

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 19, 2009.

Mayor Benton called the meeting to order.

Father Bernard Sheffield, St. Julian of Norwich Old Catholic Church, gave the invocation.

The Pledge of Allegiance was recited.

Upon Roll Call, those present were: Mayor Robert J. Benton; Commissioners Rufus Alexander, Edward Becht, Christine Coke, and Reginald Sessions; City Manager David Recor; City Attorney Robert Schwerer; and City Clerk Cassandra Steele. Those absent: None.

The next item on the Agenda was Approval of the Minutes of the Regular Meeting on October 5, 2009.

Motion was made by Commissioner Becht, seconded by Commissioner Alexander, to approve the Minutes of the Regular Meeting on October 5, 2009.

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

Mayor Benton proclaimed October 19-25, 2009 as NATIONAL BUSINESS WOMEN'S WEEK.

Ms. Peggy Murphy, Fort Pierce Business & Professional Women's Club, said they celebrate the working women throughout the United States, all their commitments, all their sacrifices. They also honor the Florida Federation of Business & Professional Women and the Business & Professional Women's Foundation throughout all fifty United States.

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

Letter from Joyce Jackson in gratitude to Dorina Jenkins and the Community Services Division for their assistance and support.

Letter from Indian River County Sheriff Deryl Loar in appreciation of the assistance, expertise, and professionalism of Fort Pierce Police Department Accreditation Manager Linda Blanning.

The next item on the Agenda was Comments from the Public.

Ms. Camille Yates, 719 Georgia Avenue, said she is a volunteer on the Board of the Treasure Coast Manatee Foundation. She is here to talk about the **Seven Gables House**. Although she has met with each Commissioner individually, she is here to get some information into the record. The Treasure Coast Manatee Foundation is a 501(c)(3) not-for-profit organization that was established ten years ago. Through their various special events, they encourage visitors to come to Fort Pierce to

experience their beautiful waterfront and to see the Manatee Center. Some of the events include Sea Cows on Parade, which attracted thousands of people to the City of Fort Pierce; the Old Florida Suppers, which were old-fashion fish fries on the waterfront; as well as their latest, a 5K Run, which brought people not only from the State of Florida, but from other states in the country. At their June 15, 2009 meeting, the Commission considered the Request for Proposal to find an entity to lease the Seven Gables House and also continue the operation of the Visitor Center. The Board became involved when they heard from the Chamber of Commerce's Executive Director that they would not offer to lease

the facility; but however, they were still willing to operate the Visitor Center. Because of the circumstances with the Chamber, the TCMF Board decided to submit a proposal to lease the facility and operate the Visitor Center. They discussed their intent with the Chamber before submitting their proposal. Their major concern was that a for-profit business or an individual would lease the building and create an activity that might not be compatible with the surrounding non-profits. As a result, they submitted a proposal to lease the facility. The Chamber of Commerce, as well as Buzz Smyth, also submitted proposals, but neither of them offered to lease the building. On September 8th, on the Consent Agenda, Staff recommended that the building be leased to the Treasure Coast Manatee Foundation. At that meeting, Mr. Smyth requested that the item be pulled from the Consent Agenda. The Commission complied with his request. At the following Commission meeting, they heard from all three applicants - Mr. Smyth, the Chamber of Commerce, and TCMF. Afterwards the Commission voted against Staff recommendation and gave the Seven Gables House to Buzz Smyth, who is a private individual who did not offer to lease the facility. They stipulated that he come back to the Commission with a more narrow focus and some firmer ideas. They also asked Mr. Smyth to meet with the other applicants - the Chamber and TCMF - to determine if partnership opportunities were available. TCMF met with Mr. Smyth on October 5th. At that meeting, Mr. Smyth said that he would like to partner with TCMF by moving the Visitor Center from the Seven Gables House over to the Manatee Center. They explained to Mr. Smyth that they did not have room for this kind of activity. And with no formal written plan, TCMF informed Mr. Smyth that they did not see a clear way to partner with him, but would reconsider after receiving the opportunity to review a plan. They have not received any further communication from Mr. Smyth. TCMF is perplexed that the City Commission would entertain giving the Seven Gables House free of charge to a private individual. Mr. Smyth has proposed the use of the facility as an economic development office. Although he has presented some good ideas, he has no experience with economic development and does not have an established company or non-profit organization backing him up. At their meeting on October 5th with Mr. Smyth, he stated that he will have a \$200,000 annual operating budget and a \$500,000 capital budget. Although Mr. Smyth has worthwhile ideas about promoting Fort Pierce, he may be hard pressed to come up with \$700,000 a year to accomplish these goals. TCMF has no problem with the City leasing the Seven Gables House to a non-profit organization that would not be competitive with existing organizations such as the Backus Museum, Fort Pierce Main Street, or the Manatee Center. Therefore, they respectfully

request that the Commission reconsider their offer to allow Buzz Smyth the use of the facility free of charge as an economic development office.

Ms. Lisa Fasnacht, 1708 St. Lucie Court, said she is here regarding **Vending in City Parks**. It has been over a year since they granted her a three month trial to rent kayaks and bicycles from their City parks. The three month contract ran from 10-1-08 to 12-31-08. She has been in front of them several times to remind them that she is still waiting. She has contacted almost every office in City Hall numerous times, but no one seems to know anything. The Parks Advisory Committee met for a number of months to discuss this matter. The Chair, Arden Peck, gave a report on the recommendations of the Committee last year. Still nothing has been done. She has both the current and the proposed ordinance. The current ordinance says that no person, organization, or forum, other than the city or county government or its licensed concessionaires, acting by and under the authority of the city or board of county commissioners, will expose or offer for sale, rent, or trade any article thing, or place any stand, cart, or vehicle for transport, sale, or display of any food, drink, article, or merchandise within the limits of city parks. The proposed ordinance says no person or organization, other than the city or its licensed concessionaires, will offer for sale or rent any article or thing within the limits of any park area, unless allowed by specific city permit. Either way, these both tell her that as long as the Commissioners will agree, she can rent her items from city parks. So once again she asks them to vote yes on this issue. She asks for Jaycee Park, the Manatee Center, and South Causeway Park. Lets enter into a contract. She asks them to piggyback her county contract and let her go to work. This community needs something to do that allows folks to enjoy their beautiful coastline. She asks them to put Lisa's Kayaks Inc. on the next agenda and vote yes.

Ms. Carole Mushier, South Beach Association, asked what is the status of the implementation of the **Citizens Budget Advisory Committee**?

Mayor Benton said he spoke to the City Attorney the other day. He thinks he has a recommendation coming to them, maybe at the next meeting.

Ms. Mushier said it has been at least a month, if not 60 days.

Mayor Benton said he knows staff has looked into several others that have done this. There are good reasons and bad reasons. He thinks they are going to hear from both sides.

City Manager Recor said when they had this discussion about a month ago, they said it would be an end of the year initiative. In the meantime, the City Attorney has done some additional research and will be following up with the Commission as a while in writing with those findings.

Ms. Mushier asked at the next meeting?

Mayor Benton asked probably within 30 days? Once the information gets to the Commissioners, then the decision will be made.

City Attorney Schwerer said he needs to work with management on that. There needs to be coordination with management. His office is looking at various different procedures. What they are finding is that the only entities that have done this are those that are dealing with much larger complex \$400 million or \$500 million or \$600 million budgets. They are trying to get a workable committee that complies with the Sunshine Laws and the public records issues and some other things. They are targeting something in the next month to 45 days.

Commissioner Becht said he needs clarification. He thought they had directed him to set it up. He does not want to hear that staff is considering that they are not going to do this.

City Attorney Schwerer said that is not what he is hearing. They were given one model, the County's. They tried to work with...

Commissioner Becht said he is okay, he just didn't want to get two months down the road and then staff says they don't want to do this.

City Attorney Schwerer said the County's is an unworkable procedure. The County is dealing with a \$460 million budget, it has a jail, and...

Commissioner Becht said Mr. Schwerer has clarified that he is moving to make it happen, not moving to report back and say they can't do it.

Ms. Arden Peck, South Beach Association, said this concerns the **Sunrise City Corps**. After initiating and planting the seed for a volunteer corps in 2007, she is happy to tell them that the seeds are sprouting. There is a group of individuals committed to keeping their parks and streets clean. Seven are covering their beach parks and parts of A1A. Several groups and individuals are covering three areas on the mainland - Pioneers Park, Avenue Q & 29th Street Park, and Hibiscus Park. This is a great start. They are small, but they are mighty. They don't mind noseems and fire ants and all those other things. But they need more volunteers. Now that the weather has cooled off, come join them. The program is simple. An individual can pick their area, park, or street; then contact Public Works, who will supply them with a grabber stick, gloves, and trash bags. Go and work your area when you want and for as long as you want. At the end of the month, the only thing the City asks is that they report their hours to Paul Bertram at City Hall. As a group, if they want to work together under the more structured Keep Fort Pierce Beautiful Program, contact Paul Bertram and he will assist in them in getting started. Do something for the community. Whether you volunteer or not, please help keep their parks and streets free of trash, litter, and cigarette butts.

Ms. Debbi Denning, 1772 Gulfstream Boulevard, said she was here

two weeks ago to tell them about **Sunset Magic**. She is back to thank them for their support and give a brief report. On Friday, Sunset Magic brought over 400 people to the Marina Square. All their youth groups entertained the crowd better than expected, people didn't want to leave and no one wanted to go home. She would like to give a special thanks to Mayor Benton, Commissioner Alexander, Chief Baldwin, County Commissioner Grande, Marina Manager Dean Kubitschek, and Reverend John Lieber. Also she would like to thank the Avenue D Boys Choir, the PAL Dance Group, Showtime Steppers, and all their volunteers. They had volunteers from the Treasure Coast High School, who were more than excellent. She would like to thank everyone who came out to make Sunset Magic a success. Please continue to support their youth.

Mayor Benton said he heard from several people that it was a success. The crowd grew as the night went along.

Ms. Denning said it went very well. The volunteers put together an extravagant effort to make sure that the park was cleaner than when they got there. She heard reports from the Marina Manager and others that they did a really good job.

Mayor Benton said he heard that report too.

Mr. Tommie McCarthy, 314 North 13th Street, said he lives in **The Oaks** at Moore's Creek. He sent letters to everyone thanking them for the fine job they did with that community. Also, he wanted to thank Dorina Jenkins. First of all, he wants to thank his lord and savior Jesus Christ for blessing him to get a house. When God opened the door for him to fill out an application for The Oaks at Moore's Creek, that was a blessing. He is 55 years old and this is the first house he has ever owned, he and his son. He gives God all the praise. The Commissioners played a big part in that. The only thing that is troubling him now is, his name and his son's name and his daughter's name... Everybody is looking at him like he did something. The only thing he did, the blessing came to him. God works through people. He just put his name on the dotted line. He filled out an application. His blessing came. When God blessed him, his kids also got blessed. He is not a criminal, he has never been in prison. He works hard. He has been working all his life. He graduated from Fort Pierce Central High School. He has been working at Chester A. Moore Elementary School for about 10 or 11 years. He is a hardworking man. When they announced at the church about The Oaks at Moore's Creek, that the REACH Program was funding something for first time home buyers, he thought that sounds pretty good. He wanted a house. It is a blessing for anyone at this time, the way the economy is now, to have a house. He looked at the paper the other day, St. Lucie County is number one in foreclosures. But God has blessed him and his family to have a home. As long as there is strength in him and his heart is still beating, he will continue to do what he can at The Oaks at Moore's Creek. They call him the Mayor there, he thinks he is the oldest one there. He and his son are the only two males there, all the rest of them are females. He thought they shouldn't be prejudiced, they needed to get some men in that community. He

thanks everyone. When his name was in the newspaper, it made him feel kind of bad. Some people see things in the newspaper, but don't really know what is going on. He is not going to lose his house. As long as he is working, his mortgage is paid. He thanks everyone. He is not a criminal. At his house, his doors are always open for anyone here to come in any time. They are welcome to sit down and have a soda or glass of tea any time.

Mayor Benton said it is nice to hear the success stories. This money that has come through the Federal government through the City, if they didn't make it possible for folks like Mr. McCarthy, they would have had to give it back. People have said they did things maybe they shouldn't, but they went by the rules. He is glad Mr. McCarthy gave credit where credit is due.

Commissioner Alexander said he has known Mr. McCarthy for a long time - a young man, a grown adult man, a responsible man, a respectable man. Anyone ever calls him a criminal in his presence, they are going to have an argument on their hands, he won't allow that. He has the utmost respect for him and his family. He wants them to continue to enjoy their neighborhood.

Mr. Jerome Gayman said his is a resident of Fort Pierce. He is proud to present Senator Nathaniel Innis from the Republic of Liberia, the Liberian Congress. He is traveling in Europe and America. He is glad he stopped in Fort Pierce. He has a message from the Republic of Liberia.

Senator Nathaniel Innis, Republic of Liberia, said first of all he brings greetings from Liberia, the oldest republic in Africa. He also wants to thank God for the opportunity to be in their great City. He also wants to thank the Mayor and City Commissioners and all of their wonderful people for the warm reception they have accorded him by presenting to him a Key to the City. This is his second time coming to Fort Pierce in St. Lucie County, Florida. He was here in 2005. He interacted with the Mayor and City Commissioners and other great people of the City. He was really happy for that. He also wants to say thanks for the transformation and development infrastructure-wise that he has seen in the City of Fort Pierce. The last time he was here, he didn't see that kind of development. So he applauds them, he is really impressed with the level of development. He is from Grand Bassa County in the Republic of Liberia, Buchanan City. He wants to appeal to them that they need a sister relationship with the City of Fort Pierce because he believes they can learn a lot from them that will make Buchanan City like Fort Pierce. He looks forward to them paying a visit to Buchanan City in Africa sooner or later.

Mayor Benton said thanks for the invitation and for coming to Fort Pierce. He hopes Senator Innis has had an enjoyable time here and will have a safe trip home. They would love to take him up on that invitation soon.

Ordinance No. L-85 entitled, "AN ORDINANCE OF THE CITY OF FORT PIERCE, FLORIDA, A MUNICIPAL CORPORATION; AMENDING THE CODE OF ORDINANCES; AMENDING SECTION 13-40.1 (**DEFERRED RETIREMENT OPTION PROGRAM [DROP]**); EXPANDING ELIGIBILITY FOR DEFERRED RETIREMENT

OPTION PROGRAM FROM EMPLOYEES OF FORT PIERCE UTILITIES AUTHORITY TO ALSO INCLUDE EMPLOYEES OF THE CITY OF FORT PIERCE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT; PROVIDING FOR AN EFFECTIVE DATE." was placed on second and final reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. L-85 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 Sessions, that Ordinance No. L-85 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. L-85 on second and final reading were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

The next item on the Agenda was Public Hearing on Comprehensive Plan EAR (Evaluation & Appraisal Report) prior to transmittal to Florida Department of Community Affairs.

