public Hearing. The Public Hearing is conducted right now in front of the City Commission. The meeting in front of the Planning Board is considered a public meeting, so hence it is not subject to sending out the mailings. That is done prior to the Commission.

Commissioner Becht said so the long winded answer is no, there is not a sign on the property.

Mr. Buchwald said yes, the notices were sent out prior to this Commission meeting.

Commissioner Becht asked there is no sign on the property, is that correct?

Mr. David Recor, Deputy City Manager, said posting is not required according to the code.

Commissioner Becht said that is the information he was trying to elicit. He had sent an email to Mr. Beach about the notice provisions and what those are and how those are being applied to various rezonings, PURs, and conditional uses. This brings to mind - and they are not going to change it for this particular property owner - a deficiency with their notice provisions, because this property should have had a sign on it at least before the City Commission meeting and he thinks perhaps before the Planning Board meeting. He can't change that tonight, but he wanted to bring it up while they were talking about it so that perhaps they can get staff to move on that so the LDRs (Land Development Regulations) get changed so the notice provisions are better, so the people are notified of what is happening in their own neighborhoods.

Mr. Recor said this is not the first time this has come up. They have noted that for revision in the Land Development Regulations - the distinction between mailed notices, posting, and advertising.

Mayor Benton said the neighbors are saying that there is a sign posted on the property.

Mr. Buchwald said if he may correct himself. He was incorrect when he initially said that a sign is not required. According to 22-143, a notice by sign for a conditional use is required. If he recalls, they did ask for Public Works to install a sign. He believes a sign was installed, so he stands corrected on that. And it is required by code for this type of application.

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

Ms. Peg Norton, President of the Jennings Cove Subdivision, said she has been in contact with Mr. Buchwald because initially the height requirement did not meet code and their Architectural Review Committee brought that to her attention. Since then the plans have been revised. As long as it is within the South Beach Overlay, they have gone ahead and given their okay for the project.

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

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve the Conditional Use application submitted by Carl & Jackie Lederman to construct a single-family home at 1710 Coconut Drive at a height of 34 feet 10 inches above base flood elevation.

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

The next item on the Agenda was Public Hearing on Applications for **Conditional Use & Site Plan Review** submitted by **Westside Baptist Church** to construct a sanctuary/worship center and support buildings at 3661 South Jenkins Road; said property zoned R-2, Single Family Intermediate Density Zone.

Mr. David Carlin, Development Review Planner, said tonight the applicant is requesting site plan and conditional use approvals to construct a new sanctuary/worship center located at 3661 South Jenkins Road. Two additional buildings will be constructed in the future as part of a phasing plan. The 48.49 acre parcel is predominantly vacant with the exception of

several existing buildings that are currently used by the church on the south side of the property. These buildings were previously approved by St. Lucie County. Since the property was annexed into the City after the existing buildings were constructed, a conditional use approval is required in the R-2 zoning district, as specified by Section 22-25, prior to any new development on the property. The property is zoned R-2, Single Family Intermediate Density with a Future Land Use of RL, Low Density Residential. The property to the north of the present development is unincorporated and consists of single-family homes, with the exception to the northwest where a small portion of vacant property with R-2 zoning exists. The property to the northeast is vacant R-4, while the property to the east and southeast consists of single-family homes and also located in unincorporated St. Lucie County. The project will be phased into three different components. Phase I will consist of constructing the largest building, which will contain 64,843 square feet and include 1,741 seats and will also include pre-school rooms, offices, and conference rooms. The building will extend to a height of 35 feet. Phases 2 and 3 of the development will include two future buildings and those will total in size 55,800 square feet and will be situated toward the rear of the property. As far as site access, all of the entrances will be along Jenkins Road. There are three entrances - two existing and one new entrance will be constructed. The first existing entrance is located on the south. The second existing entrance is more toward the middle portion of the property. And the new entrance will be located toward the middle portion of the property. All of these entrances will have unrestricted turning movements. The new entrance that will be constructed will include a deceleration lane for vehicles heading south on Jenkins Road. In addition, the applicant has dedicated 20 feet of right-of-way. A traffic study provided by Kimley-Horn & Associates indicated that 547 daily trips would be generated by the proposed development. Of those trips, 43 A.M. peak trips and 40 P.M. peak trips would be generated. Additionally 649 Sunday peak hour trips would also be expected with this development. The traffic study also stated that there will be no significant impacts to the surrounding roadway network. A total of 41 notifications for the conditional use were mailed to property owners located within 500 feet of the property. As of today, seven responses have been received - four of which approve of the conditional use and three which oppose. All affected departments have reviewed the site plan and conditional use applications based on it meeting the requirements of the City Code. At the September 11, 2007 meeting, the Planning Board voted unanimously to recommend approval of the site plan and conditional use. As the proposed site plan and conditional use meet the requirements of the City Code, staff recommends approval.

Commissioner Nelson said Mr. Carlin indicated they have 1,741 seats. What is their parking space capacity?

Mr. Carlin said a total of 710 parking spaces have been provided for this particular...

Commissioner Nelson asked 710 parking spaces versus 1,741 seats?

Mr. Carlin said City Code requires parking to be provided for one space for each three seats of fixed seating for church developments.

Commissioner Nelson asked the ratio of seats to parking, or is it a ratio of parking to building space?

Mr. Carlin said that is referenced to the number of seats for a church.

Commissioner Nelson said okay. He was thinking commercial sized is so many square feet. For churches it is a different story.

Commissioner Becht asked can Mr. Carlin tell him the width of Jenkins Road from the northern property line to the southern property line after they get their 20 feet? Is it a set number from the north end to the south end?

Mr. Carlin said according to the plans, the right-of-way right now is 80 feet.

Commissioner Becht asked that is the full length from north to south?

Mr. Carlin said it appears to extend along the property boundary 80 feet.

Commissioner Becht asked do they have all that they are going to need for the reasonably foreseeable future in that area?

Mr. Carlin said from that property they are giving 20 feet and that is what the County requested. They have indicated that is the appropriate amount of right-of-way.

Mayor Benton said he is a member of Westside Baptist Church and he has made a financial commitment to this worship center. Is he allowed to vote on this or does he need to abstain from voting? Is there a conflict?

City Attorney Schwerer said if Mayor Benton believes he has a personal financial gain or loss by his vote, he can abstain from voting. In the absence of that, he should vote.

Mayor Benton said he doesn't feel he has a financial gain or loss. But the community has a big gain.

Commissioner Nelson asked is it non-profit?

Mayor Benton said it is non-profit.

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

Mr. Harold Melville said he is here representing Westside Baptist Church along with Reverend Dale Ingersoll. Jeff Smith is here with him, he is a land planner. And they also have Roger Priest, who is their construction manager, and various other members of the church are here this evening. For background, Westside Baptist Church was founded in 1946. It has been a resident of the City of Fort Pierce for more than 60 years. Originally the facility was on Orange Avenue. They moved to Jenkins Road in 1991. They are on that part of Jenkins Road which is south of Edwards Road and where Jenkins essentially dead-ends at this point. The church currently has approximately 2,500 members. The site is 48.5 acres totally. The south 25 acres of the property is the original church site. It was zoned as a religious facility in 1990 when it was in the County. That was site-planned in the County and that is where all the existing buildings are. The church subsequently acquired an additional approximate 25 acres to the north and that is where they desire to build the new buildings. That is assigned an R-2 zoning by the City when the church was voluntarily annexed into the City, so they need site plan approval and a conditional use. A conditional use for a church is allowed in an R-2 zoning district. The church now desires to construct a new primary sanctuary. It would have about 64,000 square feet of space and 1,741 seats. He believes the new sanctuary would be an excellent addition to the City of Fort Pierce. He thinks it would be a great landmark for the City. The church and its consultants have worked for many months with the County staff to get the site plan brought to this stage. They believe it is an excellent site plan. Staff is recommending approval of the site plan. They went before the Planning Board in September, which unanimously recommended approval. And so they are requesting approval by the City Commission of the site plan they have in front of them today together with the conditional use approval.

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

Commissioner Nelson asked does Staff have any conditions they need to incorporate on this?

Mr. Carlin said no.

Motion was made by Commissioner Nelson, seconded by Commissioner Coke, to approve the Conditional Use & Site Plan submitted by Westside Baptist Church to construct a sanctuary/worship center and support buildings at 3661 South Jenkins Road.

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

The next item on the Agenda was Public Hearing on Application for Site Plan Review submitted by Ronald Parrish, St. Lucie County Fire District, to construct a Communication Antenna at Fire Station #15 located at 721 Avenue D; said property zoned C-3, General Commercial Zone.

Mr. David Carlin, Development Review Planner, said the St. Lucie County Fire District is proposing to construct a communication antenna at Fire Station #15 located at 721 Avenue D. The applicant is requesting approval to construct the new antenna in order to accommodate the latest technology and communication needs of the Fire District and to comply with the communication requirements specified by the Department of Homeland Security. Furthermore, constructing the new antenna will allow transmission signals to be sent over existing buildings, structures, bridges, trees, and future development including the downtown area in the natural typography. The Fire District has indicated that Fire Station #15 will be the last of the stations within the City of Fort Pierce that will require a communications antenna. The subject property is zoned C-3, General Commercial Zone, and all properties surrounding the Fire Station are also zoned C-3. The property to the east and south is occupied by the Juvenile Court, while the property to the west is currently vacant. Properties on the north side of Avenue D are occupied by various business establishments. The communication antenna will be located to the east side of the Fire Station and will extend to a height of 120 feet. The antenna will be of steel construction and will be free standing with no guide wires. The base of the tower will be enclosed by a 6-foot high masonry wall which will be situated 15 feet back from around all sides of the tower and the base will be further screened by landscaping which consists of wax myrtle plants. Based on the height and distance of the antenna from the St. Lucie County Airport, the antenna was subject to FAA regulations. The FAA conducted a study of the proposed communication antenna and determined that it will not pose a hazard to air navigation. For increased safety however, the tower will also consist of a low-intensity red-flashing beacon to increase visibility for aviators in proximity to the St. Lucie County Airport and to the final approach course to Runway 32, and because the Fire District also on occasion conducts helicopter operations. To comply with Section 22-159(b)(8) of the City Code, the applicant has provided notice of the proposed location to other telecommunication carriers with a potential interest in co-locating on the subject tower, which is intended really to reduce the number of towers within the City. On August 10th the notice was sent out to the newspaper for that intent to co-locate. It should also be noted that the Fire District has agreed to remove the communication tower if Fire Station #15 is abandoned, to comply with the provisions of Section 22-163 of the City Code. On June 25, 2007 the Historic Preservation Board approved a Certificate of Appropriateness for the proposed communication antenna with the condition that the antenna support structure be enclosed with a concrete wall not to exceed 6 feet in height and is painted with the same color as the fire station. In addition, the Board directed the Fire District to work with the Urban Forester to appropriately landscape the antenna. Both of those conditions have been satisfied. At the September 11, 2007 meeting, the Planning Board voted unanimously to recommend approval of the proposed communication antenna. As the proposed communication antenna meets the requirements of the City Code, Staff recommends approval.

Commissioner Nelson asked was there any consideration given to the possibility that they might try to further develop that old Police Station right there by the Fire Station on Avenue

D into a municipal or governmental complex, housing perhaps court facilities and all that for juveniles and the like?

Mr. Carlin said that was not part of the review for this particular application. The Planning Department reviewed that exclusively for compliance with the code in reference to antenna specifications.

Mayor Benton said yes, the County is already in talks about doing that. In the space needs meetings, the County is already talking about doing that to the old facilities there that used to be the police station and the jail, making a juvenile court there.

Commissioner Nelson said that is what he thought, they sort of have plans to that effect. Mr. Carlin said no consideration was given to that as though they didn't consider it. He thinks they should consider that, because if they are building something there that is going to impede or usurp building that facility, he thinks they ought to try to make it more compatible. Why didn't staff look at something like that? They always look at the present as well as the future as much as they can, do they not? Do they understand what he is saying? He is saying there is a strong possibility that the citizens of St. Lucie County would build a facility there comparable to maybe the present Courthouse or the Clerk of the Courts building. What is he asking, did they look at those possibilities and was it in their purview to do so? He thinks it is.

Mr. Peter Buchwald, Zoning Administrator, said that is the first that it has been brought to his attention of those proposed plans for portions of the property. That is the first it has been brought to their attention. They will certainly consider that going forward in terms of whether those proposed plans would be impacted by this antenna.

Commissioner Nelson said he is not trying to put a crank in the armor here. But they have two other Commissioners who sit on Fire Board. He is confident they might have some... He will ask them when they discuss it among themselves and he will ask the Fire District people when they come along. Sometimes they don't get everything right, but they do a heck of a job. But that is one that concerns him.

Mr. Buchwald said this is the first it has been brought to his attention.

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

Mr. Tom Whitley said he is representing the St. Lucie County Fire District. This antenna structure will become a vital part of their communications infrastructure that will allow primary communications and also redundant communications in the event of failure of the primary. As for the number of stations within the City, currently this completes their tower infrastructure of their current stations. They do have plans on-going as development occurs to look not only into the City of Fort Pierce, but the County and the City of Port St. Lucie to further their needs. So he can't say this will be the last tower in the City of Fort Pierce. As the Fire District grows to meet the needs of the citizens, they may project another fire station and it will need another tower.

Commissioner Nelson asked do they have a tower for each of their stations and how many stations do they have currently?

Mr. Whitley said they currently have 15 stations throughout the County with two ready to be constructed in the City of Port St. Lucie. Each of those towers are either in the process of getting new 120 foot towers, as long as they are not replacing that particular station. They have several stations that they are in the process of attempting to relocate, thus they are not going to put those funds toward a tower for those until they have a permanent location for those potential rebuilds.

Commissioner Nelson said he has confused him and he is easily confused. Does each station have an antenna?

Mr. Whitley said the easy answer to that would be yes. They have some stations that have antennas that are more temporary in nature and those would be the stations that are planned to be rebuilt; thus when they have a permanent location for that rebuilt station, then they will build a permanent antenna.

Commissioner Nelson asked so they have roughly 15 towers scattered around the County?

Mr. Whitley said 16 currently.

Commissioner Nelson asked whether or not they considered the possibility - he knows they are all in the same link as the City is - relative to the potential buildup in that area for a municipal facility or governmental facility in the old area by the Juvenile Court area, did they consider that in any way?

Mr. Whitley said they looked at the surrounding properties; and if the potential for redevelopment is there, that structure can also utilize this. These buildings and properties are very close in proximity. The tower is located on Fire District property, not on the County property adjacent to that. But any governmental structure would require communications infrastructure and they certainly would allow that co-location onto that structure.

Commissioner Nelson said he is looking down the road where it might come up wherein the County wants to build a big Taj Mahal there for example and the possibility their tower might be in the way and they ask that they please let them build their Taj Mahal where they have their antenna and there is a tug of war going on between the two of them and they end up not getting the Taj Mahal built in this City.

Mr. Whitley said if that is the case, they would literally have to tear down the fire station and build a new one. That antenna is located very proximal to the building, the fire station itself. It is very close to their current structure.

Commissioner Nelson said he saw the plan. But he just wanted to make it fully known that there is that possibility and there is that need for that review and it should include key players like the County, the Fire District, and the City. If they look at that as a close proximity to the footprint of their present building, he doesn't think they would have much of a problem.

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

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve the Site Plan submitted by Ronald Parrish, St. Lucie County Fire District, to construct a Communication Antenna at Fire Station #15 located at 721 Avenue D.

Commissioner Nelson said he would like to ask their Fire Board members, did they look at the issue about the possibility of...?

Commissioner Alexander said that is a St. Lucie County building, right? He is just speaking as a Fire District Commissioner, the St. Lucie County building is separate from St. Lucie County Fire District, isn't it?

Commissioner Nelson said he doesn't quite follow his question.

Commissioner Alexander said two different entities.

Commissioner Nelson said his question to him was, did he as a member of the Fire Board and as a City Commissioner look at the possibility that they might build that up in that area for another governmental facility, what impact it might have on future potential development in that area?

Commissioner Alexander said Commissioner Nelson asked him a question. He gave him his answer. They had a charrette over there that he and Commissioner Nelson didn't go to and they would have found out what they were going to do and what their intentions are over in that area. They didn't make it that day. So he is just letting him know, it has already been spoken of and spoken about. Does Commissioner Nelson not recall the meeting he didn't go to?

Commissioner Nelson said there is certainly a lot of meetings he doesn't go to.

Commissioner Alexander said it is already in the making, that is all he is saying.

Commissioner Becht said yes, the issue of the tower location, they did look at it. It is an existing station and the location of that tower as it relates to the operation of the Fire Station is exactly where it needs to be. If they look at it toward the goal of the County developing the Taj Mahal that Commissioner Nelson is talking about, he thinks if the County had the ability to predict the Taj Mahal and say where they wanted that tower, the tower is located where the County would want it to be located. They can't move it to the west side of the building because it is an existing station. So it is located in the best possible place to accommodate the needs of the Fire District and the unforeseen but hopefully Taj Mahal plans of the County.

Commissioner Nelson said please understand his basis and his concern. He remembers one time they were contemplating putting a \$17 million governmental facility right there on that same corner on Avenue D and 7th Street. And some people said no, let's not do that. But 20 or 30 years ago if they had put a \$17 million infrastructure improvement on that site, there is no telling in his mind what that area would be looking like today. So he thinks they need to continue to look at what they are proposing to do and what impact it is going to have not only for the present but in the future. He would hate to have them come up 5 or 10 years from now and want to put a \$20 million municipal complex over there and something is stopping them. Not that this will, because he thinks they have all addressed it and he is glad to hear that.

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

The next item on the Agenda was Public Hearing on Application for **Site Plan Review** submitted by **Madison Cay Ltd.**, Parks Cities Design, to construct a 132-unit affordable rental apartment community on the west side of North 29th Street between Avenue Q and Avenue M; said property zoned R-4, Medium Density Residential Zone and Consider request by Madison Cay Ltd. for **Abandonment** of unopened Right of Way for **North 31st Street**.