Ms. Erica Ehly, Comprehensive Planner, said the EAR report evaluates the current Comprehensive Plan and provides recommendations for any needed changes in order to maintain its effectiveness. The current Comprehensive Plan was adopted in 2007; however, the majority of the data and analysis was completed in 2006. So the time frame with regard to the analysis in this report will be between 2006 and 2009. The EAR-based amendments will be processed during the eighteen months following the adoption of the report, which they expect in February 2010, in order to update the plan. Per Florida Statutes, the plan shall be updated in the following areas: Changes to population and land area, the location of vacant and buildable land, the success in providing the needed infrastructure to meet the adopted level of service standards and to meet the demands of growth on public facilities, the location of existing growth compared to where it was anticipate to be in the plan, changes in state and regional policy, whether the objectives of the plan have been achieved, the successes and shortcomings of each element of the plan, recommendations for actions and corrective measures to revise the plan, the coordination of water supply planning and land use planning, strategies for addressing residential non-conforming land uses in the coastal high hazard area, the extent to which concurrency exception areas are designated, the establishment of a common methodology for measuring impacts on roads which traverse multiple jurisdictions, the identification of major issues for the jurisdiction, and potential socio-economic and environmental impacts of these issues. A major issue is defined as a narrow matter of concern to the existing and future growth of the development of the community. It is recommended that a list of major issues be summarized and sent to the Department of Community Affairs (DCA), with a request for a letter expressing DCA's agreement with the topics selected. Receiving this Letter of Understanding from the DCA will help avoid any

misunderstandings when DCA reviews the report for sufficiency. This evening Staff is requesting approval to transmit to DCA the list of major issues identified by the City. The following highlights the issues and a preliminary list of sub-issues, as she is confident that additional areas will be identified during the evaluation. Areas to be explored in the report include: (Promote Infill & Redevelopment) Promotion of growth in defined areas, discouraging urban sprawl, flexible development requirements with regard to non-conforming lots, the establishment of fee-free zones where certain development fees are waived such as application fees, permit fees, and impact fees, encouraging affordable housing development in the downtown area, the implementation of a Downtown Overlay District to allow higher density mixed use development, the consideration of adding an historic preservation element to the plan, ensuring that the many funding resources that are available are being used to the most effective and efficient manner, pursuing the construction of a rail station served by Amtrak and other commuter rail services, creating mixed use activity centers around the future passenger rail station and the future federal courthouse location, pursuing grant funding in all areas of growth management, the establishment of a Transfer of Development Rights program; (Concurrency) Ensuring that the City's schedule of capital improvements are coordinated with the Capital Improvements Element in the plan, the development of a proportionate fair share methodology for each public facility, analyzation of citywide stormwater and general drainage issues, establishing a Transportation Concurrency Exception Area in response to Senate Bill 360; (Development Review Process) Encouraging a more holistic approach to development review that is coordinated from the beginning between external permitting and regulatory agencies and city department requirements, ensuring that existing tools to encourage desired development are fully identified, the establishment of incentives such as density bonuses, expedited permitting, reduction in impact fees, and reducing or eliminating parking requirements, ensuring that all development that impacts the vitality of the Indian River Lagoon meets strict environmental requirements during review; (Intergovernmental Coordination) The creation of a greywater irrigation program with the FPUA, participation in and the utilization of regional planning organizations as a valuable resource, strengthening the coordination efforts with surrounding municipalities and counties with regard to annexation, concurrency, capacity of public facilities, land development plans and regulations, joint planning areas, environmental issues such as beach and dune erosion, wetland and wildlife habitat protection, and the development of the Heathcote Botanical Park and the Greenways & Trails project, and pursuing coordination opportunities with regard to the passenger rail station. Planning Staff will continue to provide the City Commission with updates regarding the creation of the Evaluation & Appraisal Report, which must be adopted by February 2010 per Florida Statutes. The process tasks have been identified and will be completed by Staff in coordination with the hired consultant, Kimley-Horn. It is anticipated that the proposed report will go before the Planning Board as the local planning agency in December. They hope to bring the report to the City Commission in December as well to be transmitted to DCA. The

Planning Board, operating as the local planning agency, voted unanimously to submit a recommendation of approval to the City Commission at their meeting held on September 9, 2009, to submit the list of major issues identified by the City to DCA. Staff recommends approval to transmit to DCA the list of major issues identified by the City to be evaluated in the EAR in addition to those required by Florida Statute.

Commissioner Alexander asked this is not their first transmittal, is it?

Ms. Ehly said they are transmitting the major issues identified by the City to the DCA with a request for a Letter of Understanding that DCA agrees with the identified areas that they are going to evaluate as local major issues. But in addition to those local major issues, they are also going to be analyzing the other issues that are required by Florida Statute that she just identified. This isn't an official transmittal. This is a request from Staff to transmit to DCA this list of major issues.

Commissioner Alexander said they just had a meeting with all the major issues in this County (October 16, 2009). Have they had any input or any collaboration with them on what the efforts are of Fort Pierce?

Ms. Ehly said at this point, they have not. But during the creation of the report, as they are analyzing issues, they will. In addition, the list of major issues identified here, the other entities will receive a copy of those and staff will expect feedback from all reviewing agencies, including the County.

Commissioner Alexander said it is a good report and a likelihood that Fort Pierce may be put on the map as a huge municipality. But he needs her insight. When they speak about the Downtown Overlay District, they don't have much downtown. Are they expecting to expand downtown?

Ms. Ehly said actually these are issues they are identifying to explore in the report. So when they receive the report, that issue will be analyzed - do they need a Downtown Overlay District? Also, ways they can expand the downtown area, things like that. That issue will be fully analyzed in the report. At this point they are just identifying areas that the City should explore during this exercise.

Commissioner Alexander asked this is just a discussion tonight amongst Ms. Ehly and the Commission? That is what his concern is. Are the Commissioners going to be able to discuss these items? Are they going to be able to meet with her and give individual inputs?

Ms. Ehly said certainly.

Commissioner Becht said they mentioned the Downtown Overlay District. He does not know if the Evaluation & Appraisal Report is the proper place to raise it, but back when Mr. Buchwald was here somebody brought up the idea of a White City Overlay

District. They haven't annexed all the parts necessary for that yet, but that is a very sensitive area. There are peculiar socio-economic factors in the Avenue D. It occurs to him that would be an appropriate area for an overlay district, that they could create special rules and incentives for continuing the momentum they do have there. He does not know if these are appropriate for this or not. They have an annexation program. Several persons from the private sector have talked to him about what they are doing with their Comprehensive Plan after the properties are annexed. They have had discussions where he thought, with the next transmittal that they send up to DCA, that they were going to address the land use and the zoning that they had applied to the annexed areas to get DCA approval, which would eliminate DCA challenge. Is that an issue that is addressed in her report?

Ms. Ehly said the two issues he first spoke about, areas in the City that need attention just as the downtown, part of this EAR report will be looking at areas to identify as priority redevelopment areas where funds would be directed to and also area plans could be established. This is all to be evaluated. The report will come out with recommendations and suggestions of how to do that over the next two months.

Commissioner Becht said Ms. Ehly used the word "redevelopment". Redevelopment, in his opinion, is too narrow a topic for what he is talking about. The White City area, he does not know that it needs to be redeveloped, but it needs to be preserved, the quality of it needs to be preserved. He thinks they could say that about the South Beach Overlay District, which attempted to preserve the quality of a way of life. That concept is what he is looking at with an overlay district.

City Manager Recor said when thinking about the Comp Plan and the EAR report, the mention of a White City Overlay District or an Avenue D Overlay District may be too specific for the EAR-based amendment process; inasmuch as if they were to make a more broad statement that articulates that the City has special areas that warrant attention. When thinking about the Comp Plan, it is big picture, broad and general.

Commissioner Becht asked so they are going to have an EAR-based amendment that says they are going to try to identify areas that would be appropriate for overlay districts?

Ms. Ehly said actually the report is separate from the amendments. The report is going to review, analyze, and evaluate what is in the Comp Plan right now with regard to those four major issues. One of the major issues is Infill & Redevelopment. That term in planning sense is an area that already is built, rather than their vacant land use inventory. So infill and redevelopment would be referring to Avenue D and White City and the Downtown, those types of areas. And there certainly is nothing that would limit them from looking at the entire City and identifying which areas are priorities in this report.

Commissioner Becht said those are all priorities. What he is

talking about is special areas. They started with South Beach, because they actually did some of the groundwork for them. What he is talking about is, there are other areas that would benefit from overlay districts. Is there any need to fold in specific areas? Or do they just say somewhere in here, as they go through the process, that they are going to identify other areas that might be appropriate for overlay districts?

Ms. Ehly said a phrase such as that, they can include in this list with the sub-issues. But also during the process of creating the report, certainly that can be incorporated into the analysis of the report.

Commissioner Becht said he thinks that is important for Fort Pierce. He doesn't know if there is any consensus for having that kind of statement in the report.

Mayor Benton said they all agree.

Commissioner Coke said she was under the impression they had already decided, because if they are going to include a Downtown Overlay, they had talked previously about a Lincoln Park Business District they were going to establish and include in this. She thinks they talked about a White City Historic District that they wanted to ensure was going to be protected here.

Ms. Ehly said in the existing Comprehensive Plan, those issues are already identified. So when doing this report, they are going to be taking these issues they are supposed to be looking at in a detailed manner, looking at the Comprehensive Plan and what exists there. Anybody going through that will see that these areas are already identified as priorities in the City. When they start reviewing how effective these policies have been implemented, that is when they might see those haven't been implemented as effectively as they would like, because they are asking questions as if they haven't seen them.

City Manager Recor said that is the whole basis for the Evaluation & Appraisal Report. The EAR looks at the goals and objectives which they said they wanted to accomplish in 2006 and then compared to 2009. They go back and review the three-year period and determine how successful they were in doing what they said they were going to do. The EAR-based amendments are intended to address the deficiencies or changes in direction that the Commission decides they want to do differently.

Commissioner Becht said in her Staff Report, Ms. Ehly has written "...explore the development of a proportionate fair (share) methodology for each public facility." He would ask her to get a copy of St. Lucie County's formula. He has been told by the County Engineer it is a very clear formula. Get a copy of it, tear it apart, and make a real formula; then give it back to the County and show them how a real formula can be put together. Was that not diplomatic? The other point, the citywide stormwater and general drainage assessment, he does not know if the Feds came in after Tropical Storm Fay and gave them any assistance with assessing some of the multi-jurisdictional

features that didn't work.

Mayor Benton said it was the Army Corps of Engineer's reservoir, so the world knows.

Ms. Ehly said part of creating this report will be gathering information that is available, such as what Commissioner Becht is identifying.

Commissioner Becht asked do they need anything in here to further public access to waterfront? Or is that already in their Comp Plan? Because he does not think they have done enough to create, improve, enhance, and further public access to waterfront.

Ms. Ehly said they can certainly add a sub-element to this list.

Commissioner Becht said they can make it an independent element, it doesn't have to be a sub-element.

Ms. Ehly said that is true. Part of the report is, they will be reviewing the Coastal Management Element, which does identify waterfront access policies and how effective those have been in preserving their waterfronts. Staff has been talking about pursuing the waterfronts through the program through DCA.

Commissioner Becht said they are in the middle of an LDR Rewrite. She has identified an issue he finds very interesting - the transfer of development rights. That has wide application for a bunch of different topics, from density to historic structures. So that one, he was excited to see in there.

Mayor Benton declared a Public Hearing 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 closed the Public Hearing.

Motion was made by Commissioner Sessions, seconded by Commissioner Alexander, to approve transmittal to the Department of Community Affairs (DCA) the list of major issues identified by the City to be evaluated in the EAR in addition to those required by Florida Statute.

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

Ordinance No. L-94 entitled, "AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, **AMENDING THE TEXT OF THE CITY'S COMPREHENSIVE PLAN TO ALLOW LIMITED COMMERCIAL USES IN ALL RESIDENTIAL FUTURE LAND USE DESIGNATIONS; PROVIDING FOR AN EFFECTIVE DATE.**" was placed on first reading and read by title only.

Ms. Erica Ehly, Comprehensive Planner, said currently all of the residential future land use designations in the Comprehensive Plan allow for limited convenience goods and services, except

for four designations - Residential Conservation, Residential Estate, Residential Suburban, and Residential Urban. The American Planning Association dictionary includes a definition for convenience goods and convenience stores, and is considered industry standard. Also, City Code limits Neighborhood Commercial and Neighborhood Office development to less than 5,000 square feet. The location of these Future Land Use designations are parcels generally located on the outskirts of the City and are the result of recent annexations. In addition, the network of roads along which property will meet the location requirements of the evaluation criteria. As annexation continues to the urban service boundary as anticipated, the City will incorporate properties with all four of these designations as shown on Map 1-14 of the Comprehensive Plan. This Comprehensive Plan amendment will ensure that as these properties are incorporated, the future land use designation they receive will be consistent with the designation assigned in the County. This amendment advances several sustainability goals - the promotion of a mix of integrated community uses within walking or bicycling distance which will hopefully result in walkable communities, the development of community and locally-owned wealth, and the reduction in traffic congestion and air pollution. This Comprehensive Plan amendment furthers good planning practices by looking beyond current needs. The City's land use inventory shows that Neighborhood Office and Neighborhood Commercial designations currently constitute less than 2% of all land use designations. In addition, this action will foster economic development, as future applicants will not be required to apply for Future Land Use designation change. It will equitably distribute access to goods and services, as 30% of the national population do not own cars. It will encourage a self-sufficient local economy that will better meet the needs of the immediate community while maintaining the unique local characteristics. Moreover, the following American Planning Association policy objectives are reinforced: The reduction of dependence on fossil fuels, the encouragement of a pedestrian-friendly design, compact development which minimizes the need to drive, the encouragement of local community involvement in the development review process which will ensure that community vision is maintained on a local level, and the provision of places of employment near housing which reduces the need to commute. The text amendment will introduce new criteria to the Comprehensive Plan regarding limited commercial uses in residential land use designations. Limited commercial uses that support the local residents may occur in all residential future land use designations without a change in future land use designation, provided that the following criteria are met: (1) The intent of the commercial use is to provide easily accessible convenience-type uses to the immediately surrounding residents; and (2) The property for which the commercial designation is sought is located on an arterial or major collector road; and (3) Conversions of the petitioned property would not promote any strip commercial use of land; and (4) The use is compatible with the surrounding land uses and is provided with adequate screening and buffering of any adjacent residential property; and (5) The site does not have direct driveway access to any minor collector street; and (6) The property for which the commercial designation is sought does not exceed 10 acres. The

Planning Board, operating as the local planning agency, at their meeting on September 9, 2009, voted unanimously to submit a recommendation of approval to the City Commission. This evening's public hearing is a transmittal hearing. The request from Staff is to approve the transmittal of this proposed text amendment to DCA for review. It should be noted that the Growth Management Act authorizes DCA's Division of Community Planning to review comprehensive plans and plan amendments for compliance with the Act. Other state and regional reviewing agencies will also review the proposed amendment and issue recommended objections or comments to the Department. DCA will issue an Objections, Recommendations, and Comments (ORC) report identifying areas of the proposed amendment that are inconsistent with the provisions of Chapter 163, Part II, Florida Statutes, within 60 days of receipt of the complete submittal package. When the City does adopt the amendment, it is submitted to DCA for compliance review. Within 20 to 45 days of receipt of the adopted amendment, DCA will issue a public Notice of Intent to find the adopted amendment either in or not in compliance with the Act. Staff recommends approval to transmit this proposed text amendment to DCA.

Commissioner Becht said in her Staff Report, Ms. Ehly's first point says "...within walking or bicycling distance which will result in walkable communities." The slides she showed them, it looked to him like the zoning classifications they are picking up are on their periphery, because none of those are in the downtown dense area.

Ms. Ehly said all of the land use designations in the City allow for this neighborhood commercial and neighborhood residential...

Commissioner Becht said he read her report, there are four that don't. The slide identifies those as on the periphery, not in the downtown area.

Ms. Ehly said that is true.

Commissioner Becht asked how are they creating a walkable community in allowing limited commercial uses within walking or bicycling distance, when they are putting all this stuff out on the periphery? Is it as these projects develop at some future date, is that what they are doing?

Ms. Ehly said yes. Rather than having vast areas of residential land uses with no local commercial mixed in, this encourages allowing the neighborhood commercial element to be throughout the City, rather than just in the downtown or in the existing city limits.

Commissioner Becht said he thinks he understands the intent. But what he think is going to happen is that they are going to see a whole bunch of little convenience stores on their periphery on residentially-zoned land, because they don't have to do anything major, this makes it easier for them to put a little convenience store in. Moving beyond that, in the ordinance as drafted he did not find the words "biking" or "pedestrian" anywhere. The Staff Report has it, which got his

attention that this might be a good idea. But when he read the ordinance, neither bicycling nor walking nor pedestrian are in it. That would be the only reason he would loosen the Code up. She is selling him a bill of goods, she is telling him this is going to encourage fewer cars on the road because they are going to build these close to where people can walk to them and bike to them; but it is nowhere in the proposed ordinance. So he thinks that needs to be folded in. It says it is to support the local residents, easily accessible. But easily accessible could mean by car. That is not what she meant, is it? Because if it is, he is not in favor of it.

Ms. Ehly said the theory behind this is that eventually the urban area will be a walkable community, that is the long-range vision people would like to see in an urban area.

Commissioner Becht said that is where they are going to loosen the Code up, so they can have more convenient limited commercial where people can walk to it.

Ms. Ehly said right. Wherever residential development occurs, they would like to allow for the ability for neighborhood commercial and neighborhood office to exist there in order to allow for a more walkable community. Commissioner Becht said he is not sure she got there with this ordinance, quite frankly. It does not have bikes or pedestrian in it. The words used is "convenience-type uses" and that immediately made the hair on the back of his neck stand up. Are they talking about a whole bunch of convenience stores? Is that what she meant?

Ms. Ehly said it is the same thing they already allow in the rest of the land use designations.

Commissioner Becht asked as a conditional use?

Ms. Ehly said in the land use designation, except those four, these are allowed outright. In the County, they are allowed to have limited commercial in all residential future land use designations. It is two-fold, they want to maintain consistency with the County land uses and they also want to promote a mix of uses in any residential development area that is catered towards those local residents, so that they don't have to drive to downtown or get on the roads and drive to get their limited convenience goods or go to a dentist's or a lawyer's office or a grocery store.

Commissioner Becht said he knows some of his comments can be addressed through the LDR's which staff is going to propose that would put some teeth in this.

Ms. Ehly said this is a Comprehensive Plan amendment that generally takes 170 days. By the time this would even come back to them for passage, they will be much further along in the LDR Rewrite. The Land Development Regulations's will have to be amended in order to...

Commissioner Becht said he is planning on being here 170 days

from now; but if he is not, he sure would like the words "bicycle" and "pedestrian" to be in the ordinance. So those who come after him will know this meant bike and pedestrian accessible; not somebody pulling in a drive-thru to pick up a gallon of milk. That is not what she is talking about? Because if it is, he will be voting against it.

Ms. Ehly said it is not what she is talking about.

Commissioner Becht said it says "The property for which the commercial designation is sought does not exceed 10 acres." Is that from the County's code?

Ms. Ehly said it is from the County's code. The County does not allow the neighborhood office and commercial sites to exceed 10 acres.

Commissioner Becht asked can they make that smaller?

Ms. Ehly said they can certainly change that.

Commissioner Becht said if somebody came into the City with a 10 acre tract of land and wanted to do something with it, don't they have to go through a site plan or something?

Ms. Ehly said sure, they do. The Code says neighborhood commercial can't be larger than 5,000 square feet. So even if they had 10 acres of land, they could only build 5,000 square feet. Also, they would have to clarify with Mr. Schwerer that they could go lower than the 10 acres, because they want to maintain consistency with the County. So if in the County they are allowed to have up to 10 acres, they might be limited by that.

Commissioner Becht said or tell the County to change their Code.

Ms. Ehly said sure, it doesn't seem to make much sense to have neighborhood office and commercial on 10 acres or even 5 acres.

Commissioner Becht said he would like to lower that to 2-1/2 acres or less. If there is a consensus, he would ask her to take it back to the County, because the City is inheriting these uses that the County would allow on 10 acres as they annex the property in and it doesn't make for good urban infill.

Mr. David Carlin, Assistant Planning Director, said currently neighborhood commercial is allowed within several of their residential zoning districts, but only as a conditional use. Don't think about this as they are loosening up the regulations to allow a proliferation of neighborhood commercial throughout everywhere. Keep in mind that it is only as a conditional use within certain districts; and there are very specific parameters and a narrow scope of uses allowed.

Commissioner Becht said he is fine with that. But this is going to be better than neighborhood commercial, because they are going to have in the Comp Plan that it has to be with a focus on walkability and pedestrian and biking. Their current

neighborhood commercial doesn't have that in it.

Commissioner Coke asked are they talking about these coming before the Commission as a conditional use? Or is this just going to be allowed?

Ms. Ehly said this is just a Comp Plan amendment. As far as how it is implemented in the City code, that will be handled in the LDR's or through a text amendment to the City code. This is overall umbrella where they do allow this limited commercial in these future land use designations.

Commissioner Coke asked someplace along the line they are going to put in "as a conditional use"?

Ms. Ehly said that would be in the Code.

Commissioner Coke said first of all, she has a big concern with the 10 acres. They have inherited a lot of headaches from the County. Maybe they can be the leader rather than the follower and design their own fate, rather than take what is handed to them. So she wants to see them do something is going to work for the City, not necessarily just follow the County. She also has concerns when talking about 10 acres, they are not limiting this in a square mileage area. Somebody might come in with 10 acres, even if they limit it to 2-1/2 acres, they could sell 2-1/2 acres to their brother, 2-1/2 acres to their wife, 2-1/2 acres to another person, and the next thing that happens is they will have a little strip mall out there, which is certainly not the intent. But she does not see anything in here limiting the number of these developments that can be in any square area. Secondly, when they talk about trying to promote pedestrian and bike friendly, one of the conditions is they are going to have landscape and buffer, and not going to have direct access to any minor collector street. Now they are looking at taking pedestrians and people on bicycles off their nice little street, in order for them to get to the convenience store, they have to go out on a major road.

Ms. Ehly said that is particularly addressing the vehicular access, so that they don't have vehicles driving on the smaller roads. The vehicles are only going to go onto the major roads. That doesn't mean they can't have something in the LDR's that would identify pedestrian access points. That is a specific design issue they would address in the LDR's at that level.

Mr. Carlin said one of the design issues they have looked at specifically is to have sidewalks connect directly from the street into a development. Right now their code doesn't require that. They do have broad-based policies in the Comp Plan that support pedestrian-type connectivity. But they have looked at that and that will be in the new LDR's. So they are already aware of exactly that issue she is contemplating.

Commissioner Coke said sidewalks and bike paths.

Mr. Carlin said they will make sure it is in there, if not already.

Commissioner Sessions said he understands where they are going with this and their objective. But when they start talking about mixed uses in residential areas, he does not know if the public is going to be real receptive to that, in light of what they already have which is done by way of conditional use. Why are they even dealing with this issue? Is this something Staff decided was incumbent upon them to make sure an amendment? Where did this come from?

Ms. Ehly said there are several reasons. Primarily the issue is the inconsistency between what is allowed in the County and what is allowed in the City. Currently if somebody has RS future land use in the County and they have a neighborhood commercial office, and the City annexes them in, then they are non-conforming. The City's RS future land use designation does not allow for anything other than residential.

Commissioner Coke said but they would be grandfathered-in.

Ms. Ehly said yes. But non-conforming structures and uses provide a real complex...

Mayor Benton said for a realtor trying to sell the property, it becomes a nightmare.

Ms. Ehly said yes, there are a lot of issues. So as they annex, if they become aware of an inconsistency, they would like to resolve that issue. In addition, there are other reasons in the Staff Report why they would want to do something like this in an urban area.

Commissioner Sessions said with regards to the criteria, Item (4), it is contrary to what they are trying to accomplish. It says "The use is compatible with the surrounding land uses..." which are residential. How is commercial going to be compatible?

Ms. Ehly said because it is limited commercial directed at the local residents surrounding that parcel. With that in mind, compatibility would mean they are offering goods and services directed at those local residents on a local level.

Commissioner Sessions asked that makes it compatible with the already designated land use?

Ms. Ehly said yes, for the residential land uses, it is an accessory use.

Commissioner Coke said several years ago the Commission said all of these things are very well and good, and they may want to pursue them; however, they did not want staff to go ahead and pursue them, they wanted staff to come and say they think they need to do an ordinance to allow this or that, and ask does the Commission have any interest in it, or is there any support or suggestions? Staff is overworked and understaffed. They have burned a lot of time without any input from this Commission. There have been at least four instances that she knows of where

staff has gone ahead and spent their time and the City Attorney's time, wasted the taxpayers money, preparing something that none of the Commissioners had any interest in. So she thinks the proper mode would have been that they were looking into doing this, does the Commission want it and what prerequisites would they have to support this, before they spent all this time, effort, and energy.

Mayor Benton said he believes through the Comp Plan public hearings, this is something that came out of those, what the public commented on, especially on the fringes of Fort Pierce. With their annexations, they have said they want to be compatible. Also, looking at new urbanism, some of the developments that have come in front of them are mixed use. Because of the price of gas and energy in the future, they don't want to have to travel several miles to pick up a gallon of milk. He thinks it has been made loud and clear from this Commission and the public that they are expecting this in their Comp Plan. He thinks staff was right on board with this.

Commissioner Alexander asked would a perfect example be annexation of that Flatwoods property, where they were talking about mixed commercial and residential? How can they promote Fort Pierce when that developer that was trying to go between Port St. Lucie and Fort Pierce, he took off the table his request for residential and just do commercial. Did he not understand that?

Commissioner Coke said she is not saying this isn't a good thing. What she is saying is if it had come to the Commission first, then Commissioner Becht could have put his 2-1/2 acres in and she could have got her sidewalks and bike paths in.

Commissioner Alexander said that developer trying to bring in a huge development. Is that what they are looking forward to?

Mayor Benton said this opens the door for that, as does some of the projects they have already approved on Jenkins Road. There was one across from Samuel Gaines Academy that was a mixed use. This just opens that door. This is the first Public Hearing, which is the time for this Commission to comment. Because if they want to make changes, it can be brought back for the second Public Hearing with those changes in it.

Commissioner Becht said if he understood Staff's comments correctly, this is going to help them with existing or future annexations where there is a commercial use in the County on a small acreage. If that property gets annexed, it potentially becomes non-conforming. This ordinance has the ability to allow them to adopt LDR's that would make that use conforming instead of non-conforming. But he thinks they have to start at the Comp Plan level. Commissioner Coke mentioned the fact that it says the site does not have direct driveway access to any minor collector street. Unless they have a real strong reason for that, he would like it taken out of the Comp Plan. If the route they select is Conditional Use, there may be circumstances where a direct driveway access to a minor collector street would be preferred, because it would keep vehicles off the major

arterials. In other circumstances it might be wise not to have that direct connect. He thinks the prohibition in the Comp Plan eliminates their ability to do better planning under a circumstance where it might make sense.

Ms. Ehly said she doesn't have an argument with regard to taking that out. As far as changes, they should make any changes they would like to see before they submit it to DCA. Certainly she can meet with each of them to discuss how they would like to change it, then bring it back before the City Commission. They certainly don't want to transmit something the Commission is not happy with.

Commissioner Becht said there is another avenue. He wants Staff to know that he would support this. If the County has code provisions that aren't working well with the City's annexations and don't make sense from a good planning perspective, let them know. He thinks all five of them will support going back to the County and saying this just doesn't make any sense, asking them to change their code so they don't allow it east of the urban service line. He does think they need to start making those recommendations to the County, to have them improve their code. For many years the County has said the City's codes are deficient. He doesn't want to do it in an arrogant way. But the City does know what it wants to be when it grows up. It doesn't want to be some of the stuff the County allows.

Ms. Ehly said part of that will be evaluated in the Evaluation & Appraisal Report. One of the issues is annexation. Those types of things will be reviewed.

Commissioner Becht said his point is, he wants to pro-actively go to the County and ask would they please consider changing this part of their code, because it is a nightmare when the City annex it.

Commissioner Coke said they ought to be able to do that through the JPA as a general request.

Ms. Ehly said yes. But also, she does not think it is a bad thing to allow for the possibility of limited commercial in residential areas.

Commissioner Becht said that isn't what he was saying. There are other aspects here, not just the 10 acres. He is mentioning it now because they are talking about it. But there are other things - parking, landscaping, gated communities. They have talked to the County about that. It really isn't their own vision for their City. But he thinks they need to maybe codify that or put it in a letter and send it to the County at some point in time and ask the County to take action on it. Then have follow-up, to see if they do or do not take action on it. Once Staff does its job, it is incumbent upon the Commissioners to do a sales pitch to the County that staff has done the work, would they please put this on their agenda for discussion? It seems like the City is doing all the bending and accommodating. He thinks if they package it right, the County could and would do some accommodating themselves.

Commissioner Alexander said they are trying to implement what Fort Pierce wants. With the JPA, they can discuss this and put in exactly what they mean. It won't be arrogant, they are just asking to be respected.

Commissioner Becht said he is hearing loud and clear that Ms. Ehly thinks this is a good idea. He thinks parts of it is a good idea, but it needs to be tweaked a little bit. What he is talking about with going to the County is a little bit broader, where staff clearly knows of a better way to do it.

Ms. Ehly said staff does review development within the urban service boundary and does send comments to the County with regard to inconsistencies with the City's code and Comp Plan. They do that on a regular basis. The JPA they have now, they review development proposals. That is kind of the extent of the JPA right now. So certainly a stronger JPA would allow them to have more say in that urban services area they are planning to annex.

Commissioner Becht said all he is suggesting right now is, if she finds ordinances that are contrary to what she thinks is good planning on the City's side, let the Commissioners know; then it is incumbent upon them to do a sales job at the County, to get the County to address it and amend their code.

Mayor Benton declared a Public Hearing on Ordinance No. L-94 in session and asked if anyone in the audience wished to be heard.

Ms. Carole Mushier, South Beach Association, said they had some concerns about this. But after speaking with Ms. Ehly on Friday and today, many of them were alleviated. She is going to suggest that if they send it back for some revision, it would not be the second reading, because the second reading is going to come after it has been submitted to DCA and comes back. This is still the first reading. She thinks perhaps asking to postpone it so that it can be reworked as they would wish. With that in mind she would suggest, only because this is such a neighborhood issue, that the conditional use be put in. She understands that usually comes with the Code and not usually in the Comp Plan. But she thinks it is possible. She thinks it would also be possible then for Commissioner Becht's notion of pedestrian and bicycling and whatever to be put in there as well. It is not that she does not trust that down the road things aren't going to be done as they are creating legislative history here by saying it is going to be conditional use or this or that, but she has seen things fall through the cracks before. Because she thinks these items are so important to this particular thing, she thinks those should be codified here. Just a suggestion.

Commissioner Becht asked how would that work out if they annex a piece of property that has a commercial use on it? Are they going to have to come in and get a conditional use for that pre-existing commercial use?

Mr. Carlin said those are allowed to stay in operation and be in

use, as long as the use is not discontinued. Then they go into the non-conforming element of the code, non-conforming uses that are out of operation for less than 12 months, then they are getting into non-conformities. But a use is allowed to stay per se.

Commissioner Becht said that wasn't his question. He is not weighing in on one side of whether they do or do not put that in the Comp Plan right now. But he would have to have the question answered if they were going to put it in the Comp Plan. They annex a pre-existing use and that have it in the Comp Plan that the process is going to be conditional use, would not that annexed property owner have to go through the conditional use process in order to not be non-conforming?

City Manager Recor said in order to be non-conforming, yes. They would not be required to obtain the conditional use unless there was an expansion or other change to that existing use.

Commissioner Becht said but they are not vested until they go through the conditional use.

City Manager Recor said that is correct.

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

Commissioner Becht asked how do they move forward? Do they move this forward by asking staff to bring it back with the changes?

City Attorney Schwerer said it is difficult to determine whether the changes they are going to make are material and substantial. The ordinance does have a very broad title. What he would like to do is hear the Commission's proposed changes, get a consensus. Let him study that with the Planning Department. He does not think there is any time constraints. If it is deemed substantial, they will bring it back if they have to readvertise it. But they want to do it right, that is the important thing.

Commissioner Becht asked is there any time constraints?

Ms. Ehly said there is none.

City Attorney Schwerer said it would only involve advertising, that is the only time period he is talking about, if they made substantial changes.

Commissioner Becht said he has a feeling that by the time they get through with this, it will be substantial and material changes.

Mayor Benton asked it would have to go back to the Planning Board?

City Attorney Schwerer said that is a possibility. He would have to take a serious look at what was discussed at the Planning Board and the Code to make that determination.

Commissioner Alexander asked wouldn't they have the opportunity

to do some amendment to this ordinance?

City Attorney Schwerer said they can do that tonight by consensus.

Commissioner Alexander said not tonight, in the future.

City Attorney Schwerer said this is a Comprehensive Plan amendment, so they want to get it right the first time. When it goes to the DCA, they want to make sure it is right.

Commissioner Becht asked if they don't get it right and Hometown Democracy passes, it will require a referendum to amend it.