Mr. Peter Buchwald, Zoning Administrator, said the applicant proposes to construct a 132 unit affordable rental apartment community on approximately an 13.56 acre property. It is understood that the applicant is receiving an approximately \$2 million grant from the County for this construction. The property is split by the North 31st Street right-of-way and the current design the Site Plan requires the abandonment of this right-of-way. This abandonment will require its completion by a separate process. The site is generally surrounded by single-family homes, vacant properties, several churches, and Pioneer Park.

So the proposed multi-family use is inconsistent with these surrounding land uses, including the City-sponsored Pioneer Park Subdivision as under construction abutting to the south. There is a church and vacant property located to the north. There is a canal and single-family homes located adjoining to the west. There is Pioneer Park Subdivision that

is currently under construction. Here is Pioneer Park itself. This view shows where the proposed entrance to the project will be off 29th Street. The proposed development will consist of 132 units in 10 buildings. A clubhouse, swimming pool, and tot lot will be located in the eastern portion of the development. There are concerns related to the overall sustainability of this type of design because apartment buildings are traditionally an urban typology and those that are well designed shape the public space. With the front entrances on both sides, this building type does not shape the common open space very well. In addition, there is no private outdoor space for the units such as a rear patio, a deck, or a screened porch. In addition, the buildings are not configured in such a manner which shapes the roadway, separates the vehicles and the pedestrian circulation from the parking areas, and frames the open space to invite its usability. The property currently is occupied by a pine flatwood forest that includes slash pines, oak trees, palmetto, and gallberry. Because a large number of the protected trees are present, extensive tree mitigation is required for the loss of these trees. In addition, 158 new trees are required according to the City Code. While the native preservation areas are proposed around the perimeter of the development in addition to new landscaped areas, a detailed environmental survey is necessary to confirm that there will be enough inches in the preservation area to offset both required mitigation and the required landscaping where the natural vegetation is utilized. Also as part of the project the applicant is proposing to provide a contribution of \$200,000 to the City for Pioneer Park improvements. It is recommended any contribution toward Pioneer Park improvements be received prior to the issuance of any building permits. At their meeting on September 11th, the Planning Board voted 6 to 4 to recommend approval of the site plan with conditions. The North 31st Street right of way abandonment process was started, it was started at the last Planning Board meeting on October 9th. At that meeting the Planning Board voted 8 to 1 to recommend denial of the proposed abandonment of the North 31st Street right-of-way. This Site Plan, this project is a difficult one for Staff, because while there are benefits of a project like this to the community, there are also some detriments. So therefore it is recommended that any approval of the Site Plan at a minimum includes the following conditions - that an environmental survey is conducted to confirm that enough trees are present in the preservation areas, that the North 31st Street right-of-way abandonment process is completed prior to any building permits, and that any contribution for those Pioneer Park improvements be received prior to the issuance of any building permits. However, although the Site Plan does meet the technical requirements of the City Code, Staff is recommending denial because the Planning Board recommended denial of the proposed abandonment, the proposed multi-family use is inconsistent with the surrounding single-family uses, and the concerns related to the overall design.

Commissioner Coke asked can Mr. Buchwald please go back and show her where the entrance to this subdivision is in relation to that new Pioneer Park Subdivision that is being built?

Mr. Buchwald said the entrance is off North 29th Street. In that lower quadrant is the Pioneer Park Subdivision. There are two stub drives. Zora Neale Drive would dead-end where the development is planned to be. The Pioneer Park Subdivision is under construction.

Commissioner Coke asked there is only one entrance in and out of this?

Mr. Buchwald said yes; however, there is a secondary entrance that is for fire access only that is being proposed there at the end of Zora Neale Drive. That will be for emergency purposes and it will have a knock box on it for Fire District access.

Commissioner Alexander said first of all they are going to deal with one item at a time, the Site Plan, right?

Mr. Buchwald said yes.

Commissioner Alexander said any references other than that, they are dealing with at the appropriate time. They emphasize a lot it is the northwest section, which is not northwest, but the Lincoln Park area. As he visioned, anything that is coming into that area to make that community better. Commissioner Nelson and he put the foot to someone else who wanted to come in there and put some kind of slum ghetto type thing and they would not agree with it. He has to divulge that he did speak with the developers and he was promised that they are going to have first class units here. Again, as he visualizes that area of the community, there is nothing going into that community. Most of the residents are caught up with the Housing Authority - some of those individuals out there are paying \$600 and \$700 a month for rent with no carpet, no central air, just window units in them - and it is a sin and a shame. When they have projects like this come into this community, they are going to first agree with it and then they are going to turn around and deny it? He is concerned, especially when it is in his district that he has nothing in his community that he can turn around and say that is a blessing to this community. What is the other subdivision they put in, was it Live Oak Villas down on 25th Street and Okeechobee Road? They went to a second phase because that turned out so nice. Again, he is supportive of this because it is going to be beneficial to the community and it is going to be something to be proud of. They are enhancing the park. They go out there now, it is a City park and it is ridiculous. He is ashamed to say the City owns that park out there.

Mr. Buchwald said it is like he indicated, it is a difficult one for Staff. It is exciting to have new development in that area of town. Staff is just trying to raise the bar and they have indicated that from the outset they like to have an improved design. Again, there are many benefits to this development in the community and they have identified some of those benefits, but there are some detriments. So it is a difficult decision. Do the benefits outweigh the detriments?

Commissioner Coke said she noticed there are a varied number of bedroom units here. Does he know the square footage in these units?

Mr. Buchwald said he doesn't. There are one, two, and three bedroom units, but he doesn't know the square footage of each one.

Commissioner Nelson asked the designation of a street in there, Zora Neale Drive, how was that chosen, was that the developer's choice?

Mr. Buchwald said that is part of the Pioneer Park Subdivision that is under construction, so that has already been chosen as part of the City-sponsored Pioneer Park Subdivision.

Mayor Benton asked remember when they cut the ribbon the other day out there to Pioneer Park Subdivision? That street has already been designated as Zora Neale Drive.

Commissioner Nelson asked how was it chosen? Who chose that name for that street? Was it the City or the developer or who?

Mayor Benton said the City is the developer.

Mr. Buchwald said the City is the developer on that particular project. The individual home sites are being developed by local builders. He does not know who particularly named that street as such.

Commissioner Nelson said he is sort of a historian buff or something. When they start looking at these people that just might end up being one of their pioneers, so he is trying to keep that in perspective. They had a case once when somebody came up and said the area around the Lincoln Theater used to be called the Lincoln Park and that is being resurrected. For historical purposes, he needs to set the record straight so they can go in the right direction on these types of things. Zora Neale Hurston is a key figure in this City, in this nation. To have her name strung around places he thinks without due deliberance is

contrary to his thought process. So he was just asking the question, how was it chosen - the City chose it or the developer chose it?

Mr. Buchwald said Mr. Ward, the FPRA Director, just whispered in his ear that he understands the Reverend Toby Philpart selected that name for the street. Reverend Philpart is one of the leading builders who is building on three of the lots.

Commissioner Nelson said Reverend Philpart is going to develop on it, okay. For history, they know that now.

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

Mr. Jim Dyal, Vice President with the American Realty Development, said he would like to speak on behalf of their development. Obviously the Commissioners know the location very well. They talked about the number of units. They talked about the zoning. The property was zoned for 10 units an acre at the time they purchased the property. They purchased it in order to build a multi-family development of 132 units. There was a question about the unit sizes. There will be 32 one-bedroom units approximately 800 square feet, 56 two-bedroom units approximately 1,050 square feet, and 44 three-bedroom units approximately 1,200 square feet. Each of these units will be equipped with tile, with wall to wall carpeting, each unit will have washer and dryer hook-ups, full size appliances, and ceiling fans. These will be first class units. They have made that representation and obviously they are going to do that. As he told a lot of folks over the last few months, if they like what they saw at Live Oak Villas, they will love what they do. He thinks they will build a very comparable product and a product they believe is a little more upscale in design and features than what Live Oak Villas did. Why are they building this type of development on this site? Their demographic study showed that within a three-mile ring of this site, there are about 33,850 people. That comprises about 7,600 households, of which 64% of those households qualify for the affordable housing they are going to build. So when someone asks why didn't they build upscale very expensive market rate rentals, why didn't they build very expensive condominiums? Those are simply not supported by the demographics. And they don't believe in bringing people from outside of the market into the area, they want to serve the citizens and people who are already in that market and in that location. In addition to the amenities that have already been described - the pool, the clubhouse and so forth - one of the things they are very proud of is in their multi-family developments, they believe these act as incubators to get folks into home ownership. To that end they provide tenant programs for all of the residents - home buyer programs and credit and financial counseling. Each and every resident gets the opportunity to plan for their future from the financing perspective and also clean their credit up. They help them into home ownership. They typically in every marketplace work with non-profit groups who can help these residents move into home ownership. In addition to that, every single resident is entitled to a portion of their rent that goes into a savings account, 5% of their rent. Should they buy a home, they give them that back for down payment assistance. So again, they believe these act as incubators for home ownership. They try to get people out of rental and into home ownership. There has also been some discussion about the management end of the development in the way it is designed. The development is designed for them to have the best management control they can and also for the security of the residents. There are a number of very large developments in Fort Pierce and St. Lucie County. This is not a 300 or 340 unit development, it is 132 units. They strongly believe in that size development. It will be very similar in the management style of Live Oak. They also have another development in St. Lucie County, Cove at St. Lucie, which is 140 units - a very small development relatively speaking, easier to manage, and it does not have the large number of residents that usually pose management problems associated with 300-plus unit developments. One of the things he would also like to point out is what the economic impact will be on the community. They are going to be paying about \$692,000 in impact fees. They are going to be paying \$435,000 in utility connection fees. They have

committed to pay for the right-of-way abandonment, approximately \$88,000. They have committed to improvements for Pioneer Park of \$200,000. Pioneer Park is so critical to them because they are going to have a lot of children in that development. The children can walk to Pioneer Park, there will be walking trails. And the other great thing about this site is they can walk to the elementary school, which is a terrific opportunity for them. Over a ten-year period they will pay about \$1,300,000 in ad valorem taxes. So if they total up the direct economic impact of this development, a little over \$2.7 million they will contribute to the community in this development. In addition to that, the direct construction costs almost \$12 million. That money will be spent here in this community. They will have as many subcontractors as they can from this community. And that money will by and large go back into this community. The Planning Board did vote to approve the Site Plan. Within that approval was the abandonment of 31st Street. He would also like to point out that because the property is zoned for multi-family, it is their contention that whatever was built on this site, whether a developer came in and built an affordable housing project like they are proposing, what if they came in and built for-sale condominiums or market rate development, given the density, they would have to build this kind of density to make the purchase price function for them from an economic perspective and the Site Plan would be very similar. They met every condition that the City put on them to try to accommodate them on this site plan. So no matter what was developed on this site from a multi-family perspective and no matter who the developer is, they believe that in each and every instance they would ask for the abandonment of 31st Street. North 31st Street bisecting the property simply is a security issue for them. It also doesn't make a lot of sense to have amenities on one side of the development with children living on the other and trying to cross a public street to go to the tot lot or go to the pool. It is just dangerous and it makes no sense for them to do that. There are other benefits they believe to abandoning 31st Street. First of all the Pioneer Park Subdivision, if 31st Street were to be built, then there would be two entrances to Pioneer Park and people could literally drive through Pioneer Park to access 31st Street. Again, he doesn't think that is what the developer wants and the City is the developer of Pioneer Park Subdivision. They don't want people driving through their subdivision, it creates security problems. In addition to that, the lots on the western portion of Pioneer Park Subdivision would be encroached upon by 31st Street should it be built there. So then the residents on those three or four lots there would have a public street on either side of their home. Again, he thinks it is a security issue for them. The last thing is, in discussions they have had with Jon Ward, he believes their understanding is that he would like fencing around Pioneer Park Subdivision. The abandonment of this street allows the fencing and increases the security of Pioneer Park. Secondly, 31st Street obviously bisects Pioneer Park itself, creating issues of security and it is a danger to the children playing in Pioneer Park. So he doesn't think that anybody would ever want 31st Street to go through and bisect Pioneer Park itself. Last, the property that fronts Avenue Q, both church-owned properties - a church physically occupying one and owning the other - they do not believe that the abandonment of 31st Street negatively impacts either of those parcels at all and in fact positively impacts each of those parcels. He does have a number of folks who could answer questions on what they had proposed in the Site Plan and why they want to do things the way they do it. He can't answer every single question, he is not an engineer on site planning, but he would be glad to have one of their team come up and answer any questions the Commissioners may have.

Commissioner Nelson said he wants to go back to the 800 to 1,200 square feet. Is that correct?

Mr. Dyal said approximately 800 square feet for the one-bedroom, about 1,050 square feet on the two-bedroom, and 1,200 square feet on the three-bedroom.

Commissioner Nelson said contrary to normal status, somehow or other they all missed him in the rounds with respect to him meeting with the developers beforehand, so this is the first time seeing them. Please forgive him for not being available for them to meet with him, he knows they tried. They choose to go multi-family here as opposed to single-family?

Mr. Dyal said yes. There are two reasons for that. First of all, they are multi-family developers, not single-family developers, so they seek opportunities to develop multi-family housing. The other thing is, he is putting on his affordable housing advocate's hat, he does serve on the Board of Directors of the Florida Housing Coalition out of Tallahassee. First of all, the property is zoned for multi-family, so building single-family on a property that is zoned for multi-family poses some issues. Also the property is marketed as a multi-family site. In their opinion, it was one of the larger sites with a preferable location with this many acres. In other words, the zoning was in place with this many acres. And for a single-family developer to come in, they would be paying an exorbitant price per home for the land itself; and by the time they did the site improvements and so forth, the homes would no longer be affordable. Beside the fact that he thinks in the current marketplace there are a great number of single-family opportunities in the County already for this type of housing. As a matter of fact, the County financed an affordable condominium project already. He is sorry for the long-winded answer, but they don't develop that. And they don't believe it would be financially feasible and allow them to be affordable still.

Commissioner Nelson said they heard him allude to pioneers and Zora Neale Hurston and this is probably the basis for him bringing up the Zora Neale Drive in that area. They talked in terms of making a contribution of \$200,000 for development and improvement of Pioneer Park. He noticed that staff sort of encouraged him to do that because they are pretty good at running their parks and everything and they feel they can take the \$200,000 and do something with it. They got this money primarily from the County, some \$2 million or so for that purpose?

Mr. Dyal said they do have \$2 million in the form of a low interest rate loan. They have not closed yet. It has been committed by St. Lucie County. He did not bring this up, but he would also like to point out since he asked him, the \$2 million was actually funded to the County by the State in the Hurricane Housing Recovery Act. So this housing is also intended to provide housing for families that were displaced due to the hurricane. The wheels turn very slowly in trying to get that money out the door and trying to get the housing up. They are trying to get it built as quickly as they possibly can. But all the money that will go into the development of this sort of fungible, it will all go into one account. Essentially what they are going to be doing is taking \$200,000 out of the developer fee they would normally get and contribute this to Pioneer Park.

Commissioner Nelson said he appreciates Mr. Dyal telling him all that. He is trying to actually lay the groundwork for squeezing out another \$50,000, because he needs some help in recognizing the pioneers of that area. He thought in terms of some idea of coming up with another \$50,000 so as to be able to give that recognition because there are people like Zora Neale Hurston, Dr. Benton, the Alexanders - many people who are in fact northwest pioneers who needs some recognition over and above that which Commissioner Nelson is able to give based on his recollection. Because he wants Commissioner Becht and his children to go out there and see who the Pioneers were. Does Mr. Dyal think he could possibly come up with another \$50,000 to add to that?

Mr. Dyal said that is not an issue at all.

Commissioner Coke asked when he talked about how the property was marketed, he does understand of course that the City did not market this property?

Mr. Dyal said yes.

Commissioner Coke said it is not their job up here as Commissioners to insure that they as developers make their level of profit that they are looking to attain. It is the Commission's job up here to insure that they develop their neighborhoods to the best and possible use for the citizens of this City. So she wants to be real clear that if they overpaid for land and they can't make money on it, that is not her problem. She hates to say it, but that is the only way she can think of to tell him. She has some major concerns when he tells her about the

size of these units. She is looking at a three-bedroom with 1,200 square feet. She thinks she has at times had dog houses that were that size for her animals. That is just unbelievably tiny. They couldn't turn around in 1,200 square feet with three bedrooms. It is beyond her comprehension.

Mr. Dyal said if they compare these to the normal product that is built around the State by other of their brethren developers who are building affordable housing, these units are very large.

Commissioner Coke said she is here to tell him, 1,200 square feet for three bedrooms, they are looking at putting a mom, a dad, and two, four, or five kids in 1,200 square feet, they are just looking to have people down each other's throats because that is not enough room for these kids to turn around, make a little noise. And especially when there is not really a big back yard for mom to say, get out the house, the sun is out, go play and leave her alone, and still be in her line of vision. It would then incur then that mom and/or dad would have to stop what they are doing, take the kids to Pioneer Park or the tot lot. Because she doesn't see that there is a provision there, it is not quite as family-friendly in her mind as it needs to be.

Mr. Dyal said one of the things they typically have done in the past is the cable TV system they put in has closed circuit channels on it. There is usually a camera on the tot lot and a camera on the pool. So if they send their kids out to the tot lot, mom or dad can actually turn the TV to the tot lot channel and watch their kids while they are at the tot lot. They obviously can't put cameras all over Pioneer Park because they would be hard pressed to catch the kids on that big of an area. But that is one of the things they try to do, to try to help mom or dad out so they know where the kids are. A unit that is 1,200 square feet, he knows it sounds small and it isn't very large compared to his home and a lot of other folks homes. Again, they are not trying to get the City to preserve their profit; but within the context of the funding that is available for a development of this type, it is as large a unit as they can build without additional sources of funding that they simply don't have. This might not be the answer she wants. But these units are at least 20% larger than what the market would build for this type of housing already. They simply don't have any money within the context of how much it costs to build a unit like this to build anything any larger. If someone comes in and offers them another several million dollars in funding, grants and so forth, they could definitely make them bigger.