City Attorney Schwerer said that is correct, so get it right the first time. This may take 30 days for advertising and Planning Board.

Mayor Benton said if the changes are substantial... But other than the number of acres coming down. They were talking about 2-1/2 acres.

Commissioner Coke said also, delete Paragraph (5) - The site does not have direct driveway access to any minor collector street.

Commissioner Becht said he would suggest they ask Staff to add some reference to bicycles and pedestrians to it. He would ask that Paragraph (5) be deleted. And he would ask they change the acreage from 10 acres to 2-1/2 acres. Commissioner Coke talked about something else.

Commissioner Coke said sidewalks and bike paths.

Mayor Benton said in his opinion, those appear to be minor changes.

Commissioner Becht asked do they have a consensus of at least three of them on those three changes?

Mayor Benton said he would agree.

Commissioner Coke said yes.

Commissioner Sessions said yes.

Commissioner Alexander said he would agree.

Mayor Benton asked are those minor; or do they have to go back through the process on this?

Ms. Ehly said the only issue staff would have is ensuring that if they lower it from 10 acres, which the County currently allows, to less than 10 acres, would that constitute some type of legal issue when they annex properties.

Mayor Benton said it hasn't yet.

City Attorney Schwerer said they are going to have to look at this. It may require some coordination with the County due to their current annexation policies and procedures - how they annex, what zoning categories and future land use...

Commissioner Becht said he has created a problem. At some point in time the acreage is going to trigger further development, further review by staff. The LDR's they would be proposing for this is going to limit the size of the structure to 5,000 square feet.

Ms. Ehly said that already exists in the Code.

Commissioner Becht said he knows he is the one that brought this up, but he is wondering what additional safeguards they are creating by reducing it from 10 acres to 2-1/2 acres, when he can limit the size of the structure and everything else in the LDR's.

Ms. Ehly said they might be getting too detailed for a Comp Plan amendment, she agrees.

Mayor Benton asked on this ordinance, wouldn't DCA ask for St. Lucie County's comments? That would certainly come back if that was a problem with the County. But it at least gets this moving, instead of tying it up.

Commissioner Becht said he will withdraw his support for lowering it from 10 acres to 2-1/2 acres. He knows he is changing his position, but better now than later. Is there a consensus?

Commissioner Alexander said yes.

Commissioner Coke said she has some concerns; but if he thinks that 5,000 square feet will handle it...

Commissioner Becht said so they have two amendments at this point in time - add some reference to bicycles and pedestrians, and delete Paragraph (5).

Motion was made by Commissioner Becht, seconded by Commissioner Coke, that Ordinance No. L-94 be amended by tasking staff to add some language tying in the biking and pedestrian component and intent of this ordinance, and deleting Paragraph (5) (The site does not have direct driveway access to any minor collector street); and that Ordinance No. L-94, as amended, be passed on first reading.

Commissioner Coke asked did they determine whether or not it is proper or legal for them at this point in time to add conditional use here? Her concern is, they have had some things fall through the cracks. She does not want to do this and then later on it doesn't get added to the LDR's and people are just building what they want without coming in front of the neighborhood for a public hearing and everything else.

Mr. Carlin said at this time if they want to direct staff to

prepare any necessary conditional use requirements for the particular zoning districts that may not have it at this time, they can do that. Or they can incorporate that as part of the LDR Rewrite, to make sure that the conditional use element will be carried through.

Commissioner Coke said she personally thinks if they are covering an issue, they ought to from start to finish do it right the first time.

Commissioner Becht said he wants staff to tell him that they don't have any negative ramifications from putting the conditional use permit requirement in the Comp Plan. That staff won't come back later and say if they didn't have it in the Comp Plan to require a conditional use permit, that they could have done it a better way.

Commissioner Coke asked wasn't Mr. Carlin saying he would just write the conditional use ordinance concurrent with this? Then they can pass it separately. It won't necessarily be part of the Comp Plan. But it will be written and prepared now, so when they do pass this ordinance, they will pass that ordinance at the same time.

Commissioner Becht asked she is not suggesting that as an amendment to Ordinance No. L-94?

Commissioner Coke said no. What she is suggesting is that they require that staff write the conditional use ordinance at the same time.

Commissioner Becht said he is okay with that.

Those voting in favor of the passage of Ordinance No. L-94 as amended on first reading were: Commissioners Alexander, Becht, Coke, and Benton. Those opposed: None.

Ordinance No. L-95 entitled, "AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, AMENDING CHAPTER 23, ARTICLE III - **HISTORIC PRESERVATION BOARD**; CREATING SECTION 23-22(e), PROVIDING FOR THE APPOINTMENT OF ALTERNATES; AND CREATING SECTION 23-22(f), PROVIDING FOR SUCCESSORS TO MID-TERM VACANCIES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE." was placed on first reading and read by title only.

Ms. Leslie Olson, Historic Preservation Officer, said she is ready to answer any questions they have about this text amendment.

Mayor Benton declared a Public Hearing on Ordinance No. L-95 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 Sessions, that Ordinance No. L-95 be passed on first reading.

Commissioner Becht said he is in favor of it. Throughout their boards, they are continuing to have problems meeting a quorum. He hates creating more code and more regulations, but he thinks they might want to examine whether any other municipalities or counties have a clear definition of what an excused absence is. When he served on a couple of boards, they routinely excused people and really never even got a reason why they weren't there. They have several people on the Historic Preservation Board that appear to have multiple emergencies 50% of the time. But a 50% attendance record over a year, they either have personal problems or they are not taking the job seriously. This Commission needs to address that one way or the other. He is wondering if there is a consensus to ask Staff to find out if any other municipalities or counties have a more specific excused or unexcused absence program. For example, after two unexcused absences, they have to be reappointed or something like that.

Mayor Benton said he would like to have Staff look into how many meetings they can miss in a given year. A couple of boards he sits on, if you miss two or three meetings in a row, you are automatically off the board. If there are twelve meetings a year and you miss five, then it is time for somebody else to be appointed that is going to give their time and be there.

City Attorney Schwerer said the code generally talks of unexcused absences. He thinks what is happening is, the absences are being excused automatically. There is not a real clear set of criteria as to what constitutes an excused versus an unexcused absence. The code does call for certain action when they have unexcused absences on all their boards.

Ms. Olson said on the Historic Preservation Board, the excused and unexcused absences are governed by not by code, but by their rules and regulations. Three unexcused absences in a row means removal from the Board.

Mr. David Carlin, Assistant Planning Director, said that is exactly why the Commission needs to pass this ordinance concerning alternates, because they need to get these agendas on track and have these public hearings and not have to postpone the meetings. This is going to be a tremendous step to help prevent items from being postponed and put off to another date. On the other boards, the alternates work out wonderfully. In the event of vacations, holidays, or whatever, having the alternates is very important. The alternates participate, they conduct business, and move on.

Mayor Benton asked none of the other boards are like the Planning Board where, if they don't have a quorum, they call the Mayor or a Commissioner to come sit in and vote?

Ms. Olson said they don't have that in the Historic Preservation Board's Rules & Procedures, but she would be happy to add it.

Mayor Benton said the Planning Board has it, he has been called a couple of times. The Commission appoints these folks. It is one thing if they miss a meeting here or there; but if they miss

several... It gives them an incentive to make some changes.

Commissioner Becht said she ought to do it, because he thinks it would scare them into attending.

Commissioner Alexander said he thinks she ought to do it too, because he does not mind being called.

Ms. Olson said she can certainly take whatever steps she needs to take in order to make that happen.

Commissioner Alexander said he wants to make it clear that it is not Ms. Olson making these changes, she is doing it on behalf of the Commissioners. That way no one will be angry or upset with her. She is doing a great job. She just needs their support.

Mayor Benton said in this case, if somebody is opening a business and they need to have something approved by the Board, if they get tied up another 30 or 60 days, that could break that business. So this is serious.

Mr. Carlin said the previous amendment they did which gave the Historic Preservation Officer administrative approval for certain things, that has drastically improved the time it takes to get an application through. That is exactly what they want to happen, to encourage business, not get bogged down in red tape. It has worked out very well.

Ms. Olson said this is first reading of the ordinance. She will send this out to the Certified Local Government Chapter of the Department of State for review and approval. She will bring it back for second reading after that.

Those voting in favor of the passage of Ordinance No. L-95 on first reading were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

Ordinance No. L-96 entitled, "AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, AMENDING ARTICLE III OF THE CITY CHARTER ENTITLED "CITY COMMISSION"; AMENDING SECTION 18(1) "CREATION OF CITY COMMISSION", BY CHANGING THE **TERM OF OFFICE FOR THE MAYOR AND/OR CITY COMMISSIONERS TO BEGIN ON THE FIRST REGULAR MEETING IN JANUARY AFTER THE NOVEMBER ELECTION**; REPEALING ORDINANCES OR PARTS THEREOF IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE." was placed on first reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. L-96 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 Sessions, seconded by Commissioner Alexander, that Ordinance No. L-96 be passed on first reading.

Commissioner Alexander asked they don't do the first meeting in

January?

Mayor Benton said they changed the election date (from December to November). By the City Charter they are required to hold a four year term. By changing the election date to earlier, it could have reduced that four year term to less.

Commissioner Alexander asked it is still the first meeting in January? That is what it has been in the past.

City Attorney Schwerer said yes. The City Clerk noticed this. This is a housekeeping matter. Basically it is going to adopt what is already the status quo. They do get seated at the first regular meeting in January, every Commissioner does. It does not change their term length whatsoever or the time they start serving.

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

The next item on the Agenda was Ms. Arden Peck, Parks Advisory Committee, to give recommendations on Park Permit Fees.

Ms. Arden Peck, Chair of the Parks Advisory Committee, said as requested, the Parks Advisory Committee has met to discuss and recommend changes in various fees charged for various services in their parks. The following are their recommendations. Recommendation #1 - A two-tier pavilion rental fee be adopted for Fort Pierce residents and non-Fort Pierce residents. These fees would be based on the park's amenities. Pinewood and Rotary Parks fees would be \$75 for residents and \$125 for non-residents. Jaycee Park would be \$125 for residents and \$200 for non-residents. The rental time would still be from sunrise to sunset. Rationale - Their parks should be for their taxpaying citizens first and foremost. Currently the pavilion rental fee is lower than most of their neighbors on the Treasure Coast. They wish to be neighborly; but because of their low fees, they are inundated by non-residents reserving the pavilions, leaving the residents out in the cold. Martin County and the City of Vero Beach have adopted the two-tier system. The committee felt the pavilion rental fees for Jaycee Park were justified based on the amenities available - a beach on the river, a splash pad, a large playground area, a large open green space, and tennis and volleyball courts. In comparison, St. Lucie County charges \$100 for a pavilion in the Smithsonian part of South Causeway Park, which doesn't have as many of the amenities in Jaycee Park. These fees would encourage increased use of their currently underutilized parks. The recommended fees would put the City more in line with other cities and counties on the Treasure Coast. Recommendation #2 - They recommend that the rental fee for the amphitheater be lowered from \$1,500 to \$750 for profit groups, and from \$500 to \$33 for non-profit groups. Rationale - There have been many groups, especially for-profit groups, inquiring into renting the amphitheater. Very few have because of the seemingly high cost and the shape that it is in. By lowering the fees, it would encourage more of these groups to rent it. Until its fate is decided, the City would benefit

financially from being able to rent it. Recommendation #3 - Currently the Commission awards all alcohol consumption and sales special event permits to groups planning events taking place in their parks, while the City Manager awards these permits as well as tent permits to those groups planning events on the City streets. They recommend that all alcohol consumption and sales special events permits be placed under the jurisdiction of the City Manager. Rationale - The process would be streamline. Recommendation #4 - They recommend that any group sponsoring an event which is open to the public pay a \$50 garbage fee. Rationale - This fee would help defray the cost incurred by the Public Works Department during and after the event. Recommendation #5 - They recommend a \$100 deposit fee be paid if a group wishes an electrician on-call during an event. If the electrician was not used, the fee would be refunded. If the fee is expected to be higher than the deposit, the representative of the event will be notified in advance. Rationale - Currently before an event with the basic electric fee, an electrician will meet with a member of the sponsoring group to go over and make sure the electricity is working. At times during the event if something goes wrong and an electrician is needed, frantic calls are made to Public Works. Because it is probably on a weekend, nobody is at Public Works. This recommendation offers the sponsoring group a list with phone numbers of electricians who will be on-call during the event. Recommendation #6 - Article XV, Permit Fees, establishes fees not otherwise covered elsewhere. They recommend that the Green Market fee be increased to \$100 for profit groups and \$50 for non-profit groups. Rationale - The Committee felt that the current fee of \$20 for profit groups and \$10 for non-profit groups was too low compared to those charged for the other events in the category. By raising the fee to \$100 for profit groups and \$50 for non-profit groups, it brings the fee charged in line with the minimum fee charged for the other events in the category.

Mayor Benton said first he wants to thank Ms. Peck and the Parks Advisory Committee for putting all their time in. This was a lot of work and he appreciates it.

Commissioner Alexander said he thought he read somewhere where some city, because of the economics, that they were lowering their fees. This is an excellent presentation, he will be supporting this. When will she expect for this to be implemented - immediately or the first of the year?

Ms. Peck said the Committee has put things before the Commission beginning last year, but they have not received any feedback. She would hope that whoever this report goes to will act upon it quickly. The only thing that would need some time would be Article XV, because that is part of an ordinance. All the rest of these are just fees.

Commissioner Alexander said Ms. Peck spoke about the City Manager and the alcohol permits. He personally thinks that is something that should come before the Commission, because they want to know - they may want to go visit some of these events - that alcohol is being sold. Who can he look toward to give them applause? They need to do a little bit better about taking care

of their City. Anytime alcohol is being used, he thinks it should come before the City Commission.

Commissioner Coke said she thanks Ms. Peck for all the work she and her Committee did on this. Ms. Peck talked about raising the fees for the Green Market to \$100 for profit and \$50 for non-profit groups. She knows it is a huge draw for downtown. What do they charge all the vendors for Friday Fest and the Boat Shows? Are they charging them the same amount of money that they are looking to charge the Green Market people?

Ms. Peck said no, she does not believe so. The minimum fee they recommended was \$100, which was the base fee for the rest of the categories. That would be car exhibits with no sales or dealers, concerts or operas, seasonal vendors such as pumpkins and christmas trees, and street or block festivals, per event.

Commissioner Coke said everybody has voiced concerns about the Farmer's Market - the grease and food and things downtown. But her point was, at the time the Commission discussed it originally, that if they need to raise fees, then they need to also ensure that they are not putting the burden of the maintenance and the repair on one group. That Marina Square area where the Farmer's Market is, it is utilized the first Friday of every month by Friday Fest and it is now utilized once a week for Sunset Magic, there are boat shows there, and they have dozens of other things. She wants to ensure that they are not going to charge one group more for utilizing the area than they charge the other groups, because the maintenance should be evenly divided along those lines. She is in support of everything the Committee has recommended here. But she would like to maybe change that recommendation to be inclusive of all groups using the Marina Square area, if that is possible.

Ms. Peck said she believes in Article XV there is something about other events. The base fee for other special events per event, for profit groups it is \$100 and for non-profit groups it is \$50. So that is inclusive.

Commissioner Coke said but that is for the whole event. When she looks at what is recommended here for the Green Market, is that per event or per stand set up?

Ms. Peck said per event, per Saturday.

Commissioner Alexander asked all these fees that are being collected, are those just going into the General Fund? Or are they utilizing the fees to help Public Works take care of other things that need to be done, pay for the lighting and so forth? Are these fees separate from General Fund monies?

City Manager Recor said no, those are General Fund allocations.

Ms. Gloria Johnson, Finance Director, said those were in General Fund. But she thinks since they started the Community Center, they have the responsibility of collecting all the park fees. So it is actually going in that fund.

City Manager Recor said so the Community Center is getting a

revenue credit for that?

Ms. Johnson said right.

Commissioner Alexander said he can go along with that. But what accountability are they going to have as far as this money they collect?

City Manager Recor said they will use their experience with the pavilion rentals in other park facilities to project their revenue in subsequent years. That is how they can benefit from this.

Commissioner Alexander said he is thinking more of a special fund, because they have to raise money for their Community Center. Those monies have to be accountable coming from somewhere.

City Manager Recor said he is very pleased to tell the Commission that the City has made some progress on the renegotiation of the Parks MSTU fund that will significantly increase the dollars available for parks and recreation improvements within the City limits. He will follow up with the Commissioners separately on that.

Commissioner Alexander said he just does not want their efforts to be overlooked and just put off to the side. He wants it to be known what efforts are done by their own.

City Manager Recor said he will follow up and make sure it happens.

Commissioner Sessions said he wants to extend his appreciation for what the Parks Advisory Committee has done in terms of enlightening him on some issues that he was not aware of. To give some insight from his perspective and for this whole Commission to consider. First of all, he looks at their parks as being one of the best amenities they have in this area, especially those that border the ocean. He looks at it as being a tourist attraction. To place a fee that appears to be somewhat a discriminatory factor of being somewhat higher for non-residents as opposed to residents, he believes might defeat the whole purpose of trying to attract tourism to their area, especially when he sees such a large discrepancy in the amount with regards to Jaycee Park. If he were to come here from Indian River County and saw such a major difference in the fee for a resident versus a non-resident, he would run back to Vero Beach. He does not think they want to get in that type of situation where they are going to run away their tourists. He would love for people to come from Vero Beach and spend money in their stores and buy gas and go back to Vero Beach. He does not know if they want to get in a situation where they perhaps will discourage individuals from coming from other municipalities. He thinks having such a large discrepancy in the fee amount will perhaps dissuade them from visiting their parks, which he believes is one of their best tourist attractions.

Ms. Peck said pavilions in the City of Vero Beach are \$65 plus

tax for one hour for non-residents. It is \$125 plus tax for up to four hours. And \$220 plus tax for a full day for non-city residents.

Commissioner Sessions said he believes they should have an increase in light of what is going on in the other municipalities. But to have such a large discrepancy in the fee amount for a resident versus a non-resident perhaps would probably dissuade a lot of others not to come back and visit Fort Pierce. That was just something he wanted to point out. Also, as far as the amphitheater is concerned, he agrees - it is not much too offer. Even though in his opinion it is a jewel, but with the shape it is in they certainly need to come down on the price, unless they are willing to make an investment and improve the area. So he agrees with that. With regards to the City Manager making decisions, they have ordinances that prohibit alcohol consumption in the parks; and he does not think he wants to put the responsibility of making that decision on the City Manager. As an elected official, he feels it is better for him to bear that burden and perhaps look into it himself in terms of making the determination with regards to alcohol in the parks. The recommendation with regards to the \$100 deposit for an electrician if a group wishes to have an electrician on standby to fix a problem at one of the parks. If they rent something for a purpose and it is not usable for that purpose, why penalize him if he cannot use it for the purpose for which it was intended and he rented it for? So it is the City's responsibility to make sure as far as the electric is concerned, that the pavilion has the adequate electric service so he can have his event. To place the burden on the person renting it to pay an additional \$100 deposit, he does not think that is fair. If he rents it and can't use it, then ultimately the City is responsible for it. Even though it is a deposit and he can get it back, if he gets to the park and it is not working, he should be able to call somebody and get them out there.

Ms. Peck said again, these are recommendations based on the collective wisdom of the Committee, what they came up with in consensus. Mr. Mimms can speak about the electricity better than she can.

Mr. Nick Mimms, Director of Public Works, said as far as the electrician is concerned, on almost every weekend they are asked to help event organizers set up temporary electric service - not just electric plugs at one of the pavilion rentals. He is talking about temporary electric for a band or a performing group, something like that. They meet with the event organizer and set up the electric service. If it goes over and above the two hours that they normally spend, then they would hopefully retrieve some additional funding.

Commissioner Sessions said okay, that makes more sense. When he looked at this, it appeared it could be any type of event that if he needed an electrician he has to pay a \$100 deposit.

Mr. Mimms said no. Fort Pierce is a very friendly city. Public Works has been doing this on their own dime for quite some time.

Commissioner Sessions said being friendly might get them broke.

Mr. Mimms said right. It is time they have these event organizers help a little bit.

Commissioner Alexander asked these park pavilions are utilized from dawn to dusk?

Mr. Mimms said yes, that is how those are rented right now.

Commissioner Alexander said he heard Mr. Mimms say anything over two hours. Which two hours?

Mr. Mimms said that would be the amount of time the electrician spends to set up the temporary electric.

Commissioner Alexander asked what is the time to take it down?

Mr. Mimms said they roll that in. It may take an hour to set up and an hour to break down. Sometimes it takes a lot longer. Some larger events, their electrician is at that event all day. They basically have been doing that as a kindness, as a sponsor to these events.

Commissioner Alexander asked being on call rather than being there all day?

Mr. Mimms said no, the electrician is there all day.

City Manager Recor said the reason for the difference in some of the fees is that they wanted to encourage folks... Not everyone may want to use Jaycee Park or be over on the beach. But there is a difference in the fees to encourage use of the facilities throughout the City, as opposed to just over on the beach. They are making a significant investment at Pioneers Park. There is no reason why someone should not consider using that park, particularly once it is complete. Did Ms. Peck cover that?

Ms. Peck said yes, the Committee had covered that in their discussions. That is when they decided the fee schedule should be based on amenities. Certainly when Pioneers Park gets finished, it will be up there.

Commissioner Becht said he thanks Ms. Peck and her Committee for their hard work in getting this together, and the rules and regulations which they haven't moved on yet. Who is Mr. Recor going to task with putting this into a format where the Commission could move forward to approve or not approve the fees recommended here? Which person is Mr. Recor tasking with this?

City Manager Recor said he expects that this will go to the Community Center to put in ordinance format. Whatever he can approve administratively, he will.

Commissioner Becht said he wants a person, who to call.

City Manager Recor said Michelle Kubitschek.

Commissioner Becht said so now they have a person they can call, a person who is supposed to put this together for them. When is Ms. Kubitschek going to have this back to the Commission?

City Manager Recor said within a reasonable amount of time.

Ms. Peck said Michelle Kubitschek and Amber Rimes and sometimes Greg Martzolf were...

Commissioner Becht said he is going to give Ms. Peck the power to tell him what she thinks is a reasonable amount of time for Ms. Kubitschek to come back with this - 60 or 90 days?

Ms. Peck said she is a pretty quick study, 60 days.

Commissioner Coke said the last meeting in December.

Ms. Peck asked does all of this have to come back in ordinance form?

Commissioner Becht said no, but it has to be put in a format where they can approve it. But now they know Ms. Kubitschek is going to move this forward. Is 60 days reasonable in Mr. Recor's opinion?

City Manager Recor said he believes it is.

Commissioner Becht said wonderful. While Ms. Kubitschek is doing that, he would like to have feedback from everybody that might be impacted by this. He is going to give a short list of those he thinks might be impacted by it - Main Street, the Farmer's Market, Backus Days, and Music on the Plaza. There are some annual events; but he does not know how that factors into the fees. Recommendation #1 on fee adjustments, he thanks the Committee for that, because the existing fees are all over the place. Indian River County pavilion rental is \$53 for all day. St. Lucie County, for Pepper Park and South Causeway Park, it is \$100 for 8 hours. That is somewhat consistent, but they are still a little higher for Jaycee Park. When this is brought back to the Commission, for those in District I for Pioneers Park, he has concerns that somebody coming up with \$75 to use a pavilion all day, it might be a problem. Is that the proper dollar figure or not? He thinks they need to have further discussion on it, after that information gets out to the public. With amenities, yes, it is probably warranted. But for the folks they want to use it, he is not sure that it is appropriate. So they have to have more discussion on that. Did the Committee have any discussion on holiday fees are extra? He saw one of the municipalities had that.

Ms. Peck said no, they did not. But she thinks it is a very good idea to have something on holidays. She thinks one charged more and one says no holidays period.

Commissioner Becht said he does not agree with no holidays. But he thinks perhaps extra money might be appropriate. How much, he does not know. But the Parks Advisory Committee did not address it.

Ms. Peck said no, they didn't.

Commissioner Becht said Recommendation #2, the rental fee for the amphitheater. He had discussions with the Backus Gallery and they have some interesting ideas which - if the City agrees to it - would involve the removal of the Amphitheater as it exists today; but the creation of something that they may find more interesting. That would eliminate the need for them to address that fee. But the Backus Gallery needs to bring that forward. He would like some feedback from the City Manager on Recommendation #3, the alcohol permit issue. He liked it. But Commissioner Sessions remarks caused him to want to hear from the City Manager on whether he likes that recommendation or not. Recommendation #4, the garbage fee, seems like a good idea. But he does not want to nickel and dime somebody with a fee for this and a fee for that. Just hit them with one fee where it covers the garbage and everything else, he would rather do that. Now that the electrician fee has been explained by Mr. Mimms, he is appreciative of the Committee's recommendation and the way Mr. Mimms has handled it to date. They need these events taking place, showing off the City's assets. Recommendation #6, the Green Market fee, he needs the various groups that will be impacted by it telling the Commission how it is going to impact them. He does not want to hear that this is going to bankrupt them and they are going to stop their event because of these fees. But he does want to know how it will impact them across the board with all of the fees.

Commissioner Alexander said he thought they just allowed a group (Sunset Magic) to have every Friday other than the first Friday for downtown usage. Bike Night is every Thursday night. Do they have any concessions for groups that are going to be there every week? How can they not be antisociable to them? When speaking of the fees, it is going to have to go across the board, address everyone.

Ms. Peck said the only fees they dealt with were the fees in Article XV.

Commissioner Becht said he is looking for those events to respond and tell the Commissioners... Once Ms. Kubitschek gets this in a format and sends it out to the various groups, saying this is being considered, how will it impact them? It will generate more discussion. Then they will come up with the plan that is best for the City of Fort Pierce, taking advantage of the valuable work that has been given to them.

Commissioner Alexander said they don't want to discourage groups that are going to be there every month or every week.

Commissioner Becht said that is absolutely correct.

Mayor Benton said add the Jazz Society to that list. So the public knows, one of the reasons why they are looking to add these fees is because of the reduction of revenue coming into the City. There is quite a bit of cleanup and other things associated with a lot of these functions. One reason why they

are looking to charge more for non-residents is because their residents pay taxes that offset a little of the price to them. In the past there has been issues with the City Manager okaying alcohol. If somebody comes in at the last minute and they want it done within two weeks, a lot of times it is hard to get in front of the City Commission. So he is wondering if that is one of the reasons to let the City Manager...

Ms. Peck said actually, the Committee just felt it would be putting it on one person. The City Manager already deals with the street parties and stuff like that. But at the time they dealt with it, they didn't know if there was some sort of a state law that the commission had to take care of it.

Mayor Benton said as long as they have the appropriate liability insurance, he has no problem with the City Manager signing off on it.

Commissioner Coke said she doesn't have a problem with the City Manager approving alcohol permits for parks. In eight years, she has never heard them turn anyone down. Two weeks ago they approved an alcohol permit for a baby shower. If they were ever going to turn one down, that one should have been it. But one thing they need to talk about she thinks is important. They are talking about fees and pavilion rentals and everything else. So everybody who is watching this on TV understands, they can go to any park any day of the week and - unless it has been rented - the pavilions are there for the free use of the general public, whether a resident or not. If they are sitting in the pavilion and using it, no one is going to show up and ask for money, that won't happen. She wants everybody to be clear on that. Commissioner Alexander asked how would the public know that it has been rented?

Ms. Peck said there is a sign by each pavilion and at Jaycee park in the front of the park which lists the rentals.

Commissioner Alexander asked there is that notice to the public?

Ms. Peck said yes.

Mayor Benton said somehow they need to streamline what is done at Thanksgiving at 10th Street and Orange Avenue. Every year when Mustard Seed wants to put this on, it takes literally a month or more to get it through every agency inside City Hall. So if they could get that somehow streamlined. He wants to task that with the City Manager to make it a lot easier.

Commissioner Alexander asked is that property going to be available this year?

Mayor Benton said that dirt will be moved by November 1st, even if they have to move it themselves.

The next item on the Agenda was Mr. Harold Smyth to present proposal for operation of the **Seven Gables Visitor Information Center**.

Ms. Anne Satterlee, Communications & Marketing Manager, said at their September 21st meeting, the Commission approved and ranked Mr. Smyth as the number one proposer for the lease operator for the Seven Gables Visitor Information Center. Mr. Smyth was to bring back within 30 days some measurable objectives and details of what his plans were for operating that facility. In their backup material, there are some letters of concern from some of the other entities Mr. Smyth is to work with in facilitating this proposal they have before them. One thing that has come to light - and she knows Mr. Smyth has some great ideas for economic development - but that was not the original intent that was in the RFP (Request for Proposals) as proposed to the Commission back in June. Basically the RFP was for just a visitor information center, as they had had with the Chamber of Commerce in the past.

Mr. Harold Smyth said after the meeting when they tasked him with working out the details and working with the Chamber of Commerce and with the Manatee Center, he hit the road running the very next day and starting doing just what they had asked him to do. It took a little bit to be able to meet with each entity, but he did take that time to meet with other entities such as St. Lucie County, the Tourist Development Council, quite a few members of the community as far as board of directors and things like that, so that he could fine tune those things. He also took the opportunity to better put down on paper exactly what he is trying to do. He prepared a document, which everyone has in their packets. It explains everything in great detail, it put the ideas on paper, it shows how he would be doing things. When meeting with the different organizations, he tried to relay these same ideas to them. He would like to comment on what Ms. Satterlee just said about the intent of the RFP. He was working with Ms. Satterlee early on, discussing the RFP. When the comment was made, he did go right back to the RFP. The intent of the RFP was to better utilize the Seven Gables House to its highest and best potential. It says: "The City deems it in the best interest of the public that a Visitor Information Center be operated in a portion of the building that would serve to promote the interests of the City, provide the public with information, history, and services relating to the City, including promotion of local businesses, restaurants, events, city venues, and otherwise perform a public benefit." He took that statement and expanded on it. The intent of the RFP is to better utilize the Seven Gables House. Because he wanted to do the best job that could be done, he put together this proposal and this document. They want to have a welcome center. They want to have a place where people come. In the old days, they went to the Welcome Center when coming into a community to be part of the community. Because the Seven Gables House is a very high sited facility, they are able to do that in a very good way. He likes working with the Chamber of Commerce. He has all the respect in the world for the Chamber of Commerce. One thing, the Chamber of Commerce is underutilized, it is not in the limelight enough, it could be a lot more visible and a lot more active in the City of Fort Pierce. He believes he can help make the Chamber of Commerce a much more visible entity in the City of Fort Pierce. He proposed to the Chamber to help that come to reality. The economic stability of Fort Pierce - they

have lost a lot of their industries, the citrus industry is struggling, the building industry is struggling. One of the few things they have left is the tourist industry. He thinks by utilizing the Seven Gables House not only to promote tourism but to also help businesses work hand in hand. He does not think they can promote tourism and business without both of them working together. In the document he prepared, he pretty much laid out how tourism works to bring in business and sustain business, and at the same time be able to help the local businesses. Their economic stability here in Fort Pierce is directly tied to tourism, it is one of the few things they have to offer the people to bring monies from outside the community into Fort Pierce. Tourism and economic stability will attract new businesses and help to keep the old businesses. The proposal in its current form was reviewed by many people and worked on by many people, people that are leaders in the community, people that are really smart individuals. It may not be the total final document, but it is written in layman terms and is pretty clear. It is not only a document for the Seven Gables welcome center, it is a document for the entire City of Fort Pierce. It lays out how they can become more active in a lot of areas and how they can promote themselves in a lot of areas. He hopes that each of them have taken the opportunity to read and absorb what is in there. He thinks it is a great idea. He thinks they can make a difference in Fort Pierce. He thinks they can work together with the Chamber of Commerce and hopefully with the Manatee Center. He sees it all working together. He does not see three visitor centers there, he sees a lot more there, a lot that they can do. He has worked hard on this and hopes he has done what they asked him to do.

Commissioner Alexander said he read through the proposal. Mr. Smyth is attempting to do a lot to benefit the City of Fort Pierce. But his concern is, what is his expectation as far as a lease? He won't be able to accomplish all of what he is speaking of in a matter of ten or twelve months. Is he looking for a multiple-year lease?