Mayor Benton asked who is going to be the management firm?

Mr. Dyal said typically every one of their properties is managed by Banyon Realty Management LLC. Banyon is the largest management company in Florida at least and potentially they are the largest manager of affordable housing in any place. They manage over 21,000 affordable units. That is their business. In addition to that though, just because they have a third party management company doesn't mean they turn everything over. They have asset management staff on their staff that visit every one of their properties on a daily basis, reporting back to the general partners any issues that they find so they can interface with Banyon and make sure things are taken care of the right way. The good thing about Banyon is they are extremely good at the paperwork end of it, certifying the tenants and so forth. But they oversee their own properties. For example, Cove at St. Lucie had some significant wind damage and they oversaw the cleanup of that property in making sure everything was fixed. They didn't just let Banyon do that, they came down and did that themselves.

Mayor Benton asked being it is an affordable project, do they have special rates to try to get teachers, firemen, or policemen in a development like this?

Mr. Dyal said as a matter of fact, he did some research before he came down, he did this last week. The medium income in St. Lucie County is about \$52,000. The maximum income a family can have and live in this development would be 60% of that, which would

be about \$31,200. So starting teachers, starting firefighters, starting police officers on the pay scale he saw on the St. Lucie County website and also the City's website, are all above that level, so they actually would not qualify because they frankly make too much money. That doesn't mean though that there aren't other staff people working at the City of Fort Pierce and St. Lucie County who are making that money and could take advantage of it though.

Mayor Benton said what he is getting at is, what he has seen in places like Gainesville and even in Fort Pierce, Bethany Court is one in particular, where they have police officers living there. Is there any way they can require that there be police officers living there? Because it is great for security.

Mr. Dyal said absolutely. He thinks there is a distinction there. They can't market 132 units to police officers and fire fighters, and EMT's and nurses and teachers, because they simply don't income qualify. However, what the State allows them to do is set aside a certain number of units that are non-restricted units so they can have police officers living on site. Out of the 132 units, 128 may be for the affordable housing residents and four may be for police officers or whatnot who live there rent free in order to provide some additional security, have the car parked outside, and so forth.

Mayor Benton asked that is going to happen though?

Mr. Dyal said absolutely. They do that in every single development they do, there is always at least a police officer, if not two.

Mayor Benton said he would hope for two. Because he knows in Bethany Court it works very well and a lot of other developments. It is just added security for the residents, but also for the community, and it keeps the place looking a lot better than the Housing Authority properties.

Commissioner Becht said as a follow-up on that, would Mr. Dyal stipulate on the record the number of units he is going to commit to either firefighters or policemen? Do they want to add teachers to that list?

Mr. Dyal said they normally have at least two police officers in every development they do. One of the things that is out of their control a little bit is how many the State will allow. The Florida Housing Finance Corporation has to make the final decision on how many units they will allow them to take out of the housing stock and set aside for that use.

Commissioner Becht said then let's approach this from a different angle. Whatever that number is, will he stipulate on the record that those will be made available for new teachers and fire fighters and police officers?

Mr. Dyal said yes. He just wants to make it very clear that at the end of the day the Florida Housing Finance Corporation would most likely limit them to about four units out of the 132, so it is not going to be a vast number of units, but it would be about four. But they would certainly commit to the maximum number of units they would allow them to do.

Commissioner Becht said as Police Chief Baldwin is trying to attract new hires to the Police Department and he can represent to them that they can live in this place at a fairly decent rental, he thinks it is going to help. So Mr. Dyal is committing, whatever the number is, it will be available for police officers, fire fighters, and teachers.

Mr. Dyal said yes.

Mayor Benton said he would like to make sure at least two of those are for police officers.

Commissioner Alexander said he would add City employees.

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

Commissioner Alexander said he would take the lead on this and move to approve with the conditions they spoke of.

Mayor Benton asked are there specific conditions?

Commissioner Becht said he wants to clarify the conditions that they are placing on it. Staff had some conditions that he doesn't know that the developer can live with. And Commissioner Nelson was pretty adept at extracting an additional \$50,000. The additional \$50,000, would that be part of his motion?

Commissioner Alexander said yes. And the buffer they were speaking of, separation of the single-family homes there.

Commissioner Becht asked which one of the alternatives that Staff recommended for approval of the Site Plan? Staff had recommended an additional environmental survey is conducted.

Commissioner Alexander said his question to that point is, speaking of additional environmental surveys, but they have one of the best foresters; and if he says it will suffice, is that coming from Paul Williams?

Mr. Paul Williams, Urban Forester, said the plan meets the technical requirements of their City Code. The recently enacted Comp Plan that was approved by DCA and approved by this Commission has additional protective requirements for the environment. This includes all the plant material and the pine flatwoods, not just the trees. Their current tree protection ordinance deals directly with trees and tree inches. And the developer and team have requested that there be areas preserved that meet their tree protection ordinance. But when compared to the Comprehensive Plan, there might be plant material that would not be protected at this time. So it meets the technical requirements of the Code.

Commissioner Alexander said he knows the Mayor requires certain trees and he doesn't want to shortchange his thoughts and his wishes and he includes that in their wishes.

Commissioner Becht said if he can approach this from a different angle. Does the developer have any problem with the three conditions that staff mentioned. Those three are: Additional environmental survey is conducted, North 31st Street right-of-way abandonment process is completed prior to the issuance of building permits, and the third one was contribution for Pioneer Park improvements is received prior to issuance of building permits. Those are the three Staff conditions.

Commissioner Nelson said and the \$50,000.

Commissioner Becht said that is part of that. So the question to the developer is, do they have a problem with those? He would reveal that he talked to the developer about the environmental survey and got the explanation why that could not have been conducted in advance. If he could get clarity on that first, then they might know whether Commissioner Alexander and he are in agreement on the motion.

Mr. Dyal said they don't have any problem with those conditions at all.

Commissioner Alexander said the motion is inclusive of the recommendations.

Commissioner Coke said she would like a little more clarification. Did the motion maker also include the maximum number of units allowed to be incorporated for work-force housing?

Commissioner Alexander said motion inclusive of the maximum amount of housing for the work force.

Commissioner Coke asked is Mr. Williams going to law school? Because he answered and she has no clue what he said. That is usually what happens when she talks to a lawyer.

Mr. Williams said no, he is not applying for a law degree. But he is definitely saying that the environmental conditions are going to become more and more complicated as they move further ahead in development in this State.

Commissioner Coke asked is Mr. Williams trying to tell her that yes, they meet the code they have now, which is very minimal, but they are not going to meet the code that is coming? Is that what he was trying to tell her?

Mr. Buchwald said to clarify on this environmental survey, on the mitigation plan itself, yes. Staff needs additional information and the applicant indicated that they would provide the additional information and want to make sure they get that additional information because it could amount to \$200 per inch of trees that they are not protecting.

Commissioner Coke asked so that is covered under the condition number one that they discussed?

Mr. Buchwald said the environmental survey, right. They need that environmental survey so they can confirm that they indeed are going to preserve enough, because there are so many trees out there. They need that.

Mayor Benton asked when are these new codes coming? The night he and Commissioner Alexander sat in on the Planning Board, they tabled that ordinance coming back with additional landscaping requirements. Where is that? Is that going to be back in front of the Commission soon?

Mr. Buchwald said that will be part of the overall re-write of the LDR's because since the Comprehensive Plan was passed after they had the discussion from the Planning Board, the Comprehensive Plan is even more stringent when it comes to landscaping. So they want to make sure that any Land Development Regulations pertaining to landscaping are consistent with the new Comprehensive Plan.

Mayor Benton asked so they hope by the end of the year, is that what Mr. Buchwald is telling him?

Mr. Buchwald said correct. From what he understands, the RFP is going out by the end of the month for the Land Development Regulations, so they are moving right along.

Commissioner Coke asked can Mr. Andrews tell her if he has a level of comfort with there being one entrance basically that is going to be open on a daily basis?

Mr. Jack Andrews, City Engineer, said yes. Their Traffic Engineer reviewed this and they are comfortable with it.

Commissioner Coke said she is thinking they probably got 400, 500, or 600 cars looking to get out in time to go to work and school between teenagers and they all have to have their own vehicle and mom and dad. But if Mr. Andrews tells her it is enough, and they build this and then they come back and complain, she knows where to find Mr. Andrews.

Commissioner Nelson said he would like to turn to legal staff relative to the zoning in the area and whether or not this single-family versus multi-family is adequately addressed. Does the developer have an absolute right to go with the multi-family as opposed to the

Commissioner's thoughts regarding single-family and the fact that they have a rental there versus single-family home ownership there in this case?

City Attorney Schwerer said he believes it does since there is no request for rezoning here. He doesn't know what the zoning or land use is.

Mr. Buchwald said it is R-4, which does permit multi-family dwellings.

Commissioner Nelson said so they do have the legal right to do it. And of course, that is notwithstanding the fact that on prior occasions they have said they needed less rentals and more single-family houses and that a push is being made currently as evidenced by the Pioneer Park Subdivision of single-family homes in the area as opposed to multi-family.

Mr. Buchwald said again, that is way it is a challenging one for staff because the two elements of the Section 22-58: The City Commission shall not approve the Site Plan if it does not conform to all applicable provisions of the zoning ordinance. They said it does meet the technical requirements of the Code, so that criteria is satisfied. Now number two is much more broad. It says: The health, safety, and general welfare of the public are not properly provided for. And that is where it comes down to the decision, do the benefits outweigh the detriments? The developer has indicated what the benefits are. Staff has indicated what the detriments are. So that is the tougher of the two decisions, would be the second one.

Commissioner Nelson asked in that revelation, does Mr. Schwerer want to say anything in addition to that?

City Attorney Schwerer said the zoning gives certain rights that can be attainable under the code provided all of the code sections are met; and this Commission does have a broad range of discretion with respect to Site Plans and other factors to consider, such as the traffic issues and various other provisions. But the question was, does he have a right to build multi-family housing in that zoning district? The answer is yes. If they want to redesign this Site Plan in accordance with some of the code requirements, does the Commission have that ability? The answer is yes, they do.

Commissioner Becht said he noted that some of the Planning Board members had mentioned that they wanted more landscaping. He thinks they even mentioned cypress in the retention area. Have the plans changed to incorporate any of those ideas? Or do they have the ability to see that those ideas are actually realized?

Mr. Buchwald said within the proposed retention area is additional cypress. And they have also made the retention area smaller, so they actually saved a couple of additional protected trees. There were 52, there are three trees that are being saved and also further to the west. So they have done both things, they have incorporated cypress into their proposed retention area and they shrunk the size of the retention area allowing for the preservation of more trees. So they meet that condition of the Planning Board.

Commissioner Becht said excellent.

Commissioner Coke asked can Mr. Buchwald tell her in the R-4, what is the maximum density? Is it 8 units per acre?

Mr. Buchwald said the maximum gross density is 10 units per acre for conventional developments.

Commissioner Coke asked on that development they are putting in directly across the street from this, what is the density on that?

Mr. David Recor, Deputy City Manager, asked the single-family in Pioneer Park?

Commissioner Coke said yes.

Mayor Benton said they appear to be quarter-acre lots.

Mr. Buchwald said unfortunately they don't have the acreage that is encompassed by that.

Mayor Benton said Mr. Ward might know.

Commissioner Alexander asked how many acres is it? They are putting 20 units on that acreage.

Mr. Jon Ward, Director of the Fort Pierce Redevelopment Agency, said he thinks there are 20 houses in Pioneer Park Subdivision and he thinks those are quarter-acre lots, so it might be safe to assume it is about five acres. So that would be 4 units an acre.

Motion was made by Commissioner Alexander, seconded by Commissioner Becht, to approve Site Plan submitted by Madison Cay Ltd., Parks Cities Design, to construct a 132-unit affordable rental apartment community on the west side of North 29th Street between Avenue Q and Avenue M, with the following conditions: (1) An additional environmental survey is conducted to confirm that enough trees are present in the preservation areas to offset required mitigation and landscaping; (2) The North 31st Street right-of-way abandonment process is completed prior to the issuance of any building permits; (3) \$200,000 contribution for Pioneer Park improvements, plus an additional \$50,000, be received prior to the issuance of any building permits; (4) Provide the maximum units allowed for workforce housing for teachers, firefighters, and police officers; and a minimum of two units be provided to Fort Pierce Officers; (5) Buffer between Pioneer Park Subdivision and the Madison Cay development.

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

City Clerk Steele said next is consider request by Madison Cay Ltd. for abandonment of the unopened right-of-way for North 31st Street.

Mr. Buchwald said should they direct Staff now to proceed with this, which he believes they have with the approval of the Site Plan, the City Clerk will prepare an ordinance and provide all the proper noticing to bring it before the Commission at their next meeting.

City Attorney Schwerer said procedurally that will require compensation from the developer for the square footage of the right-of-way abandonment. He believes it was mentioned during their presentation they had no objection to that.

Commissioner Nelson asked with this abandonment, is there going to be a cost involved in this or what are they planning there?

Mayor Benton said the City Attorney just said there will be a charge for this property.

City Attorney Schwerer said there is a formula they use for all abandonments of this size so that the City is compensated and it stays consistent with the property. He thinks the developer mentioned it, they just need to double check it. Also, there are some costs of advertising; and the code does require the applicant to bear those costs as well.

Commissioner Nelson said again he has to go back to his memory. They abandoned some property there on Dundas Court some time ago. They let the guy have it for free and they ended up trying to get the three square foot easement to put a light pole and he refused to give it to them. The City ended up buying the property.

Commissioner Alexander asked wasn't that Commissioner Nelson's property?

Commissioner Nelson said no, it didn't affect his property. The fact is, they abandoned that portion that was not his property from virtually all the way from Dundas Court to Orange Avenue; and they ended up buying that same property, which was the width of about 40 to 60 feet, back from another owner. So he doesn't want them to fall in that same trap again.

Commissioner Coke said they are making them pay for it top dollar.

Mr. Recor said he doesn't know if it is reflected in the background information or not, but the developer did offer to pay either the cost per acre that they paid for the surrounding property, or the cost per acre based on appraisal, whichever is greater. So consistent with what Commissioner Coke just said, they are going to pay maximum value for the property and that should be entered into the record.

Motion was made by Commissioner Alexander, seconded by Commissioner Becht, to approve the request by Madison Cay Ltd. for abandonment of an unopened portion of right-of-way for North 31st Street.

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

Ordinance No. K-514 entitled, **AN ORDINANCE AMENDING THE FUTURE LAND USE DESIGNATION OF PROPERTY LOCATED AT 1911 AVENUE D, FROM CN, NEIGHBORHOOD COMMERCIAL LAND USE, TO CG, GENERAL COMMERCIAL LAND USE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**" and Ordinance No. K-515 entitled, "AN ORDINANCE **REZONING** PROPERTY LOCATED AT 1911 AVENUE D, FROM C-2, NEIGHBORHOOD COMMERCIAL ZONE, TO C-3, GENERAL COMMERCIAL ZONE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE." were placed on second and final reading and read by title only. (Applicant: Candance Brown Geohagan - Geohagan Motel)

Mr. Peter Buchwald, Zoning Administrator, said this is the second reading of a rezoning and future land use amendment for 1911 Avenue D. If they recall from the last meeting, the Commission unanimously voted to approve this. He is here to answer any questions they may have subsequent to that meeting.

Mayor Benton declared a Public Hearing on Ordinance Nos. K-514 and K-515 in session and asked if anyone in the audience wished to be heard.

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

Motion was made by Commissioner Alexander, seconded by Commissioner Coke, that Ordinance Nos. K-514 and K-515 be passed on second and final reading.

Those voting in favor of the passage of Ordinance Nos. K-514 and K-515 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-516 entitled, **AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, AMENDING CHAPTER 22, ARTICLE IV, SUPPLEMENTARY REGULATIONS, SECTION 22-67 (FENCES, WALLS AND HEDGES; INSTALLATION, REPLACEMENT AND MAINTENANCE); SPECIFICALLY AMENDING SECTIONS 22-67(c)(3), GENERAL AND CENTRAL COMMERCIAL INDUSTRIAL AND OPEN SPACE ZONING DISTRICTS, AND 22-67(e)(5), COMMERCIAL AND INDUSTRIAL**

BUFFERS; PROVIDING LIMITATIONS ON OUTSIDE STORAGE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE. was placed on second and final reading and read by title only.

Mr. Peter Buchwald, Zoning Administrator, said if they recall at their last meeting the Commission approved the first reading of the ordinance with revisions. The ordinance was revised and includes the following, that a fence or wall or landscape strip shall be installed to screen the cargo containers. The height requirement of a fence or wall was modified to be a minimum of 8 feet and the landscape strip shall be at least 10 feet wide at a minimum. The stacked cargo containers cannot exceed a height of 30 feet. And the fence, wall, landscape strip, or landscaping are subject to review and approval by the Design Review Guidelines in the City Code. That was requested by the Commission regarding to place in language regarding exceptions for boats, masts, citrus bins, and cranes and other equipment that was not placed into the ordinance because the City Attorney took exception to that. So the ordinance is before them. As the proposed ordinance meets the amendment standards specified by the City Code and is consistent with the Comprehensive Plan and the Port Master Plan, Staff recommends approval.

Commissioner Coke said once again, she knows they did it last week, but although the City Attorney is saying they cannot have this as an amendment to the existing ordinance as proposed, she would like to be sure that it is read into the record that the exception is boats, masts, citrus bins, cranes, or other equipment. And that is the intent of this Commission as they discussed it at the previous meeting.

Mayor Benton said he thinks when a motion is made, that language also be not added with the motion, but just so the future Commissions know the intent of what this Commission has done.

Commissioner Alexander asked is he not reading in here, is this a Citywide ordinance or is it just for the Port area?

Mayor Benton said just for the commercial/industrial.

Commissioner Alexander asked citywide?

Commissioner Coke said yes.

Commissioner Alexander asked wherein does it stipulate citywide?

Mayor Benton said it is just with that zoning. That zoning can be anywhere in the City, commercial and industrial.