Mr. Smyth said the original intent was a five-year operation. He said in his proposal that he will be reporting to the Commission quarterly on what their progress is. It is five years.

Commissioner Alexander asked anything beyond that?

Mr. Smyth said all the programs and everything they are implementing are going to reach way out.

Commissioner Alexander asked is he going to have to come back before the Commission for any reasons other than what he stipulated he is going to do? Are they going to review? Mr. Smyth is saying a quarterly report. But is there an out clause in this lease?

Ms. Satterlee said she believes it is a written notice a couple of months in advance.

Commissioner Alexander said he won't be setting Mr. Smyth up to fail, that is all he is saying.

Mr. Smyth said he assumed that it was very similar to what the Chamber of Commerce had, a five year lease.

Commissioner Alexander said he doesn't have a problem with that.

Commissioner Coke said she and Mr. Smyth talked about this. She thought if they moved forward with this that he was going to agree that Day 1 through Day 60 he would do this and this, Day 60 through 120 he would accomplish this and this. He has at least five years worth of ambition here in this booklet and she appreciates that. However, she has no idea what part of this he is going to tackle when.

Mr. Smyth said he had a discussion with the City Manager. Part of the reason he said quarterly would be a good idea is so many of these things happen simultaneously. One they may be familiar with, there is a capital improvement fund out there. They don't have any ability to speed that up; but they can make recommendations and start the ball rolling on how that money would be spent for tourist capital improvements. At the same time, they would be implementing the volunteer program, which will happen immediately as soon as they begin. As it is laid out in the document, there are three types of volunteers. That would happen immediately. But so many of these things are intertwined and overlapped and are being done at the same time. It is like a CPM (Critical Path Method) when building a house - there is a critical path, but there are multiple things happening at one time. That is why, in order to measure the accomplishment, they came up with the idea of reporting quarterly.

Commissioner Coke said she appreciates that. But maybe she didn't express herself clearly. There are some things in here that he is not going to start off with. Mr. Smyth has so many ambitions, which is wonderful.

Mr. Smyth said those are not unsurmountable.

Commissioner Coke said she guesses she should have asked for a prioritization of those - he is going to do this and this first, this and this second. It seems to her that he hasn't gotten far with the win/win/win situation they were looking for with the Manatee Foundation and the Chamber of Commerce.

Mr. Smyth said he believes he has made a lot of progress with the Chamber. The Chamber is still wanting to participate in this. With the Manatee Center, he hopes to make a lot more progress. Especially when they have had an opportunity to absorb the complete document, he thinks they will feel better about it. Right now they are unsure.

Commissioner Coke said she sent out a memo, but it got put on the Agenda as a separate item. She would ask if they have all read it, just consider it now, they don't have to discuss it separately. Is the Chamber prepared to discuss this evening their views on this?

Ms. Linda Cox, President & CEO of the St. Lucie County Chamber

of Commerce, said unfortunately they have not seen Mr. Smyth's presentation, so she is not exactly sure what it is he is proposing. The Chamber strongly believes it is the best entity to operate the Visitor Information Center - that is their sole focus, that is what they want to do. As she expressed to Mr. Smyth when they met, she thinks what he wants to do is very admirable and she wants to help him achieve those goals. But they can't lose sight that it is a visitor center first and foremost. She believes that is where the visitor center should remain. They are happy to have Mr. Smyth work with them in the Seven Gables House with an office. When he was meeting with her, he also talked about wanting to do over events downtown. They are happy to work with everybody. They do want this to be a win/win for all of them. But she believes strongly they shouldn't lose focus on the fact that it should be a visitor center. That is what the City wanted. It is very effective doing that. She does not want to dilute that message by trying to do everything else. What happens with their volunteers? They are a very dedicated group of individuals who have clear goals on what they want. How they feel about the Seven Gables House, they love giving those tours. She would love to know what Mr. Smyth put forward. But she still believes that the Chamber is the best operator of the Visitor Information Center. That is what the Chamber does, they are nationally known for that, and that is what she would like to see happen.

Mayor Benton said he did receive her letter (dated October 12, 2009). There was communication with Mr. Smyth, but it wasn't something the Chamber had bought into, there wasn't a lot of details.

Ms. Cox said they don't have any details, so she can't say to Mr. Smyth that the Chamber definitely wants to do this, because she doesn't know exactly what it is he wants to do. Just like everybody else, the Chamber has budget constraints as well. So for the Chamber to have a full-time person dedicated to be there without any funding to go along with it, is going to be a challenge.

Mayor Benton said he believes Mr. Recor had conversations and sat in on some meetings with the Chamber, the Manatee Center, and Mr. Smyth. What did he feel the outcome of those meetings was?

City Manager Recor said over the last 30 days it has been really eating at him that they have lost the presence of their Chamber in the City of Fort Pierce. Three entities responded to the original Request for Proposals. As Ms. Satterlee indicated, with the selection of Mr. Smyth they deviated from the original intent of the lease of the Seven Gables House for a Visitor Information Center. The Chamber appears to remain committed to Fort Pierce and wants to have a presence in Fort Pierce. Over the last 30 days what they have tried to do is encourage each of the entities to work together. What do they need to do to make everybody happy? And enter into the discussion the potential for finishing up the first floor of the office space in the parking garage, perhaps allowing the Manatee Foundation to take over the Seven Gables House as an adjacent facility. The Backus

Gallery has opined on their concern for what the potential use of that property may be. Allow the Chamber to establish the St. Lucie County Chamber of Commerce's Fort Pierce Office here on the plaza at City Hall. And then allow Mr. Smyth to operate his business and economic development engine out of that same space. They also need to think big picture here, because there has also been discussion about other uses for various amounts of square footage for the office tower in the parking garage. He asked Public Works to give a rough estimate of the cost of finishing that first floor. It ranges from \$40 to \$50 a square foot. There is roughly 4,000 square feet. So they are in the \$200,000 range to finish off that first floor area. Under that scenario, it is a win/win/win situation for all three. All three can work together, each focusing on their specific area of expertise.

Mayor Benton said it appears what they are talking about here is something that has been talked about not only by the City Commission, but also the FPRA Board, about hiring somebody for economic development in the City. If they are going to do that, they need to change the RFP, because they are getting out of order here. They have talked about it, but never did it. For a visitor center, that means the Manatee Center and the Chamber of Commerce could work together, and that could be a perfect win/win. But the economic development is something they need to talk about, because there are several individuals that have asked to do that job.

City Manager Recor said the reason why they didn't move forward with it was there was no funding. It would be hard to add a senior level executive position to the organization at the same time they were talking about reducing their workforce. Their first endeavor in the economic development business was not a very productive experience. The reason why they didn't move forward with it was because of the cost. There is not that price tag associated with what Mr. Smyth is proposing. Mr. Smyth has pretty aggressive fundraising goals.

Mayor Benton said his issue is, they are going into the season and they need a visitor center open and running, organized and ready to go. He does not see that yet. The season starts in a couple of weeks. He is looking to do something very quickly, because he doesn't need this in limbo much longer. With Mr. Smyth's proposal, he does not see numbers. It sounds great, but he does not see numbers in there. Who is going to pay for finishing out the office space? There are a lot of things they need to discuss. But to him, the most important item is having that visitor center open for the season. That needs to be addressed within the next couple of weeks.

City Manager Recor said the Staff Evaluation Committee made a recommendation to the Commission. The Commission did not accept the recommendation and wanted to do something different. At the last meeting there was a motion to reconsider. They are here tonight to review the details of Mr. Smyth's proposal.

Commissioner Becht asked what it is Mr. Smyth needs from the City? He told Commissioner Alexander he needed a five year lease. But this is not the kind of lease he would expect. This

is a lease where Mr. Smyth is expecting the City to pay him money.

Mr. Smyth said that is correct.

Commissioner Becht asked what does he expect the City to pay him?

Mr. Smyth said in the original proposal they voted on, it is \$37,500.

Commissioner Becht asked is it flat for five years?

Mr. Smyth said yes.

Commissioner Becht asked what else, if anything, does he need from the City - other than that building and \$37,500 a year?

Mr. Smyth said that is it. In the original RFP, it stated that there is an annual fee he has to pay and some maintenance.

Commissioner Becht asked who pays the utilities on the building?

Ms. Satterlee said in the RFP that went out, it was proposed that the operator of the facility would pay the utilities. They were trying to get some of the burden off the City's back.

Commissioner Becht said he is trying to identify some of these things so he knows what they are talking about. So Mr. Smyth is picking up the utilities. Who picks up the maintenance on the structure?

Ms. Satterlee said the City.

Commissioner Becht asked lawn care too? If the roof leaks, the City fixes it? If there is an A/C problem, the City fixes it?

Ms. Satterlee said that is correct. But the inside maintenance, the janitorial, is covered by the operator.

Mr. Smyth said he hopes to not disrupt the existing volunteer structure that is there with the Chamber of Commerce. As a matter of fact, he is going to add to it. He has multiple volunteers that are stepping up to the plate that would like to also work with the Chamber. So there will be no disruption whatsoever.

Mayor Benton said if they have an agreement with the Chamber. But that is not the case yet.

Mr. Smyth said he would hope so.

Commissioner Becht said what Mr. Smyth has done here, in his opinion it is an excellent creative plan for economic redevelopment, he means that sincerely. But what he was trying to accomplish two weeks ago with his motion for reconsideration was, before Mr. Smyth put all his time and energy into this, was to identify what the Commissioners wanted from him for this facility. It is very clear what Mr. Smyth wants to try to do

out of that facility. He likes his ambition and passion, he reaches for the sky. Mr. Smyth has so much in here that he just doesn't know what he can and cannot do. Commissioner Coke commented about a list of deliverables with a timetable. That would have helped him get where he needs to get. But he would point out, with what Mr. Smyth is talking about, he is going to have to put the deliverables into the lease. They are about two years into redoing the Little Jim Bridge lease and they still don't have that as of tonight. So he is looking at a City that has a problem with redoing the Little Jim Bridge lease. And the magnitude of what Mr. Smyth is proposing, how and when they would get this lease done, he doesn't know. From this side, it would be a real task to get something like that done, at the same time they are screaming about the Little Jim Bridge lease that has been expired and they can't get that back before them. Mr. Smyth has in his proposal to invite and expedite approval of tourist-related activities that promote themselves (kayak adventures). Mr. Smyth would be using a public building. The Manatee Center has told him that they use the kayak summer camp program to generate revenues and that revenue stream is very important to them. So how Mr. Smyth does that could impact and damage an existing non-profit there which has helped stabilize this area. Everything Mr. Smyth does there could impact what is happening with the Backus Gallery, which has stabilized the area. He would suggest that Mr. Smyth is a for-profit business. Main Street, which is a non-profit, has helped stabilize an area that was not stable at the time. Mr. Smyth has in his proposal that he is going to collect suitable donations from each Fort Pierce business. He is assuming that is a voluntary donation. There is something that becomes implied with that. Is the City endorsing that? Is somebody going to get the perception that if they don't make the donation to Mr. Smyth...? This has to be done delicately and with diplomacy. How is he going to do that? Is it implied that if a business does not donate to the Seven Gables, then it is not in with City Hall, because Mr. Smyth is the de facto economic developer for the City? Who is charged with overseeing the monies he is raising through this center? Mr. Smyth mentions kayaks and airplane rides on another page. He is not picking on Mr. Smyth, but he used to do that. Does he still do that?

Mr. Smyth said he is still a licensed pilot.

Commissioner Becht asked so is this self-serving, feeding his other business? How does he handle that? If Mr. Smyth was just leasing the building, this would be interesting. But if the City is paying Mr. Smyth to lease the building and paying for the upkeep on the building and paying for the grounds to be mowed, it becomes a little bit gnarly. And again, how long is it going to take for the Legal Department to draft the lease? He is not saying that the two years for the Little Jim Bridge is entirely the Legal Department's fault, but they still don't have it. On another page, Mr. Smyth talks about negotiating variances, waivers, etc. and he talks about combining processes for verifying zoning compliance, the Historic Preservation Board, the Plans Review Board, the City Commission. All of these things are exactly what he would want from an Economic Development Coordinator that worked in-house for the City to do.

But the appearance that that person is feeding business to preferred private businesses in the private sector is not as much of a concern for him if he was in-house, although maybe it should be. But with Mr. Smyth on the outside and him having other business enterprises, then that gets gnarly too. He does not know how Mr. Smyth can do everything he wants to do in his proposal. He compliments him, this is an excellent plan for economic development with the goals he set, the creative ideas. He hopes they can take advantage of this and let Mr. Smyth be part of it. But what they started out with was a simple plan to find somebody to run the Seven Gables Visitor Information Center. What they have now is a lot more than that.

Mr. Smyth said he appreciates the fact that Commissioner Becht has read the document. He really appreciates the compliment, because he does think this is a very good document. It is a plan for the City. It wasn't just him that worked on this. There were several entities that worked on this. First of all, the kayaks. He was using that as an example of tourist-related businesses that promote themselves. At the same time, they would be promoting all of the City of Fort Pierce, not just the kayak business that the Manatee Center has. He would have a little bit of a problem if he didn't promote every kayak business that wants to come into Fort Pierce.

Commissioner Becht said let him deal with this heads up. What he would not want is for Mr. Smyth to have five kayaks at the Seven Gables House for people rent those there, take them to the river, and put them in the water.

Mr. Smyth said no way. The intent was just to suggest possible things. Kayak concessions is one of those kinds of things that do promote themselves.

Commissioner Becht said there is a lady in the audience who has been waiting almost a year for them to figure out how she can do this.

Mr. Smyth said she is one of the people he would be working with. For example, a shopping mall. In order to promote a shopping mall, every business in that shopping mall puts a certain amount of money into their shopping mall so that they can collectively advertise and market. That was the premise and mindset, that they would approach Ms. Steele to get a list of every licensed business in the City of Fort Pierce and ask them for a donation to a non-profit corporation, that the sole intent for that donation is to promote businesses in the City of Fort Pierce. It is the same thing as going out and trying to get the monies from the County that is earmarked for capital improvements. The idea is, when driving on I-95 they see a sign on the overpass that says "Welcome to Palm Bay". That is a capital improvement. The billboards on I-95 that say "Come to Ron Jon's", people want to go to Ron Jon's because of all the billboards. The idea is, they want to promote Fort Pierce, they want to show their lifestyle. The airplane rides, there are several operators at the St. Lucie County Airport. What he is trying to do is draw the Airport into the picture, because the Airport is a really good asset for Fort Pierce. There are

several operators out there that need to be promoted. He has several licenses. But each City Commissioner has several licenses too. They are not there to promote their own businesses. This is for the good of Fort Pierce. He would hope that he would have the respect and the understanding that the Board of Directors that he has put together would oversee and keep checks and balance on that. The people who have worked with him in the past who know him know that the whole goal is Fort Pierce. He would be foolish to think that he could do each one of these things himself. When he goes out to build a house, he is capable of building every portion of that house. But in order to do it in a reasonable amount of time, he has to hire subcontractors and do a CPM. Each one of those phases is going to be done by someone who is an expert or has the time to be able to do it. He would hope the people of Fort Pierce and the people that work with him would understand that his whole goal in this is to help Fort Pierce and bring the City of Fort Pierce into the streamline and do the best job he can. He does not want to do the minimum job. He doesn't want the Chamber of Commerce to have just a little sign there. He wants the Chamber of Commerce to have a big sign that says "Welcome to the City of Fort Pierce - Home of the St. Lucie County Chamber of Commerce". He wants them to do the best job that they can do, not the minimum job that they can do. Just like the Manatee Center. The Manatee Center is fed by an entity that has enough to be able to do. And he thinks they could do ten times what they are doing right now, especially utilizing tour programs, utilizing their facility to bring more people and educate them on the history of Fort Pierce. He thinks the Manatee Center could do a lot better. He thinks that the Chamber of Commerce can do a lot better. All he is doing is nudging them just a little bit. He would hope that they were nudge him and keep him on his best performance all the time. He thinks this proposal is a doable proposal. By giving a time frame of every quarter coming in and saying this is what they have done, this is what they have accomplished, and this is where they are going right now, is a very good way to make sure that they are doing what they are supposed to be doing. Along with the Board of Directors and the amount of things they are able to do in a short period of time, he thinks the Commissioners will be relatively impressed.

Commissioner Sessions asked does he have a Board of Directors organized?

Mr. Smyth said he has a partial board. But until official, there are several people that are standing on the sidelines.

Commissioner Sessions said he was hoping Mr. Smyth would disclose that to them. He just does not feel comfortable at this point?

Mr. Smyth said until it is official. They are all people the Commissioners would know and recognize, influential people in the community.

Commissioner Sessions said he has had an opportunity to look at Mr. Smyth's proposal. It certainly is an indication of someone that is very eager. Mr. Smyth appears to have initiative. It

is certainly a professional document. It remains to be seen whether or not Mr. Smyth can deliver it. He does not want to set him up to fail. But he is in support of doing something other than the norm. He is sick and tired of the norm. It is time that they go outside the box and make a difference. A lot of people don't like change, they are afraid of change. But he is for something that is going to be positive. A lot of times that means going outside the box. This is certainly outside the box in every sense of the word. But whether or not Mr. Smyth can deliver, it remains to be seen. He would like to see everybody here today involved in his efforts. Whether or not it is possible based on his dialog with all of the other entities, probably it is not. But he would like to see that. He believes Mr. Smyth's ideas and concepts would be an asset to the City. But whether or not the others are with him on this, it is going to take a consensus of at least three of them to make this happen. He does not want to set him up to fail. Mr. Smyth has a whole lot of information in here. He can see he has done his homework. It was at the direction of this Commission that he did so. They need to make a decision one way or the other. They need to move forward. As the Mayor said, the season is about to start. He does not want that Visitor Center sitting there in limbo when they have all these people getting ready to come down here from the north and spend money. They need somebody on board over there for sure. So they need to move forward. They have been going back and forth with this issue too long. They need to get that center up and running.

Mr. Smyth said he appreciates everything Commissioner Sessions is saying and his confidence in him. Second Street Station is an example that everybody said they can't do anything with that building. But they moved ahead because they had the confidence and the ability to get it done. The building across the street owned by Jon Ward, everybody looked at both of them and said they were taking on too much, it isn't going to happen; but it turned out really beautiful. It is hard work and dedication. The times they are in right now with 14% unemployment and the things that are going on in this area, now is not the time to do the minimum. This is the time where they get up, brush themselves off, and do the maximum effort they can, not the minimum effort. All he is asking for the Chamber and the Manatee Center to do is not the minimum, but the maximum. He would suggest they task City Manager Recor with mediating a win/win/win situation. Allow the Chamber to continue to operate the Visitor Center for the next 30 days. And this week they meet in Mr. Recor's office and come up with an idea that everybody is happy with.

Commissioner Sessions asked has he seen the memo from Commissioner Coke - her proposal for a win/win situation?

Mr. Smyth said yes, he did.

Commissioner Sessions asked is he amenable to this?

Mr. Smyth said yes, except for one thing. Tourism and economic development are hand in hand, not separate issues. They work together. So if they can come up with a way that everybody is

doing a better than average job, it will work. He puts a lot of faith in what Ms. Coke is suggesting there, because he thinks she is trying very hard to make a win/win situation. He wants to make sure that everybody knows, it is just hard work is all this is.

Mayor Benton said he likes Commissioner Coke's idea. Does that mean what they would like to see happen is what Staff had recommended early on? Put the Seven Gables House Visitor Information Center in the hands of the Manatee Center, to work with the Chamber of Commerce to keep the visitor center open. And look at housing Mr. Smyth and his economic development operation in the office space in the parking garage.

Commissioner Coke said her original thought was, they don't want to lose the Chamber of Commerce. Mr. Smyth is just way too enthusiastic for the rest of them. Of course, they all love the Manatee Center. She was hoping that by tonight they would have come up with a solution that would have been a win/win/win situation for the three entities. She does like Mr. Smyth's suggestion to charge the City Manager with spending another 30 days trying to get everybody on the same page. But she thinks there is the possibility of utilizing the Seven Gables House, let the Manatee Center be the primary operator of that, with the presence of Mr. Smyth and the Chamber there. And then in the interim period have the... She thinks what Mr. Smyth is looking to do is much better situated right here. Businesses come to City Hall to get a business license. Where should they go to ask their questions of the Chamber and/or the economic person? Right across the parking lot there. Do they want to have to leave here and go down to the river? Granted, it is a nice walk. But she is thinking it might be more beneficial to the economic development, for what the Chamber is looking to accomplish and what Mr. Smyth is looking to accomplish, to have them housed more closely related to City Hall. She would be willing to let them go back and hammer it out with Mr. Recor for another 30 days and see if they can come up with a win/win/win situation.

Mr. Smyth said the tourist side of it, the tour program, that is a really good tool when people are coming to the community. It is going to be hard to work it out, but he knows Mr. Recor's ability to think outside the box and bring people together and line things up in an orderly fashion, and he has confidence in that. He would also like to see the other two entities come to the table and describe what they are going to do. He put it down on paper what he and his Board of Directors is able to do. He would like to see the other two entities say what they are going to do. He would also like to see every business in the City of Fort Pierce promoted, no matter what the business is. They need to get business into the community.

Commissioner Alexander said concerning the office space here, he thinks he is the one that nurtured that idea when he was speaking of the Chamber being visible to the people coming to City Hall. But his concern is, he and Mr. Recor discussed this about a month ago and he was hoping that he would say that the Chamber is willing to be here. Since Ms. Coke has added that

Mr. Smyth be there, he is just waiting and willing to go along with support for it happening. His first task for them would be to make sure that second and third floor is in business. It could be a running effort. Make sure that property is rented, because it has been sitting entirely too long. If they are going to send it back to Mr. Recor, he would be willing to make sure that it is a win/win.

City Manager Recor said he did have follow-up conversations with the Chamber. The Chamber is definitely interested in working together. If the Commission wants to give him 30 days to sit down and talk further about a partnership, he is comfortable they can do that.

Commissioner Sessions asked he needs 30 days?

Mr. Smyth said it took two weeks just to get an appointment with Linda Cox.

Mayor Benton asked are the doors open and the Chamber still there?

City Manager Recor said yes. He will get something scheduled over the next two weeks. Rather than agenda it formally, allow him to report to the Commission the status of where things stand. He will give them a progress report.

Mayor Benton said when he comes back, they need to know who the Board of Directors are, they need to see names. They are tasking the City Manager with working this all out within 30 days.

City Clerk Steele introduced the following Resolution by title only:

RESOLUTION NO. 09-59

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, AUTHORIZING EXECUTION OF A **LOCAL AGENCY PROGRAM (LAP) AGREEMENT** BETWEEN THE CITY OF FORT PIERCE AND THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR FLEXIBLE PAVEMENT RECONSTRUCTION IMPROVEMENTS ALONG 13TH STREET FROM ORANGE AVENUE TO 400 FEE SOUTH OF AVENUE D; 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 Alexander, that Resolution No. 09-59 be adopted.

Commissioner Becht said this is \$1,368,000 of stimulus money they are going to put people to work with.

Mr. Jack Andrews, City Engineer, said that is correct. This is the second of the two projects they had received federal stimulus dollars. They are looking to put some contractors to work.

Mayor Benton asked is the utilities covered in this?

Mr. Andrews said no.

Mayor Benton asked so they are not going to touch the lines, they are going to work around them?

Mr. Andrews said they have looked at working with FPUA. There was money budgeted originally for 10th Street improvements. They have shuffled that money to the 13th Street improvements to move ahead with this project. So they are working closely with FPUA to have the improvements done for the wastewater and water.

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

The next item on the Agenda was Commissioner Alexander discussion regarding the recent **reduction in workforce** for the City of Fort Pierce.

Commissioner Alexander said maybe in lieu of not saying unwanted, but being approached before he came to the meeting on what that matter is about, maybe he is asking Mr. Schwerer in lieu of that, maybe he should not be discussing what he wanted to discuss tonight, if that has any reflection on that.

City Attorney Schwerer said if it involves issues they are currently in litigation with, he would advise that it is probably best for Commissioner Alexander, as well as all of the Commissioners, to refrain from comment.

Commissioner Alexander said all right. He just wanted to know, because he had no idea what this was about. He just wanted to be sure if it has any concern with what he wants to speak about. But he still needs some answers on what he was asking.

Commissioner Coke said this is his agenda item. Does it have anything to do with a lawsuit?

City Attorney Schwerer said it could have something to do with a lawsuit that is pending against the City as far as reduction in force. So therefore, that discussion and discussions involving anything relating to that, he would advise the Commission to withhold from comment or making that a public discussion. However, they are free to discuss any other issue they want to.

Commissioner Alexander said no, he just wanted to be sure before he opened his mouth, because he wants some answers when he asks questions. So he did not know what he was being presented with, what it was in reference to. So out of respect of all of them, he doesn't want anything to be said that would have any influence one way or the other on this, because that is not the purpose of his conversation.

City Attorney Schwerer said he is going to issue each of them a memorandum tomorrow explaining that piece of paper they received. And of course, he is open for any conversation.

Commissioner Alexander said he is satisfied with it.

The next item on the Agenda was Commissioner Coke discussion on: (a) Revisions to the City's **Parks Ordinance**; (b) Vendor Ordinance; and (c) Pavilion Rental Fees and Policies.

Commissioner Coke said back in August they approved the revisions submitted by the Parks Advisory Committee to update the ordinances. She wanted an update on that. Earlier this evening they got an update on the pavilion rental fees and policies. Also, for about a year they have been talking about a vendor ordinance for the parks. She is wondering if she can get an update on where they are at?

City Attorney Schwerer said they are on target and moving forward, they have gotten well into the ordinance. Due to workloads, they were looking at about a 60 day review time, which puts them sometime towards the end of this month. They are, he thinks, ahead of target in getting a review; but they are running into some issues that might involve the Police Department and some other matters concerning how they are going to enforce some of the provisions of the new ordinance and some discussion on that that is still needed with staff. He thinks they are on target to get something in a formal capacity back to the Commission by the end of this month for sure.

Commissioner Coke said she thought the Chief was a participant in drafting all this stuff. This is the last meeting of this month, that is why she put it on the Agenda. Is Ms. Schwerer saying they can have it on the November 2nd Agenda, another update?

City Attorney Schwerer said he thinks by November 2nd he can probably have a draft of a suggested ordinance. What they are running into is, they are trying to rewrite an entire chapter of the City Code. It has many aspects that need to be researched, things to be added, definitions need to be put in. For instance, they have got issues dealing with firearms, unattended children, operation of motor vehicles, which is a big issue. Currently violations of the parks ordinances are treated as misdemeanors technically under the City Code. They certainly want to get that corrected and have the Chief be able to issue tickets of some sort or perhaps set up a fine scale, determine what is going to be a ticketable offense and what is going to be a towable offence. For instance, there are alcoholic beverage issues that mix with other areas of the Code. They are trying to get some consensus in his office on how that is going to be handled. They do have a special event permit process; but now it is being applied a little bit differently in certain parks, so they have to look at that. There is a noise ordinance now being proposed for a park; but they think they ought to have a citywide noise ordinance. He believes the Chief agrees with that, because he often has to enforce that. So if he is going to put a noise prohibition in the parks ordinance, they probably need to not do that, but look at citywide enforcement because there is noise violations everywhere, not just in parks. There are just some of the things they have been looking at. He has detailed memos from staff, proposals and suggestions. They

have met several times on it. It is not an easy task, but they are moving forward on it. He has some trials coming up this next month, but he is trying to do what he can to get it done by the end of this month.

Commissioner Coke asked when talking about revisions to the City's parks ordinance, is that going to be inclusive of a vendor process that had been suggested?

City Attorney Schwerer said he is not familiar with this vendor process at all, because he thinks that is something they need to look at citywide.

Commissioner Coke asked so if she gets that to him, they can look to include it?

City Manager Recor said he has it and can get it to the City Attorney. Yes, it is something that can be included in the upcoming revisions.

Commissioner Coke said if three people here say yes, they are going to have vendors in parks, and these are going to be the rules and parameters, that is fine. If three people say no... She thinks they need to give people in the community an answer one way or another.

City Manager Recor said he thinks it can be incorporated into the draft.

City Attorney Schwerer said many of the things that were proposed for the parks ordinance were excellent ideas. But those caused them to look at the rest of the City Code and identify deficiencies in those areas as well. So many of those things that were proposed for the parks really are something they should be doing citywide; so there is no reason to put it into the parks section and not make it citywide. That is what they are really struggling with.

Mayor Benton said it has mushroomed.

City Attorney Schwerer said many of the things for the parks they could probably have a draft of very quickly. But there are a lot of things they would have to omit while still looking at these items citywide. If that is what the Commission wants, they certainly can put some of those in place. But that is piecemealing it. But that is up to the Commission, if that is what they want staff to do. Staff is trying to incorporate everything that was put in there. Many of those things were good ideas. It is just getting larger.

Commissioner Alexander said they asked for specific things for parks, for vendors. Some of those things Mr. Schwerer mentioned, the noise ordinance, what does he expect when he goes to a park - for it to be silent? He does not want it to become a police state. Because once they put it in place, the people that don't have any children don't want to hear the children and they live right across the street from the park, so who does he think they are going to be calling? They are going to call the

Chief. They have a noise ordinance and they have been living with it for many years. He does not say to allow people to break the rules arbitrarily. But just give a warning they are not going to tolerate it. This is not a police state. They want friendly tourists to return. Everyone that comes to Fort Pierce finds a beautiful city. So let them return without incidents.

Mayor Benton said the vendors, they need to get that back soon. A vendor is sitting here, she has been waiting for over a year. They all heard it was working out. In this economy, they need to get her working again, especially with the season coming. If they can get that as soon as possible, because she has been waiting.

Commissioner Coke asked rather than waiting on the City Attorney, could they consider perhaps another three month lease similar to what they did last year?

Mayor Benton said if three Commissioners agree to put that on the Agenda for their next meeting, he would like to see them do that. They might as well make it for six months. That way they at least cover the season.

Commissioner Coke said but then that would encourage Mr. Schwerer to take six months instead of three months.

Mayor Benton said he has to stand up for the City Attorney. Every time they are brought papers, those go through his office, and now they are chasing him at home and around town. Unfortunately in this environment everybody is suing everybody, whether it is right or wrong. And they have to respond to that in a timely fashion, which means some other things get put on the side because there is only so much manpower in that office. Mr. Schwerer is doing a good job with everything that is on his desk.

The next item on the Agenda was Commissioner Coke discussion regarding **Seven Gables House**.

Commissioner Coke said they discussed this enough earlier tonight.

The next item on the Agenda was Commissioner Sessions discussion on requesting **Marlowe & Company** to lobby for Economic Development Stimulus Funding.

Commissioner Sessions said he had talked to their lobbyist, Joshua Gabaton, a couple of weeks ago. He was explaining to him that there was going to be a lot of stimulus money coming down from the Federal government. Unlike the money that came down before, most of that was for wastewater, water, and transportation projects, where it came by way of the Governor's office, this money would go directly to the municipalities and they wouldn't have to deal with the Governor's office. The protocol is, municipalities have to be partnered with the private sector, according to what was explained to him. There is a lot of money out there and it is about to come down the

pipeline. He would hope while they have these people under a retainer agreement, they could get some of their money's worth out of them, let them go out and search for some of this money for economic development for their City. He thinks Mr. Gabaton is in town November 5th. This is just an opener to make sure they all are scheduled to talk to him, to put him to work for them, to see if they can get some of this money. There is going to be a lot of money handed directly to municipalities - earmarked money, stimulus money, and grants.

City Manager Recor said each of the Commissioners is scheduled to meet with Mr. Gabaton during his visit to discuss priorities.

Mayor Benton said a lot of this is also going to the U.S. Conference of Mayors, so they have their grant writer looking at all those opportunities there. They were the ones that pushed it enough to finally get it away from the states and directly to the cities.