Mr. Buchwald said this refers to in the fences portion of Chapter 22 of the City Code, so it is not within any particular zoning districts. They will see also here Section 22-67(c)(3) pertains to those general and central commercial/industrial zoning districts. So as they see there, it refers to fences and walls in those zoning districts. So it is citywide in terms of those zoning districts.

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

Ms. Marcia Baker said she is a resident of South Beach. Years ago she was among those who tried to block the construction of the cement silos. Business interests won and they are left with these disgusting twin horrors sticking out like malignant gray moles on the face of the Port. She has a serious concern with the proposed increase of the height limits for outside storage to 30 feet. This means any kind of outside storage of any material anywhere that could be piled or stacked to that height. Since the fence requirements are

only applied to views from adjoining public rights-of-way and waterways are not considered public rights-of-way and the buffers between the industrial or commercial properties and residential properties would remain at 8 feet, this would increase, not decrease, visual pollution from the inlet and would adversely affect many residential properties within view of commercial or industrial storage. Her next concern regards the fence requirements. If the phrase sight-obscuring is carried to its strictest meaning so that all of any fence or hedge or foliage no matter what the height obscures the view of whatever is on the property, then there would be a safety and security hazard that would impact not only the business but the entire City and perhaps the entire State and Country, as it would be in violation of the security positions of the Port Master Plan and the recommendations of Florida Senate 2007-111 Project Report on Cargo Security. It would also be in violation of current clear vision ordinances in the City Code. Her main concern has to do with the definition of outside storage. Mr. Schwerer referenced this when he asked that fruit crates not be included as an exemption because these are also containers that are used to store goods or materials. The current ordinance calls for a 15-foot limit on outside storage of materials. This proposed ordinance, aside from the change in height, changes the usual and customary meaning of the word materials to include materials storage containers. Interpretation of the word materials to include containers means that all material containers empty or full are included in the definition of outside storage and subject to the outside storage ordinance. This would place everything from the stacked fruit crates and cargo containers at Egan and Orchid Island to U-Haul units, dumpsters, and any other containers used for businesses in the City under all the restrictions of this ordinance. It would also remove cargo containers from their current zoning requirements for permitted uses as they would no longer have a distinct and separate classification, but would be considered permitted outside storage. Trying to fix a perceived problem of a view of cargo on the face of their Port while ignoring the fact that the ugly cement silos are all anyone notices is not only short-sighted but is against the Port Master Plan which calls for gentrification and enhancement of the Port area, not ghettoization. No other port cities, including those which are designated Ports of Entry, have any such restrictions. This includes the lovely old City of Fernandina Beach with the Amelia Island container port. That port, which is a designated Port of Entry, co-exists with thriving water-related tourism and is located within view of expensive homes and hotels which include a 5-star \$600 a night Ritz Carlton Resort. Because the Port of Fort Pierce, unlike Amelia Island, is not a designated Port of Entry, it is limited in what it can import or export. The only reference she could find to container stacking limits was in the advisory sent to all ports by the U.S. Coast Guard to reduce stacked containers to two high for hurricane preparedness. So fears of expansion of port activities or fears of storm hazards, she believes are unwarranted. This amendment would open a Pandora's Box of problems. It would not accomplish its original goal, would increase the potential for expansion of container storage, increase visual pollution, create an enforcement nightmare, violate existing City and County Codes, the Port Master Plan, and State and Federal security guidelines. She urges them to reject this amendment. Draw up a specific ordinance if they wish to address cargo container storage. And unless they wish to place an unconscionable burden of added regulations and expense on existing and future businesses, eliminate the current Staff interpretation of storage containers as being considered as materials.

Mr. Gerald M. Ward, Marine Industries Association of the Treasure Coast, Legislative Committee, said they are a four-county association obviously dealing in boating and marine industries. They were very pleased on Thursday to see the draft of the ordinance contained the exception that Commissioner Coke referred to and it sounds like it is more of a procedural problem versus a substantive problem to put it back in tonight. Operations of boatyards, marinas, and so forth all bring equipment, bring boats, bring masts, bring other items which would exceed, for storage, in some people's definitions. So they would love for them to go ahead and put that sentence back in. And he thinks Commissioner Coke cited the substantiveness of the provision. And if they need more discussion, their Executive Director is here and Co-Chair of their Legislative Committee just to be able to talk to them about it.

City Attorney Schwerer said he didn't mean to interrupt, he just needs to discuss something with the Commission before they vote.

Mr. Bob Poyner with the Bernard Egan Company said they would just like to be able to get a clear understanding this evening regarding the citrus containers. Like the gentleman before him, the previous wording in the ordinance exempted them. That has been their understanding that they were exempt from the fencing and the ordinance. A citrus container is just simply a container that they bring citrus fruit from the groves to the packinghouse. During the off-season they do stack them out. But during the season they come in with fruit, they are unloaded, they go back out. During that time also some are stacked while they are waiting to go out. So they do respectfully request that the wording in the ordinance would exempt their citrus containers. And they are doing nothing different than what they have done for the last 30 years with stacking them there. If they have any questions, he would be happy to...

Commissioner Becht said he has a quick question for Mr. Poyner and he may show his ignorance by asking the question. But he thinks they are doing something different than they did 30 years ago. He thinks they are washing the containers now.

Mr. Poyner said that is a good question, a good observation. Yes, they do. It has to do with the prevention of the spread of canker. So when that container is dumped, they have a...

Commissioner Becht said at season end they wash the containers before they stack them out there. That was kind of his point. They are not stacked out there with the limbs and the leaves and everything else in them.

Mr. Poyner said that is correct.

Commissioner Becht said that was his point.

Mr. Poyner said yes, they have been cleaned and they are not with leaves and things that might blow around.

Commissioner Coke asked could he tell her how high do they stack their containers?

Mr. Poyner said the highest they normally stack them is seven high and that container is 2-1/2 feet deep. That is about...

Commissioner Coke said so actually this ordinance which is 30 feet doesn't affect him anyway.

Mr. Poyner said it doesn't. But their concern is having to build...

Commissioner Coke said because seven times 2-1/2 puts him at...

Mr. Poyner said ...a 16-foot fence.

Commissioner Coke said no, they took that out of the ordinance last week.

Mr. Poyner said okay. So he goes away with the understanding that they are exempt from the ordinance?

Commissioner Coke said she doesn't know that it is exempt; but she believes they are complying with the ordinance because the ordinance as proposed is 30 feet and he doesn't stack anything as tall as 30 feet there.

Mayor Benton said as he is doing business currently, he is legal.

Mr. Poyner said okay, wonderful.

Mr. Bill Hearn said he resides outside of the City of Fort Pierce, but he does spend a lot of time and money in Fort Pierce. As most of them know, he has been involved in the port planning process for the last 12 to 14 years. He belongs to St. Lucie Waterfront Council. The Council has been involved in this issue for the last 10 years that he knows of. And he can tell them that the results of over 100 meetings of the public throughout these years, the public has spoke loud and clear that they do not want the expansion of cargo operations at the Port of Fort Pierce. He gives Mr. Roberts and his folks at Indian River Terminal Company a lot of credit for having the ability to come into their City and start stacking containers above what the folks here in their City generally felt was acceptable. Their ordinance didn't specifically eliminate cargo containers; and when the containers started piling up and they became too high, he thinks the City was very generous in saying that they will not enforce the 15-foot limit because their container is two high, go one foot above that. He thought that was very generous on their part to do that, to allow these folks to stack their containers two high. Then he understands that there was some discussion about stacking them at an unlimited height here in Fort Pierce. One of the things he thinks they are missing here is that each container that is brought into Fort Pierce and is shipped out of Fort Pierce has an effect on their environment, their environment that provides hundreds of thousands and millions of dollars to their community and up and down the coast on the Indian River Lagoon. He thinks the folks that are considering this stacking ordinance of three high are being very, very, very generous with the folks at Indian River Terminal Company. And he encourages them to not allow this to become something that the silos have become and the sewage plant on the island has become and their electric generating plant has become; and that is, the discussion of what were these people thinking when they approved this? Because as time goes on they learn more and more about the effects of things on their lagoon that have a detrimental effect. And some day they may not be able to eat the fish that come out of their Lagoon that they fish for and enjoy. They all know that it is a nursery grounds for many ocean-going fishes. They hope they will not allow this to become the camel getting his nose under the tent. So again, he commends them for being cooperative with these folks; but he does want them to know they are being very, very generous.

Ms. Vera Locke, Executive Director of Marine Industries Association of the Treasure Coast, said before she speaks she is kind of interested in what the City Attorney was going to have to say about that sentence they would like to see back in the ordinance. Enlighten her, please.

Mayor Benton asked would Mr. Schwerer like to address that?

City Attorney Schwerer said with the Mayor's permission, he will address the Commission on that. There were a number of things he wanted to address, but going right to that. This ordinance started out dealing with outside storage of materials as well as cargo containers. But after they reviewed 45 to 50 pages of Minutes in his office, it was evident to them that it became solely limited to cargo containers on height restrictions and fencing requirements for the I-2 and I-1 zone, which is only a certain area of the City. There is no need to put anything in about cranes, equipment, boats, or masts because those are not materials. The ordinance is not being changed when it says outside storage of materials for commercial and industrial uses shall be screened with a sight-obscuring fence or wall. That is not being changed. Now they did tell them that citrus containers they had a problem with legally, because they are the same as a storage container, the same as a cargo container. But since they don't stack them greater than 30 feet, they don't have any issues with that either. So there is no need to clutter the ordinance with all those because there are a lot more exceptions to this ordinance than just cranes, equipment, boats, masts. If they start putting that in there, then by implication they are including all the other things which are also excluded. So for a legal standpoint, that is why they have indicated it is unnecessary, it is surplus language. If they start regulating for instance - and this is a very crude example - if they start an ordinance that regulates dogs and cats, they don't put in the end

this doesn't apply to motor vehicles, because motor vehicles aren't dogs and cats. That is why they are saying cranes, masts, boats - those are not materials. Materials has a different meaning. He does have other issues to address with the Commission and at their pleasure he will take them up. But that pertains solely to that particular issue.

Commissioner Becht said he for one would like to hear the rest of the issues while they are in public comment.

City Attorney Schwerer said okay. They reviewed the ordinance after going through all the Minutes that were made available to them last week. There is one word change that they need. It appears in the very first underlined section in Paragraph 5 where it starts talking about outside storage and stacking of cargo containers. They are suggesting that be replaced with the words simply outside storage, so that it reads outside storage of cargo containers. Because it is confusing when they are talking in the first sentence, outside storage of materials. That sentence he is just referring to deals solely with cargo containers and outside storage of cargo containers. So by interlineation they are asking the Commission to be very clear to say, outside storage of cargo containers shall be screened with a sight obscuring fence, etc. as the underlined wording reads. The second thing they are asking for, not in this ordinance, but they are requesting in a separate memo of staff that they place in the definition section of their Code a definition of what a cargo container is. They do need that for clarity purposes. Staff will be working on that. That is a land development regulation that doesn't need to be put in this ordinance. They are also going to ask for some clarification from Staff about how high the landscape strip is going to be in that very same sentence he was reading from. Because it says it can be screened with an sight-obscuring fence or wall at least 8 feet in height or a landscape strip of at least 10 feet in width, but it doesn't say the height. So they want some clarification from Staff that they either have another code regulation. They don't want little bushes being planted as a landscape strip that aren't going to grow to at least the minimum of 8 feet. He thinks that clearly is not the intent, that the intent is to allow them to plant landscaping instead of a fence, but it will be the same screening height. The other thing they were going to suggest here simply, by record the Commission is not making this retroactively applied, so that those uses that are non-conforming today won't have to conform. In other words, it will apply only to additional uses, except for the cargo container stacking and the screening requirements that are specifically added to this.

Ms. Locke said she thinks the existing height limit for things in the Marine Industrial I-1 and Marine Industrial I-2 zone was 65 feet at one time.

Mayor Benton said that is for building height.

City Attorney Schwerer said that is not materials. That is building, whatever the code says for building. This doesn't deal with building heights.

Ms. Locke said this doesn't deal with any of that. So their existing boat yards and so forth in that zone are okay? And whatever equipment they need to haul the boats out of the water to work on them, store them in the event of a hurricane...

Mayor Benton said tonight they are legal and they will stay legal.

Ms. Locke asked they will stay legal, so they don't have to worry about that?

Mayor Benton said right.

Ms. Locke said she had two other questions actually about the ordinance. In the second Whereas, redevelopment and new development of residential and/or tourist uses are occurring throughout the City, and the third Whereas, this redevelopment and new development may be impacted by nearby incompatible commercial and industrial uses.

Wouldn't the existing commercial and industrial uses, the existing use, be impacted by the residential?

Mayor Benton said they are grand-fathered in, he would imagine. She is talking about Cracker Boy Boat Works...

Ms. Locke asked in other words, if somebody builds a big hotel next to the Port and then the way she reads this, they could consider the Port an incompatible use and make it go away or make the boat yards go away.

City Attorney Schwerer said they have to be very careful not to address every possible situation. They can't issue advisory opinions. So every application is going to be treated on its face for compliance. They can't say whether that is or isn't, because they don't have all the facts. But this ordinance is not intended to regulate cranes, equipment, boats, or masts in a storage facility for boats. But there are other regulations that govern those facilities and there is full compliance with those other regulations.

Ms. Locke said okay. Her concern was that there is just a movement afoot to get rid of all marine industrial.

Mayor Benton said not in Fort Pierce. They know their history has been boating and fishing. And they know what the problem is in South Florida and they don't want to be part of that problem.

Ms. Locke said they are a good generator of economic benefits to the City.

Mayor Benton said one of the biggest ones they have; and that is their future, he thinks.

Mr. Poyner said just one other point of clarification. They did say that because they don't go over the 30 feet that their containers are not part of this ordinance. But his other question is, how about the sight-obscuring fences? Since they don't go up that high, then are they also exempted from this sight-obscuring fence? He just wanted to be clear on that because he didn't quite understand from some of the other discussion.

City Attorney Schwerer said they are not changing the sight-obscuring fence requirements for the other zones. They are dealing solely with the sight-obscuring fence and the parallel barrier that is present in the I-1 and I-2 zone. Again, the citrus containers are citrus containers. This is regulating cargo containers. But they still have to comply with all the other requirements.

Mr. Poyner said so for a farm boy, what did he just say?

City Attorney Schwerer said citrus containers are not a part of this ordinance. It is that simple.

Mr. Ken Shields said believe it or not, he was going to sit silent tonight. His question and concern is more procedural, he thinks anyway, than what they are going to end up with as an amendment because... Wednesday they got a look at a draft of the amendment that changed when it got here Friday. And then listening to Mr. Schwerer tonight, it sounds like there is going to be some substantial changes to it yet tonight. He is just concerned about closing the Public Hearing, they all sit down, and then the Commissioners discuss what Mr. Schwerer addressed tonight and this changes a whole lot and they don't have the opportunity to come up again. He needs to ask, how are they going to define a material and substantive change? Is there a way to define it?

Mayor Benton said they are talking about containers.

Mr. Shields said they are talking about containers. But the amendment they got tonight didn't talk about a height of landscape, it talked about width. Mr. Schwerer just brought up language that he wanted to change to indicate a height. So they don't know what that is going to be tonight.

Mayor Benton said they have to look to their Staff for that recommendation, because they are looking at language there as far as width and height.

Mr. Buchwald said the intent of that was to follow, as indicated at the end of that phrase, is it follows the landscaping requirements already in place in Chapter 22-187. So where they have a landscape strip, it already specifies the number of trees they should have, the height of the trees that need to be planted upon planting. They can give them those exact details now, but those are all spelled out in the Code already. So that was the intent by not going in there, because they already have it in the Code as to the height of the trees, the number of trees per square feet, the number of shrubs, the type of shrubs, type of sod. So that is already spelled out in the Code.

Mr. Shields said just to follow up to make sure he understands Mr. Buchwald's answer, and he thinks he does, there is language in the draft that they have tonight that refers to the existing landscape requirements in the City and those height requirements are addressed there.

Mayor Benton said yes.

Commissioner Becht said before Mr. Shields goes away, and they have missed him because it has been two weeks, he did hear earlier that they are going to modify their landscaping code, so he may want to monitor that as that comes through. But he doesn't envision that the landscaping code is going to be peculiar to their uses or their property. His expectation is that it will be citywide.

Mr. Shields said understood. Everything in the amendment is pretty straightforward. He just wanted to make sure he got up and preserved their rights for due process, that is all.

Commissioner Becht said and he may also want to have some input into the definition of a cargo container and he would expect Staff to consult with him on that definition.

Mr. Harold "Buzz" Smyth, 658 North 2nd Street, said he doesn't really mind these containers and it sounds like this whole thing is being addressed at containers, but he also thinks about the whole City itself. These guys do a really good job and for one of the first times he has seen this port so active. They employ a lot of people. He doesn't know if restricting just this one place, it just sounds so much that this is being directed right at this port. He doesn't mind seeing the activity. To him it is commerce, it is business coming through. Yes, he is concerned about the environment. He lives right in that area. He knows a lot of these people and he knows what a good job they do. And he would hate for this Commission to be just directing it at this one business. This is a citywide ordinance that is coming in here. A little landscaping would be nice. But free enterprise is kind of one of the things they have been after in this community for 25 or 30 years. And the citizens of St. Lucie County even voted one time, he doesn't remember when it was, they put it on the ballot and voted for the mixed-use over there. And they even had a Port Master at one time who went out to try to get business to come into the Port. He does live in the area. He doesn't mind the containers. He just doesn't think they should direct this right at this one business. They are doing a really good job and they are bringing a lot of business into this community, a lot of money is coming right through this Port. He would hate to see them do this.

Mr. Steve Weaver said he believes the ordinance as they have written it has a couple of weaknesses. He believes it still requires perhaps that this wall be built along the bulkhead on the water and he doesn't think that is the intention. He is not sure what the benefit is of

putting the wall in between two industrial zoned properties at a significant expense to the property owner. And he believes they are putting FEC on the hook to put a wall around their switching yard, because they do stack cargo containers at that location as well.

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

Motion was made by Commissioner Coke, seconded by Commissioner Becht, that Ordinance No. K-516 be passed on second and final reading.

Commissioner Becht said at the last meeting someone filed what they called a protest and he did not get that in his packet. Has Mr. Schwerer had a chance to look at that? Does that merit any discussion tonight?

Mayor Benton said Mr. Roberts from Indian River Terminal had filed a protest at the last meeting. He thinks he just wanted it added into the record.

City Attorney Schwerer said he doesn't think that ever made its way to his office. He doesn't think it got there or his staff has certainly not provided it to him as of today.

Commissioner Alexander said Mr. Schwerer was here at the last meeting. They all expect the Commissioners to keep all this up here. And their staff don't keep it up there?

City Attorney Schwerer said he is not even sure he even knows what a protest is.

Commissioner Alexander asked but he was here, right?

City Attorney Schwerer said yes, he was here.

Commissioner Alexander asked so if they had asked him a definition of a protest, he wouldn't have been able to answer him, is that what he is saying?

City Attorney Schwerer said he doesn't know what a protest is. This is the time for the Commission to allow public comment. If someone objects to an ordinance, they are allowed to speak their piece from the microphone. Again he apologizes, but the word protest is not something that means any legal significance to him. He doesn't think it means anything to the City Clerk either.

Commissioner Alexander said the City Clerk retained it in her records, he guarantees them that. He might not request it from her, but she has it.

Commissioner Coke asked did Mr. Schwerer not get that protest?

City Attorney Schwerer said no.

City Clerk Steele said it was submitted for the record and placed in the file.

Mr. Schwerer said that is what normally happens.

City Clerk Steele said no one has requested a copy of it.

Commissioner Coke said she is as ready as everybody else to get moving one way or the other on this, but she has some concerns if they have something like that filed and Mr. Schwerer did not review it prior to this evening.

Commissioner Becht said he would echo that. If they had the Minutes, his recollection is he made a specific reference to a specific City Code provision. He does not sit up here and act as an attorney, he is not pointing the finger at anybody, he just wonders whether that maybe ought to be reviewed before they go any further, because if it has any deficiency in

it that they can clarify. Believe him, he would like to put this thing to bed and be done with it and move on to other productive matters.

Mayor Benton said if this is upstairs on file, maybe they need to take a recess. They have it right here?

City Clerk Steele asked would they like her to read it to them?

Mayor Benton asked she can read it into the record. How is that, Mr. Schwerer?

City Attorney Schwerer said pass a copy down here and he will take a look at it. It is part of the record of the last proceeding.

Commissioner Becht said but legal has not looked at it and that is his concern.

City Clerk Steele said remember, they don't accept things over the counter because the public hasn't had a chance to see it either.

Commissioner Becht said he is very much in favor of that. But they did accept it, it is a matter of record, and they have had two weeks to process it since it was put into that record. And that is what concerns him. If Mr. Schwerer could take a minute to look at it.

Mayor Benton said while he is taking a look at that, he will address some of the comments that were made just like at the last meeting. The City is working with Indian River Terminal. Their existing codes are at 15 feet, so they are trying to work with them to allow them to stack and do what they are doing now legally. They are not putting any more restraints on them, they are not going to put them out of business, they can expand. But what came out of the charrette was, the charrette showed a facility where they are located now where juice was moving out of a nice looking facility that was compatible to any type of development to the north or south. So they do have to take into consideration what is going to be done on those adjacent lands. So that is what they have done here, is make what they are doing legal. They have even showed them their numbers. They know they are not putting anybody who is doing business in the Port right now out of business. There is not one job that is going to be lost by doing what they are doing. He just wanted to make that clear.

Commissioner Alexander asked when they use the words cargo containers, are they saying they can go anywhere in the City of Fort Pierce where it is commercial and industrial and they can set up a cargo?

Mayor Benton said there are a lot of people, Wal-Mart, and a lot of places that use a container for storage, but they don't have the ability to stack them because it takes a special forklift. And most people, unless they are in the container business and dealing with lots of them, aren't going to purchase one of those.

Commissioner Alexander asked can someone go out special in the northwest section where they can go out there and raise 20 or 30 houses and set up a cargo?

Mayor Benton said they would have to have industrial zoning and he doesn't believe that is the case and they would probably have to come in and rezone the property. Right? To stack any containers or just to have containers, they would be required to have an industrial zoning somewhere. They just couldn't set up shop and start stacking them in a residential neighborhood.

Mr. Buchwald said that is correct. They could not do that in a residential neighborhood.

Commissioner Alexander asked that area in the Taylor Creek area, that is not an industrial area or commercial? Weren't they talking about making that into some type of marine industrial?

Mr. Buchwald said that is correct. If it was zoned for it to be a marine terminal, then it would be permitted for that type where the primary use is stacking and storage of cargo containers.

Mayor Benton said the property they were looking at would require rezoning to do what they were considering. Has Mr. Schwerer had a chance to read that information?

City Attorney Schwerer said he can read to them what is cited in this. It appears to be a land owner protest indicating that the landowner believes that the proposed ordinance, which limits the height of outside storage in the marine industrial district, constitutes a text amendment to the code and an amendment of the text in the zoning atlas as well. Now whether it does or it doesn't, he can't furnish that opinion and he doesn't think staff can tonight either, because he doesn't think they were apprized of this. There is a provision that says: The following procedure shall apply to an amendment of the text of the zoning ordinance or the zoning atlas. Then it goes through four listed provisions. Paraphrasing the three that don't apply to this: The Department of Planning refers the application to the Planning Board and a staff report is given; the City Planning Board will review the proposed amendment within 45 days and there are some procedures; the Planning Board will recommend approval, modified approval, or disapproval, and then it goes to the Commission. The citation in this to the protest is Section 22-128(4), which is the fourth procedure, which reads: In the event the City Planning Board recommends disapproval or in case of a protest against any said proposed change signed by 20% of the owners of either the lots included in such proposed change or those within 500 feet of the area included in such proposed change, such amendment shall not become effective except by a 4/5ths vote of the City Commission. That is the only reference to protest. So again, he can't tell them sitting here tonight whether this does or doesn't apply, whether it is or is not a text amendment, and whether the protest means a protest by one or a protest by 20% of the owners of the lots affected.

Commissioner Becht asked does Mr. Schwerer have any advice for them tonight?

City Attorney Schwerer said if they pass this ordinance by a unanimous or 4/5ths or greater, then there is absolutely no issue according to this ordinance. But if they don't, and the person who files this protest believes that such filing of a protest requires 4/5ths vote, then they can argue that legally at some later juncture.

Commissioner Nelson asked would it be more prudent for them to defer or postpone this until they can study this more thoroughly?

Mayor Benton said even Mr. Shields is shaking his head no. How many hours have they been discussing this and how many years? He thinks it is appropriate.

Commissioner Nelson said he thinks they should concentrate on getting it right and as ironclad as they possibly can. They are not hurting anybody. It has been in existence for many, many years. And of course, they take the position that they are increasing the ability of particularly the port owners to continue doing what they are doing legally.

City Attorney Schwerer said it is pretty clear to him that if he is reading this... Again, he has never seen one of these folks file objections. He calls it a protest and the word does protest. It says: In the case of a protest against any said proposed changes signed by 20% of the owners of either the lots included in the proposed change or within 500 feet... So the protest would have to be signed by 20% of the owners.

Mayor Benton said there is no petition there with 20% of the owners.

City Attorney Schwerer said not by this document.

Mayor Benton said if one hasn't been provided...

City Clerk Steele said there is one owner in all those.

City Attorney Schwerer said it is one owner, he believes. It says it is filed on behalf of River Marina, Inc.

Mayor Benton said so unless they change their vote, it won't matter; because the last time it was four to one.

Commissioner Nelson asked four to one, who is that one?

Mayor Benton said Commissioner Alexander.

Commissioner Alexander said they are going to hear it again, no.

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

Ordinance No. K-518 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE **SEVEN PARCELS LOCATED IN SAN LUCIE PLAZA S/D**, UNIT ONE - SIX PARCELS LOCATED SOUTH OF BRYANT ROAD, EAST AND WEST OF NORTH 25TH STREET, AND ONE PARCEL LOCATED ON THE EAST SIDE OF NORTH 25TH STREET, NORTH OF BRYANT ROAD; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2008; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; DIRECTING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on first reading and read by title only. (Owned by: David E. Stone & Susan Brown - Brownstone Classic Homes)

Mr. Peter Buchwald, Zoning Administrator, said they went through the display as Ms. Steele was reading the ordinance. Should they have any other questions, staff is here to answer them.

Commissioner Alexander asked where is this located?

Mr. Buchwald said the seven parcels are on the north side of the canal and straddling the east and west sides of 25th Street.

Commissioner Alexander asked if that is 25th Street and the canal, he thought they already had annexed that property? Isn't that Paradise Park?

Mr. Buchwald said no, this is not part of that subdivision.

Commissioner Alexander asked this is Taylor Creek?

Mr. Buchwald said yes.

Commissioner Alexander asked are they going to skip over the other part of Paradise Park to get to that? He had a problem with that in the beginning. Is Mr. Buchwald telling him they are skipping over? This is the second canal, right?

Mr. Buchwald said this was a voluntary annexation request. The property owners themselves applied for this and they are contiguous to the properties on the other side of the canal, so that is why they are able to be annexed at this time.

Commissioner Alexander said so they can snake their way up there without any reference to Paradise Park.

Mr. Buchwald said they are going to be annexing those with which they have annexation agreements.

Commissioner Alexander asked is that depicted on this?

Mr. Buchwald said not for this particular one.

Commissioner Alexander asked when he is looking at that purple and yellow, what is that color code for?

Mr. Buchwald said that color has to do with existing County zoning, RS-4 and IL.

Commissioner Alexander asked so Staff had no inkling of putting here what properties they have annexation agreements on, but they are going to bring this to him just for these people? It is volunteer, but he has people in Paradise Park who are willing to be volunteered. But they skipped Paradise Park from Juanita Avenue north. It is a little strange, because he wouldn't bring it up if it didn't matter. They went from the canal to Juanita Avenue at Paradise Park annexations. They say they were annexing Paradise Park, so they did half of it. Now they are going to skip that additional Paradise Park?

Mr. Buchwald said perhaps at the next meeting they can show him how they got to this point. There is a bigger picture showing all the properties that have been annexed and those with which they have annexation agreements and those of which they voluntarily applied, to indicate in terms of how they got to this point.

Commissioner Alexander said he requested this since he has been here, since Mr. Buchwald has been here, he knows.

Mr. Buchwald said he will make sure they give it to him at the next meeting.

Mayor Benton declared a Public Hearing on Ordinance No. K-518 in session and asked if anyone in the audience wished to be heard.

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

Motion was made by Commissioner Coke, seconded by Commissioner Becht, that Ordinance No. K-518 be passed on first reading.

Commissioner Becht said he doesn't think he is understanding Commissioner Alexander. He was under the impression that they had annexed all of the properties that they had voluntary signed agreements in-house in both Paradise Park and Sheraton Plaza. Is that not correct?

City Clerk Steele said that is correct.

Commissioner Alexander said it is not correct. They have not annexed anything there.

City Manager Beach said the City has no annexation agreements in Sheraton Plaza, they never have had. They have a ton of annexation agreements in Paradise Park and they have annexed all of those that have been signed. They did that months and months ago.

City Clerk Steele said that is correct.

Commissioner Alexander asked is Mr. Beach telling him down Juanita Avenue where they have Housing Authority houses, they do not have annexation agreements?

City Manager Beach said he doesn't know the answer to that. What he is saying to him is that they have annexed everything they have voluntary annexation agreements on in Paradise Park.

Commissioner Alexander said he begs to differ, but he would like to know. The County did get on their case about trying to snake their way to the airport. And they did say they had some properties on Juanita Avenue, did they not?

Ms. Anne Satterlee, Assistant to City Manager, said they do, along where the Housing Authority is on the south side of Juanita Avenue.

City Manager Beach asked are they contiguous?

Ms. Satterlee said she does not have a map in front of her right now, so she wouldn't be able to address that; but she can get back with Commissioner Alexander tomorrow.

City Manager Beach asked if those were contiguous, wouldn't they be annexing them in? They are annexing all of the properties that are contiguous?

Ms. Satterlee said that is correct. She doesn't believe there is anything contiguous coming off of Paradise Park which is to the east going west down Juanita Avenue at this time.

Commissioner Alexander asked how can they get the volunteer of these properties now? And what is it contiguous to?

Ms. Satterlee said these are contiguous across the canal.

Commissioner Alexander asked with who?

Ms. Satterlee said with Paradise Park.

Commissioner Alexander said no, none of those properties are annexed into the City.

Ms. Satterlee said yes, the ones that are along to the south of there that are shown in yellow.

Commissioner Alexander said he asked that question when they first came in about Paradise Park and he asked why did they just do south of Juanita Avenue, and it was stated to him that the reason they did not go beyond Juanita Avenue. Ms. Steele had one individual who applied for a Board and said that area was not in the City of Fort Pierce.

City Clerk Steele said all of the contiguous parcels in Paradise Park were annexed. There is a handful they have annexation agreements with that are not contiguous and they are unable to bring them in. That one individual has a signed agreement, but he is not contiguous.

Commissioner Alexander said he is right there off San Marcos Avenue and 19th Street. But that is okay. Does Ms. Satterlee remember she did a map for him, right? Would she please redo that, because it walked away from his office.

Ms. Satterlee said she would be happy to give him one tomorrow.

Mayor Benton said if he is contiguous, let's get him.

Commissioner Alexander said Ms. Steele brought it to his attention that he signed for a Board and he was not.

Those voting in favor of the passage of Ordinance No. K-518 on first reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

The next item on the Agenda was Mr. John Donahue, LBFH Inc., to give **State Road A1A** Status Update.

Mr. John Donahue, LBFH Inc., asked have they all received the report that he submitted? He just wants to go over a couple of things on it. As far as the Smithsonian drainage easement, he understands from the City Engineer that it is up in Washington for signatures right now. Everybody approved the language and it is up in Washington to Smithsonian for signatures. Regarding the Pelican Yacht Club, there is still no word back. He checked with Speedy Fee and he has no movement there. He may need Commissioner Coke's assistance on that one, if possible.

Commissioner Coke said if it is all right with this Commission, she will make some phone calls. She tried to just make a casual inquiry. But this has been since well over a year.

Mr. Donahue said it has been going on for a long time now.

Commissioner Coke said she interceded and tried to get them to move forward with this and they have gotten nowhere on it. It is now going to be to the point that they won't be able to proceed with their project in a timely fashion. She thinks if the Pelican wants cooperation from the City on things in life, then they need to start cooperating. If it is all right with this Commission, she will make a few phone calls to the Commodore tomorrow and see if she can't get an answer.

Commissioner Alexander said absolutely.

Mayor Benton said all of them next time they are there can drop by and put some pressure on.

Commissioner Coke said everyone here tomorrow should call Mike Brown, Jr. who is a current Commodore and Jimmie Anne Haisley who is the Vice-Commodore. Everyone here should call them and say they need an answer.

Mayor Benton asked can Commissioner Becht put the pressure on the Pelican too, from one attorney to another?

The next item on the Agenda was Discussion on **Independent Audit** requirement in the Interlocal Agreement between the City and St. Lucie County regarding **Parks MSTU** (Municipal Services Taxing Unit).

City Manager Beach said the Commission has a report attached to a memorandum dated October 1st that talks about the MSTU that was created for parks development in St. Lucie County. This is actually a countywide MSTU. And it breaks down the various projects they have worked on since this started. Staff has evaluated that and believes have concurred that they appear to be substantially in compliance with the Interlocal Agreement that they have with St. Lucie County on the use of these funds. Where they have found a issue of non-compliance is in the requirement for an independent audit of the MSTU. What they are doing is they are reporting as part of the administrative process, they are giving them information that they need; however, the independent audit requirement of the Interlocal Agreement is not being complied with. Although it is in fact a part of the independent audit

that the County has conducted every year, it doesn't rise to the level of what City staff believes was intended with that independent audit requirement. He believes the purpose of it was to assure all of the various entities that were contributing to this that the resources were being used in the fashion that was agreed to and on the projects that were agreed to in the Interlocal Agreement. This issue is being presented to this Commission this evening for some direction to staff in regards to what they want to do about that. They have included in this Agenda item communication from the County Administrator and also from their Independent Auditor. The County Administrator indicated that next fiscal year they would separate this audit from their general audit and then there is a letter from their auditor as well stating they would do that in the next fiscal year. He still doesn't know that their audit is going to rise to the expectations that are outlined or at least in Staff's mind regarding what the audit should do as it relates to the source and use of funds. He sees their options as one, allowing them to try again next year and see if that audit complies with what their hopes are or what they are trying to learn about this process; and the other one is to hire their own auditing firm to go in and take a look at this and provide a report.

Commissioner Coke said she is sure Mr. Beach is probably responding to her being the proverbial thorn in his side regarding this issue. She thinks she has been the thorn in everyone's side since 2002 when they first started this. Her concern is, Section 5 of this states clearly that an annual independent audit of revenue receipts and expenditures shall be performed annually, the County shall select and contract with the auditor, and the cost of the audit shall be paid from the total MSTU proceeds from the Tax Collector. She has had a high level of concern in that she thought it was essential that they get this report on an annual basis. They all know the County has done a wonderful job with the Lawnwood Pavilion, but she is going to present to everyone that it is a County-owned and run facility located inside the City of Fort Pierce. As such, the renovations there should be shared equally between the City of Port St. Lucie, the County unincorporated, and the City of Fort Pierce. The burden for those changes should not be borne by Fort Pierce citizens alone when their citizens do not get the vast majority of the use of that. That park is being utilized to bring in State events and other things which benefits everybody in the County, not just the City of Fort Pierce. So her concern is, they don't know where the money is going, they don't know where it has been spent for the last three years, they don't know if it is going where they feel it should be. It was her understanding that they were supposed to have some input on how these funds were going to be expended. She doesn't recall the County ever coming back to the City after they started collecting these funds and asking the City. She knows the City is always scrambling trying to get somebody or anybody to help them with their parks. She knows the City of Port St. Lucie, because they have a Parks & Recreation Department, got a direct allocation of something like \$29 million from this MSTU, and the City of Fort Pierce got zero. Their money is being expended by the County.

She would like to ask that they kind of push this issue a little and get an accounting of what has been collected within the City and where all the money has been sent, simply the way the MSTU states; otherwise, they also have the option in this Interlocal Agreement to remove the City from it and request that the County just give them their share of the money outright.

Mayor Benton said he does know they are spending half a million dollars on a skate park, which hopefully will be built by early next spring. It is not something he wants stopped, so he doesn't want to upset the County right now, because he is sure they could use that money in their budget.

Commissioner Coke said she is not saying that is not a valid expense. But she does believe if the City entered into an Interlocal Agreement with the County and they said they were going to give them an audit of how they were spending their money annually and did not do it, that would not be acceptable to them. So all she is asking that they tell the County that they need to do what they said they were going to do - tell them what they collected and where they spent it.

City Manager Beach said they have made that request in writing on more than one occasion, that request has been made verbally on more than one occasion, and simply have been told that they were not going to do that because they didn't want to spend the money on an independent audit. Again, unless they are willing to wait another year and see if the County provides the information they are looking for, he thinks their option is to direct the City auditor to conduct this audit as it is required in the Interlocal Agreement and simply bill the cost of that audit to St. Lucie County.

Commissioner Coke said then they have to hold their breath to get paid.

City Manager Beach said he thinks it is a matter of enforcing the agreement. That is the only suggestion he has at this point in time.

Commissioner Coke said her only argument with that is it clearly states that the County will select the audit and contract with the auditor. So she would think that maybe before that, if there are three of the Commissioners here who feel they should be getting an accounting of where their money is being collected and spent, that maybe they should... She has the agreement right here, she brought it with her from home.

City Manager Beach said he apparently is not making himself clear. They have quoted that clause of the contract to the County asking for this audit. The County has said no.

Commissioner Becht said if he could make a suggestion here. If they are all up for this, why don't they send the County what he calls a self-serving letter and tell them, because they have requested that they do it on numerous occasions, that the City is engaging their auditor to perform the audit 30 or 45 days out, whatever time period they all think is appropriate, and they will be seeking reimbursement for that cost from the County at a later date. That moves it ahead. It also gives the County thirty days to do what they are supposed to do, if after this 5th or 6th or 7th letter they decide to do what they are supposed to do. And if they don't, then it is in the City's hands and they gave them enough advance notice to do what they are supposed to do. Are there three Commissioners who want to do that?

Commissioner Alexander said yes.

Commissioner Nelson said he doesn't really have any strong objections to that. But he is just wondering whether or not it would be more appropriate and probably more productive if the lawyers were to talk to one another, because they do have a legal binding document there for the MSTU. To what extent has City Manager interfaced on that issue?

City Manager Beach said his understanding from his sources and who he is talking to at the County is that they believe the audit they are having conducted complies with the Interlocal Agreement. He has reviewed the audit and it gives them no information other than just the source and the amount. It is not the audit that was intended at least by the spirit of that agreement.

Commissioner Nelson said that is why he would propose that their own lawyers talk to one another. Normally they can say this is wrong and all this. They do it all the time with the Utilities Authority and the lawyers work out some kind of strategy to solve the problem. He firmly believes that an agreement is an agreement and it should be executed according to the dictates pertained therein. Has Mr. Schwerer looked at this issue at all?

City Attorney Schwerer said no, he has not. It hasn't come to his office. But he is reading the agreement that is in front of him. He can say this. The nature and scope of the audit is not defined within Paragraph 5. Paragraph 5 states that an annual independent audit of the revenue receipts and expenditures shall be performed annually. The County shall select and contract with the auditor. The cost of the audit shall be paid from the total annual MSTU proceeds received from the Tax Collector. He would have to have a professional

opinion from Mr. Bergalis, from the City Manager Dennis Beach, as well as their own Auditor, to tell him that the type of audit that the County is proceeding to provide the City with is not within the confines of what is generally accepted in terms of the audit. If they have that opinion rendered by their professionals, then they can tell the County they do not agree. If that is the case, the City has options. If the County says they are not going to provide it, they can declare them in breach of the Interlocal Agreement and they can specifically enforce it by going to Court and ask the Judge to provide that.

Commissioner Becht said let's ask Mr. Bergalis, he just happens to be right over here.

Mr. George Bergalis, Director of Finance, said he has not seen what they have provided. He cannot comment on it.

Commissioner Becht said then he would ask that they move along parallel paths. Let's do as Commissioner Nelson wants, ask the City Attorney to try to reach the County Attorney. But he assures Mr. Nelson that if they send the letter over, Mr. McIntyre will have ample opportunity to review the letter if he wants to review it and the County Commission will have ample opportunity to do what they are supposed to do if they want to. Based on what Mr. Beach has told him, that even if it meets the technical requirements of what Mr. Bergalis says, that it is an audit, it is not giving the City the information they need to know - that the money is being spent on the projects in Fort Pierce that they want it to be spent on - and that is the information he needs.

Mayor Benton asked can they have that information brought back at the next meeting so they know the next step to take? If Mr. Schwerer would meet with City Staff.

Commissioner Becht said he would just as soon send the letter. If they wait on lawyers to do this...

City Attorney Schwerer said he thinks they should send a letter and request that and then they determine their options. One of their options is of course they could terminate this agreement or they could ask for it to be modified to specifically state what the audit requirements are.

Commissioner Becht said until they have accurate information, he doesn't want to do anything.

Mayor Benton said before they do that, he wants to be able to talk to the County about this. He doesn't want this jeopardizing a certain skate park they have been looking for a lot of years.

Commissioner Nelson said he is talking in terms of the skate park. They have a \$600,000 renovation going on at the Ilous Ellis Park out there too that is well under way.

Mayor Benton said plus the City is not in the recreation business and Port St. Lucie is, so they want to make sure they don't go too far before they...

Commissioner Alexander said they have two Commissioners wanting this parks and recreation business.

Mayor Benton said the same ones who want to cut budgets.

Commissioner Coke said it was Item #4 that they agreed on it at their last workshop.

Mayor Benton asked do they know how many million dollars it would cost the City at the same time they are looking at cutting budgets?

Commissioner Becht asked so they are sending the letter, correct?

Mayor Benton said they will send a letter.

City Attorney Schwerer said they need to send a letter.

Commissioner Nelson said hopefully the lawyers will provide the input for the respective organizations one way or the other.

Mayor Benton said he will try to get some answers at his next lunch with the County Commission Chairman.

The next item on the Agenda was Discussion on the implementation of a unified **Graffiti Ordinance** in conjunction with st. Lucie County.

City Manager Dennis Beach said this he thinks was a suggestion of Commissioner Becht, who had received this information from one of their County Commissioners. He scheduled it for discussion to see if this is something they would like to see put in a municipal format for adoption by the City. The Public Works Department handles most of their graffiti management. They have reviewed this ordinance and believe it is something that could be of benefit to the City as well as the County.

Mayor Benton said his concern with the language is, the County may place a lien. There is a lot of business people and homeowners out there who might not be able to afford the paint. Paint is not real expensive. They are looking to create the ability to eliminate gang issues.

Commissioner Coke said her level of concern is, they want to talk about stifling business, this gets into every person who owns, conducts, operates, or manages a retail establishment selling aerosol paint, paint sticks, or broad tipped markers. So not only do they have to have signs, they have to I.D. everybody who is buying any of these things. If the store doesn't comply, they are subject to fines of up to \$5,000. Do they know what an undue hardship they are putting on retail merchants? They are talking about every drug store sells markers, every hardware store. They would expect them to be able to train their employees. The kid comes in and buys a poster board and wants to buy six broad tip markers to do their school project with and they are not allowed to sell it to this child who is under 18. If they want to pass a graffiti ordinance to prevent it, she can certainly understand having some more stringent rules placed so they can enforce what happens when they catch these kids, or having people have to clean it up and perhaps having a fund to assist them in doing that. But to go after retail establishments to have to put signs in their windows that they won't sell these things and subject them to the possibility of fines when they are doing nothing wrong. They are not the ones who are out there spray painting or writing in markers on walls.

City Manager Beach asked so that would be a no on Commissioner Coke's part?

Commissioner Coke said she is against graffiti. But she is sure against putting any more burdens on some poor person who is just trying to make a living.

Commissioner Becht said the ordinance comes out of County Commissioner Joe Smith's office. The idea here was to generate some discussion. This ordinance, he agrees with Commissioner Coke, that it is excessively burdensome on people that it doesn't need to be burdensome on. The discussion he wanted to generate was a discussion on does the City's existing... Chief Baldwin is the one who needs to be involved in this. The Chief has taught him and in some of the literature he has seen has taught him that graffiti is part of the gang culture. They need to use every weapon they have to curtail that. It is quite possible that their existing code enforcement ordinances deal with the issue effectively. He would ask that Chief Baldwin review it, see if they have enough bullets in the gun to deal with the graffiti issue through Code Enforcement; and if not, make recommendations to the

Commission. But he does agree this goes too far. He just wants to make sure they have enough.

Commissioner Nelson said he recently had experience with graffiti in both the City and the County. He must commend both the Public Works in Fort Pierce and in the County who were very much on the spot and efficient in removing that graffiti, with the exception of it being on the private property per se. He dares say that on private property did in fact cause a hardship on the property owner. The County and the City went out and got rid of the graffiti with dispatch. He thinks they had this happen to them, based on some information that they got a few years ago, wherein they follow up on their practice of trying to get rid of this graffiti as quickly as possible. But he must agree with Commissioner Coke that if they go out and try to legislate to the point that they make an imposition upon their merchants, he thinks they are doing a bad thing and he could not support that from that angle. They just need to try to continue to get rid of graffiti as quickly as possible. He has seen it on buildings, on sign posts, on telephone poles, on sidewalks and the streets in both the City and the County and it is very destructive in every respect. He would not think they need to do anything of this nature at this time.

Mayor Benton said most of the graffiti he notice appears to be spray paint, not markers and other things. He knows cities have put restrictions as far as minors buying spray paint. And the only item he would look at would be spray paint, he would consider that if it has worked in other communities. But he thinks they have gone a little too far here, also putting liens on property. They are doing everything they can do in the City with Code Enforcement to get people to comply and if not they are stepping in mainly to keep gang violence down. While they are at it, can they take a look at 13th Street and Delaware Avenue? Somebody really went to town with some spray paint over there with some gang material. Let's ask the County to fine tune it a little bit more. They might take a look at it; but as it is, it is overbearing.

Commissioner Nelson said he is not sure what the City ordinance says in this regard. Did they parallel this in any way? Do they have an ordinance covering this? They have a practice of getting rid of it as quick as possible.

City Manager Beach said he is not sure they have an ordinance. He knows they have policies in place at Public Works where they have a response time and a turn-around time when it is reported. But he would have to research whether or not it is covered by ordinance.

Chief of Police Sean Baldwin said he can't answer that directly. He knows that Public Works has taken care of the graffiti actually pretty rapidly on public property. This ordinance deals with dealing with graffiti rapidly on private property. He thinks that is probably the big difference, the gap in what they don't have. Surely they have codes that can deal with defaced property, but he thinks it takes time to do that, they have to go through the process to do that. The idea behind getting rid of graffiti is to get rid of it quickly. It follows the broken windows theory of crime, crime prevention, and so on. He will be happy to look at it and work with County Commissioner Smith and see what they can do.

Mayor Benton said this should be up for discussion at the Executive Roundtable, countywide.

The next item on the Agenda was Resolution No. 07-45, Appointing a member to the Historic Preservation Board.

City Clerk Steele said the next item is a resolution to appoint a member to the Historic Preservation Board and they have two applications. They have two applications. She will need a Commissioner and a second Commissioner to agree on a name and she will read the resolution with that name in it.

Commissioner Coke said she nominates Paul Sampson.

Commissioner Alexander said he would agree.

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 07-45

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, APPOINTING **PAUL SAMPSON** TO THE **HISTORIC PRESERVATION BOARD**; PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, that Resolution No. 07-45 be adopted.

Those voting in favor of the adoption of Resolution No. 07-45 were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

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

City Clerk Steele said at the last meeting the Commission had requested an additional two weeks for applications to come in for a resident member. They have two applications for consideration. There will be a resolution on the next City Commission meeting.

Commissioner Coke said Robin Dannahower called her and was going to withdraw her name.

City Clerk Steele said she didn't call her, so she didn't know. Do they want to withdraw her name? And they will put Peggy Harris on the next one.

Commissioner Nelson asked her withdrawal was based on some allegation that she was a family member or something?

Mayor Benton said Robin Dannahower is a sister-in-law of Sue Dannahower who is on the Board.

Commissioner Coke said her withdrawal actually, when she spoke with her about it, had to do with the Sunrise Theatre Advisory Board from time to time does fund-raising and she is Chairperson of another group that does fund-raising and she kind of felt that would be a conflict, so she needed to keep her previous commitment. Ms. Dannahower said she would help them out in other ways.

The next item on the Agenda was Appoint or Reappoint two City Commission members to the **Treasure Coast Regional Planning Council**.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to reappoint Commissioner Becht as a Regular Member and Commissioner Nelson as an Alternate Member on the Treasure Coast Regional Planning Council.

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

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 07-46

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, STATING THE CITY AND THE FLORIDA DEPARTMENT OF TRANSPORTATION ARE DESIROUS OF ENTERING INTO A **JOINT PARTICIPATION AGREEMENT (JPA) FOR THE OPERATION OF THE COMPUTERIZED TRAFFIC CONTROL SIGNAL SYSTEM** THAT MONITORS AND CONTROLS TRAFFIC SIGNALS AT INTERSECTIONS ON THE STATE HIGHWAY SYSTEM WITHIN THE LIMITS OF THE CITY OF FORT PIERCE AND AUTHORIZING THE MAYOR, CITY CLERK, AND CITY ATTORNEY TO EXECUTE SAID AGREEMENT ON THE PART OF THE CITY; PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, that Resolution No. 07-46 be adopted.

Those voting in favor of the adoption of Resolution No. 07-46 were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

The next item on the Agenda was Commissioner Alexander discussion on Youth Protection Ordinance.

Commissioner Alexander said before he begins he just wants this to be perfectly understood that he is bringing this back just for discussion for his information if for no one else. He goes to the third Whereas and on to the second page, letter (d): The City has an interest in the protection of minors from adults and from each other on the street during nighttime hours and is obligated to act in a positive manner for the safety and welfare of the juveniles of the City. He is not here tonight to be debatable about who they address as adults. He just wants to make sure there is some emphasis on anyone who has contact with the youth of this City that they be... How can he say it? Minors from adults and each other. He spoke briefly about this to their legal department that he doesn't see anything in here - he thought it should be in here - that if anything does happen to their minors from any adult, he doesn't care who it may be, that it is some repercussions from it. He spoke and it is just a question he is asking of the City Commissioner that regardless what has happened. He is not here about what has happened. He is here tonight about this ordinance that they as a Commission passed. He wants some teeth in this. They shouldn't be sitting here stipulating that the City has an interest in protecting minors and then they don't do anything about it. Again, he is not emphasizing no one, he says adults or anyone who has contact with their children. That is what he wanted is an explanation from their legal department. What does this mean? And what repercussion, if any?

Mayor Benton asked is this question directed toward Mr. Schwerer?

Commissioner Alexander said this is directed to the Commission as a whole. But he just wants to assure to Mr. Schwerer that when they speak that they are not just speaking two sided or straddling the fence.

City Attorney Schwerer said Commissioner Alexander and he did have a lengthy chat concerning the Youth Protection Ordinance, the Curfew Ordinance as it is known. They went through quite a bit of discussion about its intent and what it meant and how it should be enforced and what it was designed to do. At this point in time he is searching for some guidance from perhaps Commissioner Alexander and the Commission. If there are questions concerning the ordinance, he can answer them, he thinks the Chief can answer them too. If there is something they need to discuss concerning a provision, they could do that. It is designed for the protection of minors as well as to keep them out of harms way during hours that are prohibited hours for minors to be out. It has been shown in all the studies that were presented to this Commission, which were precedent to the adoption of this, showed that juvenile delinquency is a very serious issue and getting minors off the streets at certain hours is within the confines of what the City can do. The Commission

adopted this ordinance and they have it. He doesn't know of any need to amend it, but he will listen to what the Commission has to say.

Commissioner Coke said she agrees, she is happy that they put the ordinance in place. She thinks they have had a lot of positive feedback in that there have been less incidents of violence with children during those hours. She is wondering if this Commission as a whole would feel it would be appropriate... She knows when they first put this ordinance into play they did a lot of education regarding what the rules were, who was affected by it, where kids could and could not be. She is wondering, since a whole school year has gone by and now they are back, that maybe they just need to refresh that. Did they do a commercial on that originally that they could run on Fort Pierce TV? Can they maybe resend the letters out to the schools and the parents just to make everybody aware of what the rules are and the reason behind the rules? She thinks that might resolve a lot of the issues, if they look at it as a continuing education process. And maybe Chief Baldwin every year right before the beginning of school can reenforce that education. Because they have to remember there is a whole new group of people moving into the neighborhood, moving out of the neighborhood, a new group of young people who would not have thought about going out previously, but then they hit that 12 or 13 year age group and they want to be out. And she thinks maybe they need to reinforce their education on this. Do they think that would help?

Commissioner Alexander said that is a perfect idea.

Commissioner Becht said he thinks that is an excellent idea. But he would like to have a conversation with Chief Baldwin later this week on another component to this ordinance, which is officer training and how the officers are trained to deal with youth in this kind of setting. He also had been left with the impression, if not the expressed statement, that this has helped over the past summer coupled with several other things that Chief Baldwin and the Sheriff had done and that the private sector had done. He wants to make sure that it is helping. And he would like to know how the officers have been educated to deal with a unique situation dealing with a minor. He would also like to make sure that the public is educated, both the parents of these teenagers and to the extent they can get the information to the teenagers themselves. He happens to be lucky. When they got the ordinance he took the ordinance home. Last year he was 15 years old. They sat down with him and told him this is what it means. He had homecoming over the weekend. They talked to him and they used it to their benefit because they said he had to come straight home. That is easy for him because he has the ordinance here and he can take it home. He doesn't know how they get the information out to the community; but whatever means they have at their disposal, they need to do that. But he would like to talk to the Chief later this week about what they have done internally with training the officers who are going to encounter this problem and how they handle that kind of situation.

Mayor Benton said he would agree. He thinks there is a lot of fine tuning to this ordinance.

But since they enacted this ordinance, they had a pretty quiet summer when it came to after hours problems. If the Chief can respond to that. The other day when he sent his news release out, the Chief had told him there hadn't been a violent act against a child since the ordinance took effect.

Chief of Police Sean Baldwin said he can tell them that they haven't had a shooting or severely violent act either committed against or by a child that they know of since the ordinance was put in place and they began enforcing it, which was roughly in May.

Mayor Benton said the other night when they were at Lincoln Park, the world isn't what it used to be, and he can remember when he and Commissioner Nelson were at... Before Commissioner Alexander was sitting on this Commission. But for the last 12 years there is many times that they had meetings in churches and they were scratching their heads wondering what they could do in this community to stop violence and the needless killings that were taking place. This was one of the tools to get these kids off the street because they are targets. He thinks it needs to be fine tuned. He also heard from Commissioner Alexander's son the other night, something that stood out, when did the problem arise in

this community and this country? It is when they took discipline out of the schools, when they took discipline away from parents, and the prayer out of the schools. The community is having to bring up their children. Yes, it is going to have to be fine tuned. And also he thinks what happened in this community is going to be a training tape throughout the county. There has got to be a better way. But this situation is being dealt with throughout the country. And they were one of the first communities to enact a curfew ordinance like this. Hopefully they can fine tune it and things will get better. They want to work with the community to do that.

Commissioner Nelson said he is basically happy with the ordinance. And of course, he is very much supportive of trying to protect their youth. It is unfortunate that they had a situation happen just recently involving this where they had to rely on this ordinance. But in the enforcement aspect of this, what type of procedures or protocol that the Chief has now in place dating back from March when they adopted this ordinance for use by the officers? For example, the ordinance calls for ascertaining certain data from the individual; and of course, contacting the parents and then ultimately going to the Juvenile Assessment Center. Does he have protocol or procedures that he can say this is what they are supposed to do under these circumstances?

Chief Baldwin said that is actually defined by the ordinance itself. In other words, in this case the ordinance itself acts as their policy. The ordinance very clearly defines the process that an officer is supposed to go through when they approach a juvenile that they suspect is violating the curfew. That includes getting identification information, getting an explanation as to why they are out, because there are many exceptions to the curfew ordinance. And then if the child is found in violation of the ordinance, there are two options. The child can either be taken to a parent or to the Juvenile Assessment Center.

Commissioner Nelson said he have reasons to train periodically in certain procedures. Has he had any mock situations like this in the past where they went out there and had a situation where he would train them? He knows the guys with the dogs for example go out and train with the dogs.

Chief Baldwin said he can't say that they have had a specific scenario that addresses this specific... The thing about policing is it is very dynamic and they run into new situations every single day. And they certainly have an opportunity to learn from those situations and apply training into the future so they can try to improve the way they do business. They certainly do scenario training, but he can't tell them that they have done training for a scenario quite like this one.

Commissioner Alexander said when he began, he specifically said he is not singling out any individual. He said from adults and each other. Commissioner Coke came up with an excellent idea about the education aspect of it. If they have to educate their officers, let's do so. But tonight he is not concerned about the officers. He is concerned about adults and how they handle children. Because they have nightclubs that some of these kids 15 or 16 years old, if the Police catch them there, something is going to come out of that. They already have a law what they deal with. That is just why he wants to associate that with the Chief of Police as well as the City Manager, because if he were to punch his child in the face, he would be in jail, and he is the City Manage. Again, he is not emphasizing anyone. When he says adult, that means adult. He doesn't know if they need to change or just needs more education. Commissioner Becht says they need to have a sensitive training, then let's do that. Let's not wait, let's be proactive. That is the only reason he brought this up, because this is wide open for anybody to interpret as they feel like it.

Commissioner Coke said she thinks too if they pursue again and just review basically, maybe go out to the churches. She knows they did this to begin with, letting the kids know if they get stopped they are either going to be brought home or they are going to be brought to a holding facility.

Commissioner Alexander said absolutely. And teach them how to react.

Commissioner Coke said quite frankly if she was out in the middle of the night when she was a kid she would rather go to the holding facility than to go home and face her mother and father.

Commissioner Alexander said he is saying they want to teach their kids how to react and how to respond to officers. They don't just know that off the top of their head.

Chief Baldwin said last week he had the opportunity to meet with between 20 or 30 of their local pastors to talk about this incident with the curfew. Following that meeting, he has met with some of those same people individually. The community actually has some very profound... He is excited about some of the ideas they have and how they can go about educating both their officers and their community to resolve some of these problems they have. Because as they know, there are some core issues, this drills down very deep to some problems they are having in their community. He is actually very excited, he wants them all to know he is working actively to make something positive out of what has happened. He thinks it is something they can use into the future to make their community even stronger and the community's relationship with the Police Department even stronger. Most of the thinking is along the lines of education for both their officers and for their community members. So he appreciates their comments and that is exactly the direction they are heading.

Commissioner Becht said there was an editorial in one of the newspapers on that point too, trying to turn the situation and pull some good out of it.

Mayor Benton said that is why he thinks that tape is going to be a training tape throughout the country because that is new ground, not everybody has entered that realm yet as far as dealing with juveniles. But it is a problem throughout the country. They can fine-tune it and they can do a better job. They have to get the community behind them on that too and the parents have to be there with them.

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

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

- a. Award of bid for purchase of **Metal Refuse Containers** for the Solid Waste Department to Wastequip Industrial in the amount of \$105,000.00. Bid #5737
- b. Approve Blanket Purchase Orders and renewal of Annual Contracts for **Lot Clearing** with Tim E. Heafner Tractor Service Inc. in an amount not to exceed \$50,000 and with Dunn's Tractor Service in an amount not to exceed \$25,000.
- c. Accept and approve **Sovereignty Submerged Lands Easement Modification** from the State of Florida, Board of Trustees of the Internal Improvement Trust Fund, for **Moore's Creek Linear Park - Phases 3 & 4**, which permits creek dredging and placement of riprap.
- d. Approve Change Order No. 3 to contract with Burkhardt Construction Inc. for **7th Street Phase IV (Delaware Avenue to Orange Avenue)** in the amount of \$23,035.25 for modifications made to plans due to conflicts with FPUA and BellSouth. Funds from SMU Bond #2 and FPUA.
- e. Accept recommendation from Siver Insurance Consultants and approve renewal of the City's property, liability, automobile, and workers compensation insurance coverage under

the Florida League of Cities **Florida Municipal Insurance Trust** in the amount of \$1,434,382.

f. Approve travel and attendance by Commissioner Alexander to the 47th Annual **Florida League of Cities** Legislative Conference in Orlando on November 8-9, 2007.

g. Approve one year contract for 2006-2007 with **Teamsters Local Union No. 769**.

h. Approve waiver of demolition lien in the amount of \$13,700.00, related charges of \$7,480.74, lot clearing lien of \$160, and waiver of interest, penalties, and fees in the amount of \$2,160.16, against **110 North 13th Street**, owned by George Liddy, upon payment of remaining \$792.36 on the lot clearing lien plus \$100 of administrative charges within 60 days.

i. Approve waiver of fines, interest, and penalties in the amount of \$3,325.92 against **506-508 North 17th Street**, owned by Jerry L. Gibson, upon payment of lot clearing lien and administrative costs in the amount of \$6,722.80 within 60 days.

j. Approve waiver of fines, interest, and penalties in the amount of \$2,212.60 against **510 North 26th Street**, owned by Eric C. Watson, upon payment of lot clearing lien and administrative costs of \$4,475.89 within 60 days.

k. Approve waiver of fines, interest, and penalties in the amount of \$1,858.26 against **713 Atlantic Avenue**, owned by Linda Bucci, upon payment of demolition lien and administrative costs of \$3,240.00 within 60 days.

l. Approve waiver of fines, interest, and penalties in the amount of \$3,245.10 against **301 North 7th Street**, owned by Samuel S. Gaines, upon payment of lot clearing and demolition liens in the amount of \$2,739.98 within 60 days.

m. Approve waiver of fines, interest, and penalties in the amount of \$5,699.39 against **513 South 8th Street**, owned by Yonas Gebre-Amiak, upon payment of lot clearing and demolition liens in the amount of \$10,013.00 within 60 days.

n. Approve waiver of fines, interest, and penalties in the amount of \$346.95 against **514 North 12th Street**, owned by Lee Murray, upon payment of lot clearing lien and administrative costs of \$165.00 within 60 days.

o. Deny request for refund of fines, interest, and penalties in the amount of \$148.00 requested by Rosemary Falkenhainer for vacant property on **State Road A-1-A**. Property ID 2401-503-0138-000-7

p. Approve waiver of fines, interest, and penalties in the amount of \$138.30 against **429 (431) North 23rd Street**, owned by Lawrence J. Lewis, Jr., upon payment of lot clearing lien and administrative costs of \$596.12 within 60 days.

q. Approve waiver of fines, interest, and penalties in the amount of \$1,396.62 against **505 North 22nd Street**, owned by Gerald Chase, upon payment of demolition lien and administrative costs of \$2,450.00 within 60 days.

r. Approve waiver of fines, interest, and penalties in the amount of \$197.16 against **2603-2605 Avenue H**, owned by Morning Star Missionary Baptist Church of Fort Pierce, Inc. upon payment of Lot clearing lien and administrative costs of \$311.44 within 60 days.

Mayor Benton said he just wanted to bring it to everyone's attention that Consent Agenda Item #23e (renewal of City's property, liability, automobile, and workers compensation

insurance), it was a 19% decrease - which is very unusual. He wishes it would happen to all of them at home, not just from the League of Cities.

Ms. Carole Mushier, President of the South Beach Association, said she didn't want to muddy the waters while they were talking about the ordinance (Ordinance No. K-516, Limitations on **Outside Storage**). But now that it has gone through the second reading, it is her understanding it is now in effect. Is that correct?

City Attorney Schwerer said that is correct.

Ms. Mushier said that means it should be enforced. Is that correct?
Mayor Benton said that is correct.

Ms. Mushier said that is what she would call for. Let's not have a paper tiger. They have got an ordinance. Now there are some things where people are going to have to be given time and perhaps even educated and told that they are not in compliance with the new ordinance. So she is trusting that it is Code Enforcement's job to do this, she assumes; and that they will know that beginning tomorrow the things that can be enforced immediately should be, the things that need some time they should give them reasonable time and to follow through on it.

Mr. Brian Alexander said with all due respect to the Mayor and Commissioners, he wants to speak about the situation that happened in the beginning of the Agenda. He is very saddened tonight to know that they had over 100 people march here to speak on behalf of the light bills they have been dealing with since 2004, that out of over 100 people the Commissioners gave them two speakers to speak 15 minutes. That is sad. It took them over 30 minutes to walk here. Being that he is part of this community, his father is a City Commissioner. Out of respect for him, he is trying to understand how did they come up with that? As far as the public is concerned, the public is the ones that vote them in the seats they are in. As far as light bills are concerned, this matter has been going on since 2004. They have addressed this. He was here the first time they addressed this matter and the matter has not been addressed yet. His sister is paying over \$500 in light bill every month plus her mortgage. This is in the City of Fort Pierce. Out of these over 100 people that marched here tonight, he doesn't know if it is him or what, but he hasn't seen any Mexicans, he hasn't seen any Chinese. All blacks that marched here tonight to speak to them, to just be given two speakers and 30 minutes of their time. He has been here since 5:30. He stayed here and watched everybody come up here and speak from building houses to boats and whatever they spoke on tonight and everybody had a chance to speak on whatever subject they had to speak on and they were patient with them. His question to them, if they were patient with them on whatever they had to say, then why would they not give the public their say at the beginning? Just to send them out of here? They gave them 30 minutes. They didn't take 30 minutes of their time. Just to march them out of here. And as soon as they marched out, they almost filled this place up again and they heard everything that everyone else had to say. His question to Mayor Benton - and he has respect for him because he knows his father has the same - is that the public and he and everybody else voted for them to sit in the chair they are sitting in. Why can't they have the same respect to speak on their behalf and the struggles they continue to go through over three years now about the same light bills they are fighting day to day to pay. They have kids to take care of also. How can they provide for their kids and also pay this type of light bills? And the subject has still not been addressed with the City of Fort Pierce. Port St. Lucie is not going through this, Vero Beach is not going through this. So why is Fort Pierce in the middle of this still not being addressed at this time? It is over three years now since the last time they spoke on this matter and there still has not been nothing done about it.

Mayor Benton said he can tell him why he could only give 15 minutes. He shouldn't have given any time at the beginning of the meeting because by City Code it says the people who have advertised and spent money to advertise and went through the system and were

required to have Public Hearings would have to go first. He felt as long as they had a full house, they should speak first. At every Fort Pierce Utilities Authority meeting - which tomorrow will be the case at 4:00 o'clock - they have shown what their bills are in regards to the other 40 public utilities in the State of Florida. Each month they have shown that they are in the middle. There might be 19 ahead of them or higher, and there could be 20 lower.

After the hurricanes somebody had challenged them and said there are two sets of meters in the City - one set for the northwest section and one set for the other side of town. They did an audit, they checked 43 meters and 43 billing cycles, and found out they were all done the same. If somebody can prove to them that something is being done wrong, he will be the first one to head them off.

Mr. Alexander said this situation was addressed to them the last time he was here in 2004 when they came here and spoke about it after the storms were over with. He had a classmate of his that brought proof to the Commission that showed that her house was completely damaged - she had no lights, no nothing. For several months after the storm she was still charged over \$500 in bills for her residence and there wasn't any power there.

So please tell him how much more evidence do they need with that being shown to them at that time?

Mayor Benton said he doesn't recall seeing that. He saw some people who came in here with bills, they had done something to their power coming into their house with the meter. They looked into several of those bills. Some people hadn't paid their bills for several months. All he can tell him is, when it comes to the charges that are charged to the residents of Fort Pierce by the Fort Pierce Utilities Authority, their charges are comparable to everybody with public utilities in the State of Florida. When they go to fill their gas tank up, the price of gas fluctuates from \$2.30 to \$3.10. Part of their electricity comes from gas and oil, some of it comes from natural gas. The last time he filled up his gas tank for his gas grill it might have cost him \$7.00, the other day it was \$10.00. They get it from coal, they get it from nuclear. All those do cost. Yes, the City gets a transfer. That was set up by Charter through a referendum years ago. That can be changed. So can the makeup of the Fort Pierce Utilities Authority Board. It could be made this Board. But it was set up by referendum. If the public wants a change, the public can do it through a referendum, that is all it takes.

Mr. Alexander said the Mayor just spoke on someone brought to his attention about the northwest and the southwest and different meters being read. In that perspective, can he please explain to him, out of all those people who were here a few hours ago, why all of them was black? They are not going to make it a black and white issue. But at the same time, they have people come in here and all night he sat here and watched people coming in about boats, houses, churches, and everything. But not one white person was in here speaking about light bills and it is still not one. If it is, it is this young lady here because she was in a meeting with them the other day about something else. His question to him as the Mayor, can he please...? There is something wrong with that picture. That is all he is saying. He is not going to make it a black and white issue, but there is something seriously wrong with this picture.

Mayor Benton said he can tell Mr. Alexander that his electric bill is extremely high. He didn't use his air conditioning until the first of June this year; and the minute he turned it on with two sons who cranked that thermostat down, his bill went up about \$120 more a month. Little things he did, he put a curb on his water bill. That is the cost, he is sorry. But a lot of the homes in this community, they have worked with folks to put more insulation in them, they have done their part. But if somebody can show them that they are being taken advantage of. For instance, if somebody is getting an electric bill and they don't have their air conditioner on and it is \$500 a month, Fort Pierce Utilities Authority will go out there and inspect the home and try to find out why.

Mr. Alexander said it is a serious problem and he is just trying to address this. It has been over three years and no one has come up with any solution to this.

Mayor Benton said all he can say is, when it is an election year people find this as a reason... Those bills affect all of them. Like he explained, there are ways to change the makeup of the Fort Pierce Utilities Authority through a referendum. The people of this community own Fort Pierce Utilities Authority. But remember after the hurricanes that some of the cities around here with FP&L waited days if not weeks to have their power turned on. There is an advantage to having a smaller utility. But a lot of times they are going to pay a little bit higher for the bills. He will give him this information if he would like to take a look at it - this is the rates for all the public utilities in the State of Florida and FPUA is average with them. But if somebody can show them that they are being charged unjustly, call Mr. Thiess or himself and they will see if they can check into it.

Ms. Linda Bucci said she is on Item #23k on the Consent Agenda. She was at the July 6, 1999 meeting; and according to what she thought, the Commission had voted for her to have a two month extension on the demolition of her building on **713 Atlantic Avenue**. She has a copy of the July 6, 1999 meeting here. According to what this says, they would let her know and give her written clearance if the Fire Marshal and Police Department would notify them when they were done with their investigation, because they were not done as of July 6, 1999. She has a copy from the Fort Pierce Police Department they were not done on August 20, 1999. The Police Department was pending the case because it was not completed. Her building was demolished on August 25, 1999. She was not allowed to go in and get her personal property from this building. She was not given clearance by the Fire Department or Police Department. Then when she finally did find out, her building was removed and she was not even notified that they were going to remove it. Now she is being charged a fine. The original demolition was \$2,250 and she is being fined over \$3,000. And she was never able to get her property. The Police Department wasn't finished with their investigation and neither was the Fire Department. She feels that all these demolition costs should be waived in her favor. She really would appreciate their help. Would they like to see her paperwork?

Mayor Benton said there is nothing he can do personally. He can't speak of the details here. The house must have been removed because it was a threat to public safety. Was the house burned?

Ms. Bucci said it burned down, but it was under investigation because it appeared as if there were some drug users that went into the home when she wasn't there on May 31, 1999 and burned it down. It was under thorough investigation. The investigation was not done by the time the building was removed, it still had the Police tape around it, and she was not allowed to go in and get her personal belongings. Could they waive the demolition cost?

Mayor Benton said he would ask that she contact Mr. Recor or Mr. Beach and they would have to take a look at this; and this recommendation could come back to them from Staff.

City Manager Beach said if the Commission is agreeable, they will review this with this lady; and if there are changes they think would be appropriate, they will bring it back for consideration. But as it is, unless they bring it back to the Commission, it stands with the action that the Commission took this evening.

Commissioner Nelson asked did Ms. Bucci talk to any member of the Staff regarding her situation?

Ms. Bucci said yes, she did. She spoke to Mayor Enns when the house was demolished and he said there was a mistake made and that it shouldn't have been demolished. Because on July 6, 1999 they voted to give her a two-month leeway and then they would get back with her, but they never got back with her after the two months. The two months would have been September 6, 1999 and the house was demolished August 25, 1999.

Commissioner Nelson said he doesn't want to go into details right now, but what they have done just recently is they approved Staff's recommendation that she be waived the administrative costs.

Ms. Bucci asked did they waive all the demolition costs?

Commissioner Nelson said no, they didn't do that. In that light, he would think it appropriate that they reconsider that and give Ms. Bucci a chance to have it be reviewed more thoroughly by Staff.

Mayor Benton said that is what he just said, the City Manager take a look at this. And then anybody on the prevailing side...

Commissioner Nelson said they voted to approve it.

Mayor Benton said but if they have some facts that are brought to them at the next meeting showing that they need to reconsider this, all it takes at the next meeting is a vote for reconsideration and they can change it. If Ms. Bucci would make an appointment with the City Manager tomorrow so they can have any type of information back to them through his office, if they are going to have to make any changes.

Ms. Bucci asked do they want her information?

Mayor Benton said no, she needs to speak with Staff because the recommendation comes from Staff to the Commission. If she will call Mr. Beach tomorrow.

Ms. Bucci asked who is she to speak with?

Mayor Benton said she is to call Mr. Beach, the City Manager.

Ms. Bucci said she has spoken to Mr. Beach about this already. But she will talk to him tomorrow. Are they going to waive this or does she go to another meeting?

Mayor Benton said what will happens is, Mr. Beach would make a recommendation. If he feels this should be waived and she was done wrong for some reason, he is sure they will go through the City Attorney, it will be brought back in front of them at their next meeting to be waived. If not, then it will stand as is. He is sure they are going to want to hear what information comes out of this meeting with her and Mr. Beach. So please call Mr. Beach tomorrow and set up a time.

Commissioner Nelson said the Commissioners be getting a report back from Mr. Beach or Mr. Recor.

Mayor Benton said yes, one way or the other they will know at the next meeting the details.

Reverend William Richardson, Grace Baptist Church of St. Lucie County, said he is here because of the incident that has been in the news regarding **Officer Gilroy and Shelwanda Riley**. He understands that the Police Chief has initiated an investigation with Internal Affairs. It is his request of the people of Fort Pierce that the Commission would take an independent investigation on this matter.

Mayor Benton said he doesn't know if legally the Commission could do that tonight. He would like to sit down with Reverend Richardson one day with an appointment. He thinks they all want answers. Because this case is still in court, he is just wondering what they can do. It hasn't been heard by a Juvenile Judge yet. That is why the tape is out there.

Commissioner Coke asked doesn't the State Attorney's Office do an independent investigation?

City Attorney Schwerer said yes. There is an active criminal case involving this particular juvenile incident. The State Attorney has elected to prosecute. There is a charge of felony battery on a law enforcement officer and there is another charge he believes of resisting arrest. Those matters are still pending in the court. The State Attorney has reviewed the matter, the State Attorney has reviewed the tape, reviewed all the circumstances, and has proceeded to prosecute. So until the courts conclude their case, it probably wouldn't be prudent for the Commission to do anything until that occurs. The matter is under review by the required authorities, including the courts.

Mayor Benton said that is why he would like to sit down and talk to Reverend Richardson maybe one on one or with the City Manager and City Attorney.

Reverend Richardson said he is interested in that.

Mayor Benton said by no means are they trying to hide anything. That is why it was taped. But he thinks there are certain legal roads this case has to go down before they can get involved. He hopes he understands that.

Reverend Richardson said he understands and he appreciates the tenor of the conversation they have all had here tonight and is encouraged by them being forthright about what is going on. His concern is that the investigation that is taking place now is somewhat suspect because of the fact that this incident happened in July. Here they are in October almost two months later to the date that the investigation was now initiated. Why wasn't that investigation initiated earlier? Now they are supposed to trust them to investigate themselves. The investigation was initiated because of the tape becoming public and public news. That is troubling.

Mayor Benton said it might take a third party. He knows a lot of times when there are concerns like this, the Florida Department of Law Enforcement comes in and takes a look at it. He can't make that call tonight.

Reverend Richardson asked so the Commission can't do an independent investigation?

Mayor Benton said not at this point. Until this case goes through and this young lady has her day in court, he doesn't think there is anything legally... That is what the City Attorney has told them. He is not an attorney, he doesn't want to do anything to disrupt this case. But by no means do they plan on just letting this go away per se.

Commissioner Becht said he is not trying to be sarcastic with Reverend Richardson, but if the young lady cannot come forward - and he cannot imagine that her attorney would let her come forward now - and tell her side of the events that are outside the camera, how could they do a thorough investigation? There are two people who were there that know what happened - one of them is the young lady, the other is the officer. And he doesn't think they are going to get a statement out of her until the juvenile proceedings are concluded. So it would be difficult in his mind to get a fair investigation without her side of the story and they are not going to have that. He doesn't know how they could get that under the circumstances. He saw the video tape of the press conference, she wasn't even allowed to speak if he recalls correctly.

Reverend Richardson said that is correct.

Commissioner Becht said he understands the wisdom of that, don't get him wrong. Reverend Richardson is asking them to conduct an investigation, but one of the two people who was there, he doesn't think they are going to hear her side of the story for awhile, other than what is on the video.

Reverend Richardson said he appreciates that. Of course, there would be some concern for her to talk to the very people who are doing the investigation, those are also the people who they feel have committed infractions against her. And he at the cost of not being sarcastic saying that, does that mean the police investigation with Internal Affairs is not going to be useful at all either? Is that what he is hearing?

City Attorney Schwerer said he is going to caution the Commission to please... This is comments from the public. This is not a question and answer session. He is being quite frank. The purpose for comments from the public is to discuss comments. When they have an active issue pending both criminally and civilly, and all sorts of issues pending, they are not really in a position to comment, they are not in a position to discuss this openly. If Reverend Richardson wishes to discuss it with the Mayor, he thinks the Mayor has invited him to talk to him about it to the extent he can. But he is cautioning the Commission that as to this specific issue, they really need to not discuss it publicly.

Mayor Benton said if Reverend Richardson would call his office, they could set a time up. There are certain things he is told they can't talk about publicly. Please give him a call in the afternoon, he will be in.

Reverend Richardson asked would City Manager Beach be available for that meeting?

City Manager Beach said certainly.

Mayor Benton said if he would like, the Chief can join them too.

Reverend Richardson said the Chief and he have a scheduled meeting for Wednesday tentatively.

Mr. Julius Bell said he is with **Concerned Citizens of St. Lucie County** in Fort Pierce. This is not the first time they have had problems with the Police Department and people coming to them with all kinds of things. He is not going to go over the case and all that. He just wants to make a suggestion. This is one topic here that he thinks is very important. Most cities the Police Departments try to cooperate with the citizens and try to have a good relationship. But when they don't have that relationship and they come into a community and try to be an occupying force, what they are doing is, they can't get cooperation from the citizens. Even if there is a crime, they are not going to tell them who did the crime because they don't have any confidence in the Police Department when they don't come in and try to be friendly and try to get to know the people in the community, the merchants, the residents, and have that relationship. His suggestion, he thinks in most cities that when Police Departments try to cooperate and work with the citizens wherever they are patrolling, they operate pretty well. Police Commissioner Ray Kelly in New York is doing a wonderful job in New York City after the debacle was left with him from Mr. Giuliani and the Police Chief who was there prior, so now he reaches out to the community and tries to cooperate with them. His suggestion is to have a Civilian Complaint Review Board. Not a hand-picked thing by the Police Chief or by the Commission, but the people and some of the clergy have something to do with it. Maybe the Concerned Citizens will have to spearhead that. What he means by Civilian Complaint Review Board is they have civilians, citizens who pay taxes and who are involved in this community and who want to make sure there is cooperation. And anything that comes up questionable or something that is a problem like what happened with the young lady, Ms. Riley. And there were other cases prior to that with tasing and people dying in hospitals and all that kind of crap. Even the Sheriff's Department doesn't want to use tasers. But tasers are a big problem. They have a couple of officers who love to use tasers. If they have a Civilian Complaint Review Board, they don't have Internal Affairs, which is like having the fox guarding the chicken coup. They are not going to get any answers, it is going to be one sided. That is not the way to do it and that is not the way to win confidence of the citizens by doing something like that. They try to incorporate and get them involved in the situations, whatever it is that comes up in the future - he is not talking about this case, he is talking about the future - because they want to improve the situation. This is not only nationwide, this is all over the world. This tape

has been shown... He has had people calling him from out of the country and asking what is going on in Fort Pierce? That is a bad reputation, they are putting themselves on a map in the wrong way. Straighten that out by having civilians involved in some of these investigations, they are showing the citizens that they want to cooperate with them, they want to work together, they want to solve some of these problems. He thinks that is something they need to look into. If they want to sit down and talk about it, it is something to think about in the future. He thinks that is something, if they want to solve some of these problems. Like they have a thing going on now with the youngsters, they say they don't want to snitch. The reason why they don't want to snitch is because they don't have any confidence in the law enforcement. They want to win that confidence. Maybe it is a joke to them, maybe they think it is funny because it doesn't reflect or it doesn't affect them. But he thinks they need to look at all of these things to make this City better and try to have more cooperation with the law enforcement and the citizens and everybody else. That is his suggestion. They can take it for what it is worth. He thinks they need to think about it and it is very important.

Commissioner Coke asked does Mr. Beach have an update for the Commission on the status of **Causeway Park**?

City Manager Beach said his understanding is that is going to be the subject of their Fort Pierce Redevelopment Agency meeting on October 24th.

Mr. Jon Ward, Director of Fort Pierce Redevelopment Agency, said they will have a presentation.

City Manager Beach said they will have a presentation from the engineers on that as well as the discussion regarding the Interlocal Agreement.

Commissioner Nelson asked this letter of appreciation for one of their Police Officers at Carnegie Academy or some place, a school out there, is that a normal employment of their police people? Is that a private school or what?

Chief of Police Sean Baldwin asked what school is it?

Commissioner Nelson said they gave one officer a letter of thanks or something tonight. He forgets what it was. What is the name of that school?

Commissioner Becht said it was St. Lucie Elementary.

Commissioner Nelson said he thought it was Carnegie or something like that. Do they do that for most of their schools, employ officers at all the schools like that? Is that a routine type thing?

Chief Baldwin said in this particular incident, he believes what the officers were being commended for was a **Back to School Safety Program** where they had bike patrol officers patrolling the areas around the school to speak with the kids who were walking to school and so forth.

Commissioner Nelson asked is that a normal routine? They have several elementary schools in the County. Is that a normal thing for use of officers?

Chief Baldwin said no, it is not. In other words, he doesn't have bike patrol officers out every day patrolling around the schools. It was a special detail that they did at the beginning of the school year. He would love to have officers doing that. Perhaps they will get an opportunity to help him with that in a couple of weeks.

Commissioner Nelson said the next point he has also involves Chief Baldwin. That is the area where they were talking about chickens running all over the City. He counted with his

own little fingers here some 30 chickens right in front of the Police Substation on Avenue D. Are they making any headway with respect to getting rid of those chickens?

Chief of Police Sean Baldwin asked does Commissioner Nelson recall seeing a newspaper article about a month ago about the chickens? If he hasn't, he will get him a copy of that. He is actually impressed with their **Animal Control** officers and the progress they have made. It is a particularly difficult issue to deal with. They are making progress by the hundreds of chickens.

Commissioner Nelson asked but is their progress such that they get rid of them from in front of the Police Substation on Avenue D? To his knowledge, no. Because he personally saw them just two days ago.

Chief Baldwin said he is sure there are chickens in front of the substation. If they are troubling him, they will prioritize their efforts in that area. He knows the Animal Control officers have reported that they have captured hundreds of these chickens over the last couple of months since they have been asked to work on them.

Commissioner Alexander asked does Commissioner Nelson count chickens when he goes to sleep?

Commissioner Nelson said that is all he has to do is count chickens, believe him. But when he sees them and when this Commission says they want to get rid of chickens, that they offer a detriment to the potential development of this City, and they are right in front of the police station who have been charged to in fact get rid of them, he thinks he should mention it and that is what he is doing.

Commissioner Nelson said the next thing is in the area of the letter he proposed for **CeeCee Ross-Lyles** recognition to their Senators and Congress people?

City Manager Beach said that is being drafted for review.

Commissioner Nelson said Mr. Beach is pretty good at writing these letters, he thinks he knows what they want. He still maintains that they have to recognize their people who are of historical significance and of course they should do that. He thinks they all support that idea.

Mayor Benton said he thinks they will see something at their next meeting. He spoke to Frances Watson today, and the neighbors over there have a request and it will be in front of the Commission at the next meeting about maybe renaming a street after her.

Commissioner Becht asked can they get an update on the never-ending **7th Street project** at the next meeting?

City Manager Beach said the phase that is currently under construction is scheduled for completion by December 2007.

Commissioner Becht said Indian River Community College had a workshop on economic development. The idea of the focus was economic development across county lines and city lines, a regional economic development. There was an article in the paper and they talked about the time it takes to get a building permit issued. He thinks the Planning Department, by virtue of some of the comments they have heard from some of the developers who are getting all the information into the Planning Department at the beginning of the process, are being processed with some speed and some expedience. He thinks he heard four months on one project at the last meeting. He is not hearing the same thing about building permits. He doesn't want to pick on the **Building Permit Department**. But what he wants to try to do is see if there is any interest or benefit in holding a building

permit workshop so they could explain to the various contractors, the developers, and staff about what it is they are expecting for a building permit to be issued. He knows they have their codes and they should know what they are supposed to bring in. But when a developer comes to him - and he does take it with a grain of salt - when they tell him it took 11 months and they still haven't received this particular permit, when he hears stories about plans being lost, whether they are true or they are not true, they are being repeated. What he wants to do is get rid of that rumor stuff. If there is any interest in this, if Staff thinks it might be productive, bring them in and tell them what they are expecting and have some interaction so the process can be streamlined. It will take less of the Building Department's time he thinks in the end and perhaps create an environment that is a little more friendly to people getting things built from porches to big buildings.

Commissioner Nelson said he thinks that is an excellent idea. A point he really wants to make is the fact that they have this Treasure Coast Economic Development effort put on and spearheaded by IRCC and everybody is saying it is a great thing, even with respect to the naming of it. He mentioned the naming because they have that contrasting with the Florida League of Cities designation as a Treasure Coast.

Commissioner Becht said with all due respect, what he wanted was something narrow about whether they want to have a workshop and if they could have Staff report back in two weeks.

Commissioner Nelson said he agrees with that. But he is trying to point out something here. They talk about a Research Coast, a Treasure Coast, a Palm Coast, and they have Vero Beach right down the street down here with a Coast they are working on. They are trying to get the City of Fort Pierce, Okeechobee, Stuart, and Port St. Lucie all involved in a name and it is called a Treasure Coast. They are talking about a Research Coast or something, a Research Park. So the name designation they have for themselves is contrary to what the powers that be are saying it should be, is the point he is trying to make.

Commissioner Becht said if he can get back to his point, all he wanted to see is if there were three Commissioners who are interested in tasking staff.

Mayor Benton said he is one.

Commissioner Alexander said he is another one.

Commissioner Nelson asked can he get three Commissioners to recognize what their name should be?

Commissioner Coke said no, because Commissioner Nelson already had his comments. Agenda it on the next meeting.

Commissioner Nelson said he is not going to agenda anything. He just wants them to use their intelligence and recognize what he is trying to tell them. There is a disconnect with the designation of themselves in one area versus another.

Mayor Benton said he noticed in the paper that **George Bergalis** is a finalist for the Florida League of Cities 2007 City Finance Official in the State of Florida. So congratulations to Mr. Bergalis. He thinks in his 27 years he has done an outstanding job for the City of Fort Pierce and he wishes him the best. He thinks he is a shoo-in for that.

Commissioner Alexander said he will be there.

Mayor Benton said he is going to be there too.

Mayor Benton said Julius Bell has left, but he was hoping to respond to him. What he wanted to say about their **Police Chief** is that he has done more to work on juvenile problems and crime with young people in this community and gangs than any Police Chief he has dealt with in the 12 years he has been here or any Police Chief on the Treasure Coast. Chief Baldwin doesn't depend on his PR person to respond to issues. And when there are problems, he goes right to the source of the problem and deals with it. He has gone right to the community. The reason why this room wasn't filled with a lot of folks from the community on that issue is that the Chief has been there, he spoke to a lot of the leaders in the community. They are not putting this incident away, they are keeping an eye on it, but there is only so much they can do. But the Chief is not running from this problem and he thinks he has done a wonderful job. He has seen him in action many days a week working late hours in the night to make this community a better place specifically for their young people. Chief Baldwin deserves a pat on the back because he knows what he did in May with the Executive Roundtable and with the pastors in this community to open their churches. And instead of it just being talk, it was action. That is one reason why they haven't had one of those homicides since. And the gangs, he has a grip on them. So he thanks the Chief for the job he has done. He has his support 100%.

There being no further business, Mayor Benton declared the meeting adjourned at 10:40 p.m.

Adjournment.

ATTEST:

CITY CLERK

MAYOR COMMISSIONER