Commissioner Alexander asked didn't they put together a package and sent it to...? So they have been working towards stimulus monies for the City. They have a real concern with their parks and recreation. He knows that can be a component because he did it for another community and did a well job about these dollars he got. It was just off a whim, just passing in the hall, and a person asked a question. So now maybe that can free up some of their funds if they can get the major portion of their parks and recreation done.

Commissioner Becht said it has been several years since the Commissioners went up to Washington, D.C. He for one thinks there was a significant connection between all five of them going to D.C. and talking to their Congressmen and talking to their Senators about the Federal Courthouse and the Federal Courthouse finally getting funded. He does not think they carried the ball 99 yards, but he does think they helped push it across the goal line at the end because they went to D.C. and it was their number one topic. The County went there, he does not want to minimize the County's contribution, because it was one of their top five issues as well. Maybe it is time - if Mr. Recor would talk to this gentleman - if it is appropriate for this Commission to go up to D.C. and say they need help, they need him working for Fort Pierce and for St. Lucie County. Ask him, how he can help them and who do they need to talk to? He knows they all read the stuff they get from them, which praises Congressman Hastings. He does remember he was very helpful in pointing them to the right doors when they were up there before. He would like for Staff to look into that, ask some questions, and see if that is going to make a difference. They all have plenty to do, they don't need to be going up to D.C. for no reason. But maybe there would be a benefit.

Commissioner Coke said the only time they want them there is in February, when it is cold, right before budget hearing.

The next item on the Agenda was City Engineer update on State Road A1A Project.

Mr. Jack Andrews, City Engineer, said construction on Phase IIB (South Causeway Bridge to Bayshore Drive) is progressing at an acceptable pace. They are on budget and ahead of schedule on that project. They are anticipating completion on that phase at the end of May. They have switched the traffic over to the temporary roadway and they are working on the eastbound lanes right now. After that is completed, they will switch the traffic back over and continue on the westbound lanes to finish that up. All work is progressing at a good pace.

Mayor Benton asked in May when that is expected to be finished, are they ready to start with the next phase (Phase I - Bayshore Drive to Gulfstream Avenue)?

Mr. Andrews said they are working on that right now. There are consultants working on the redesign of the Seaway Drive / South Ocean Drive Roundabout, the relocation of that. They are in coordination with how that is going to affect the South Jetty Park design and plan on bringing that to the FPRA Board on October 28th to show what those improvements are. They don't have all the permits yet. They have the FDEP and SFWMD Permits. They still need the FDOT Permit to finish that off.

Mayor Benton said if they are just redesigning the roundabout, there are a couple of miles there they need to get going on. Somebody has told him there is going to be a lapse in that. A certain elected official to the south has a close relation there working that project and implied that they were going to be leaving to work somewhere else because this project was going to be held up for awhile. He hopes while they have everybody activated that they are ready to go. Changing the roundabout, that should be a minor change.

Mr. Andrews said they are proceeding, they are going to continue construction.

Mayor Benton said if they need to go to Tallahassee about FDOT to speed things up, let them know. He does not want things to slow down because they have been at this forever. It looks great. But he would like to get it done sometime during his lifetime.

The next item on the Agenda was City Engineer update on **City Marina** permitting process.

Mr. Ed Seissiger, Engineering Projects Coordinator, said they have not received any challenges on FDEP's Environmental Resource Permit, so that will be issued. All they are waiting for is the paperwork, they should have it within a week. They met with the Army Corps of Engineers on October 2nd, had a rather lengthy meeting working through issues one by one. As of Friday, the Army Corps had concurred that the alternatives they picked have the least impacts. They are still working through the mitigation. They have a couple of other minor issues they are working through. The Army Corps is going to issue a decision document within the next ten days.

Mayor Benton asked for the mitigation, the Army Corps is not

saying they have to do something differently, they are just looking at the big picture, right?

Mr. Seissiger said the Army Corps has not given them any indication one way or the other. They have asked them if they are going to deny, they need to cite their new rules as to why they can't accept what was already proposed.

Mayor Benton said Senator Nelson's input in this has really sped things up. They are getting responses more timely, that meeting went very well, and there is a different person in charge. So everything appears to be moving along.

Mr. Seissiger said they are light years ahead of where they were two weeks ago.

Mayor Benton said hopefully the next time Mr. Seissiger is here, they will have the answer they are waiting for, that the Army Corps has finally said yes, and they are ready to set a groundbreaking date.

Commissioner Alexander said they appreciate Mr. Seissiger's hard work and efforts.

Mr. Seissiger said he has spent a lot of time down there at the waterfront and at the Marina, it is his pride and joy.

The next item on the Agenda was Finance Director to give Preliminary Financial Report for Quarter Ending September 30, 2009.

Ms. Gloria Johnson, Finance Director, said the Commission got the Preliminary Financial Report for Quarter Ending September 30, 2009. It is a preliminary report, they have not quite finished their final figures for the fiscal year. She is not going to go through all the details, the line items. She is going to go straight to the financial picture as far as September 30th. The General Fund revenues were \$41,729,801 and the expenditures totaled \$44,222,575. At the end of September, they had available cash of \$1,746,226. Out of that \$1,746,226, they still have payables at the end of the year, approximately \$500,000. They had to balance the budget with \$1.2 million, so that will just about take up this balance. They will be on task. They probably would have maybe about \$400,000 over their 10% reserve at the end of the fiscal year, if the projections are correct. Currently they have \$4 million in the reserve. Next year they would have to have at least \$3.6 million in the reserve. The FPRA, the current available cash is \$5.9 million. They did project they were going to bring over around \$7 million. But in that \$7 million, they also this year paid for some of the capital improvement which they thought were going to be paid next year. So they should be around that area or they may be a little bit short. They are going to have to watch the FPRA very carefully next year.

Commissioner Alexander asked Ms. Johnson said they had planned to pay next year for these?

Ms. Johnson said no, they had a carryover of about \$7 million.

They did pay some of the capital they had budgeted for next year, they paid it already in 2009 instead of 2010. So that should still get them to that same point, but they would have to be very careful on their expenditures next year. The City Marina, the available cash is \$4.5 million. Solid Waste, available cash is \$2.3 million. They did pay in the VSIP general fund for those employees who left. So far they have paid \$1,066,000. They have an additional about \$250,000 they still have to pay for employees that retired but will be on the payroll until they exhaust their sick leave. They also are going to pay for those employees that were laid off, their sick and vacation leave.

Commissioner Becht said so they have about \$2.3 million left in Solid Waste after the first payment of \$1,066,000 on the VSIP.

Ms. Johnson said right.

Commissioner Becht said and they have an expected additional liability probably coming out of this \$2.3 million of about \$250,000, so that puts them down to about \$2 million in the Solid Waste reserve.

Ms. Johnson said right.

Commissioner Becht asked have they moved any further toward loaning out of that \$2 million reserve, \$1 million or \$1.5 million to the Marina Fund?

Ms. Johnson said no, this Commission has not approved that loan yet.

City Manager Recor said they have discussed it, but have not moved the money.

Commissioner Becht asked if they approve it, is it a long process to make that happen?

Ms. Johnson said no, it would be immediately or the next day. The Indian Hills Golf Course, their ending cash balance is \$40,609. The Community Center, their ending cash balance is \$19,745. The Sunrise Theatre, their ending cash balance is \$6,220.

Commissioner Alexander asked the Sunrise Theatre ending cash balance is \$6,220? So when will they end their fiscal year?

Ms. Johnson said September 30th. The Sunrise Theatre does have more money than that, but this is what they have available to spend. They have shows which they have collected for which won't be until October or November, which they have collected the money in advance. They do have that money, it is just that it is not available for spending.

Commissioner Alexander asked so what are they going to do after that \$6,220 is spent?

Ms. Johnson said they will transfer the money for the shows as

those come due.

City Manager Recor said Ms. Johnson is going to be taking a more active role in working with the Auditor in completing the CAFR (Comprehensive Annual Financial Report).

Ms. Johnson said last year they did get a comment as far as a lot of entries that took place. It was a little hectic last year, since she was just coming into the job. This year, she will be a little more involved, making sure the CAFR gets out on time. They will have it out in a much more reasonable time, by March 30th, no later than that.

The next item on the Agenda was Director of Community Development report on monitoring and reporting of **Community Services Housing Loans**.

Mr. Matt Margotta, Community Development Director, said following up from the last City Commission meeting, this report is further information and recommendations to move forward in looking at the Community Services Division, how they monitor and report housing loans. There is a lot of information to go through and a lot to consider. The purpose, what he is trying to accomplish and what he believes the City is trying to accomplish, they need to restore trust and confidence in how they are doing this. Hopefully they are getting on the path. If there is any other direction from the City Commission tonight, they will go into it. But quite honestly, he believes this is a process. This isn't going to be the first time they have talked about this. There are some accusations out there that he can definitely respond to now and hopefully clear some of the air. If there are any further questions, let him know. One of the unfortunate things tonight is that they don't have the Florida Housing Coalition report yet. He does not have it, it did not come in the mail today. But he does expect it any day. As soon as that comes in, he will certainly analyze it and get something prepared to the City Commission so they know that the FHC was able to find.

Commissioner Becht asked how long was FHC here?

Mr. Margotta said one day.

Commissioner Becht asked a full day?

Mr. Margotta said no, she got here between 9:30 and 10:00 a.m. and left at 6:30 p.m. or so.

Commissioner Becht asked did Mr. Margotta work with her or did other people work with her?

Mr. Margotta said he worked with her and the Community Services Division staff worked with her.

Commissioner Becht said he has reservations about whether that is really going to reveal anything or not.

Mr. Margotta said he thinks it will.

Commissioner Becht said he does not think it will. He has asked for documents and the public has asked for documents, and those documents couldn't be assembled in weeks. Mr. Margotta can't tell him that the lady got everything she wanted in one day. They can't get documents to the public in two to three weeks. So either the lady had all the documents and they are not getting the documents out to the public; or that lady didn't have all the documents and didn't do a thorough review. So something is broken one way or the other. They are either not complying timely with a public records request; or that person didn't look at all the documents she needs to look at. He does want to move on, he does want to get to Mr. Margotta's recommendations for change, because that is important. But if they don't do a thorough investigation, they are not going to know what to change. So they may need to have something more than a state agency come in and look at, generally speaking, if they complied with state or federal regulations. Because where they want to end up - Mr. Margotta's number one point - is restore trust and confidence. He is not sure that technical compliance with state regulations for getting the money out into the public is going to restore trust and confidence when they have so many city employees who may technically meet the requirements of the state or the federal program receiving the monies through a process that has other city employees reviewing who gets the money. So that may meet the technical requirements, which is what this lady or this group is going to audit. So they are going to come back and say yes, they met all they technical requirements. That is not what he is looking for, but maybe Mr. Margotta or maybe Mr. Recor is. He is looking for a clean bill of health from an entity that has the integrity and has the thoroughness of the investigation to come through the review and say yes, they have looked at everything, and no, they have not found any criminal liability, and yes, they may have found things that shouldn't have been done that way, and here are their recommendations for changing these things. He does not think the agency has been chosen that is going to give them that result. Quite frankly, he thinks it is a waste of time. He is going to predict - using his crystal ball - they are going to get a report back that says they met all the technical requirements.

Mr. Margotta said Commissioner Becht's crystal ball is shattered.

City Manager Recor said he doesn't think so, but Commissioner Becht is entitled to his opinion. And in anticipation of that, he and Ms. Johnson have talked in further detail about a second step. He understands the point Commissioner Becht is making.

Commissioner Becht said a one day...? How many weeks has Mr. Margotta been looking at this stuff?

Mr. Margotta said ever since he got back. It has been an issue that he stands on top of like a rolling ball. He is not about to tell them that this Florida Housing Coalition is the end all and be all answer. Quite honestly, she was only able to look at SHIP and HHR funds.

Commissioner Alexander said he truly wants the trust of the public and their confidence. But in the process that any monies that come to this City or any monies they use out of General Funds, there are and have been reports on each step they have taken, right? If they used federal monies, there had to be reports sent back in, right?

Mr. Margotta said yes, there are reporting requirements and they are audited annually. However, he thinks this issue revolves more around how else they are handling the program, what they might do...

Commissioner Alexander said even with the SHIP program, there are reports that not only go to their City Manager, but to other agencies.

Mr. Margotta said the state and the feds. HUD, for instance.

Commissioner Alexander said once an accusation is brought up, they do review what they have. They didn't just throw it in the garbage. Maybe she had an opportunity to read something before she got here. What are they trying to look for? If he wants the truth and the trust, then let it be said. But he doesn't want to be just trying to find fault in the City of Fort Pierce. They are trying to do a better job themselves, because a lot of those things came through the Commission for confirmation.

Mr. Margotta said that is correct. He believes they will find from his presentation tonight that there are things they can tighten up. That is where he thinks they will need to go to be on top of it.

Commissioner Coke said she thinks the difference between this FHC report and what the majority of them was looking for, so that they can move forward from this point, if there was a mistake in the past, then correct it. It is kind of like when a developer clears a lot and they need grass on it. Somebody goes out with a handful of grass seed and throw it. Somebody else is going to go out and sod it. They are going to get the handful of grass seed report here, when what they really wanted was the full sod report, knowing absolutely the ins and outs and where they need to be. That is her concern. They looked at a little check list - yes, this was signed, and yes, this was done. But the concern that John Q. Citizen has is a lot deeper, whether or not the appearance of propriety has been met. And she doesn't know where they will get that report from.

Commissioner Alexander said the trust and the confidence is going to come in. The City of Fort Pierce is not perfect.

Commissioner Coke said two or three years ago they set up the Citizens Utilities Advisory Committee for the Utilities Authority. It was a great learning experience, not only for the U.A. but for the Commission and for the citizens involved in it. They all learned something from it.

Mr. Margotta said a little bit of background, some basic facts

that draw a little framework. This fiscal year they have 8 programs with 28 supporting implementation strategies. This is state funding and federal funding. Sometimes the strategies sound like they accomplish the same thing; but they have a lot of strategies, a lot of ways of implementing housing assistance. As Commissioner Alexander pointed out earlier, the City Commission does review and approve the programs annually.

Commissioner Alexander said maybe they should do it more frequently than annually. Maybe the Commissioners should have some of this information biannually.

Mr. Margotta said that may be one of the ways they go about getting more oversight. They have some economic development things they deal with, like the Section 108 loan for Tulepan (Coral Square). But for the most part, their programs are aimed at low to moderate income families for housing assistance. They have been in this business for a while. He thinks the City of Fort Pierce has over the years kept its program virtually unchanged. What basically happens and what a lot of cities apparently do is they take the basic guidelines from each one of these funding sources for each one of the programs and use that as their guidelines, they just adopt and use those. There are quite a bit, he is not talking about overly general statements. But there is the opportunity here for local policies. That is one of the main recommendations he is going to get to them tonight. They administer a lot of money. This represents more than \$7 million that the Community Services Division is trying to administer with those 8 programs and 28 supporting implementation policies. They have applied for another \$11,700,000. When that award comes in, they are looking at a few more programs and implementation projects. He would like to hit on some of those accusations and responses. The accusation is that their SHIP HHR Program improperly allowed two City employees to participate. He can't fully answer this one tonight without having the Florida Housing Coalition report. But understand, the program was for first mortgages for income qualified recipients. There were 14 recipients in the program - 12 are in The Oaks Subdivision, 2 others are in the City limits. Those 2 others were City employees. There were plenty of questions and eyebrows raised over this issue. He thinks the facts are not in yet, at least not to go to the next step. The report, he is sure, is going to shed some light here.

Commissioner Alexander said they say improperly allow 2 City employees. The facts that was given to them at the last meeting, it was their former City Manager, he overwrote whatever it was.

City Manager Recor said he responded when there was a white elephant in the room about who authorized the closing, and he indicated that the former City Manager did.

Commissioner Alexander said but he overrode what the normal procedures were.

City Manager Recor said he wants to be really careful how it is characterized. He does not want to disparage Mr. Beach in any

way. And he does not mean to suggest that...

Commissioner Alexander said Mr. Beach is no longer a City of Fort Pierce employee. They don't want the community pointing fingers at employees of the City of Fort Pierce when he heard it with his ears that he overrode that and gave special consideration. Did he not hear that?

City Manager Recor said there were some questions the City Attorney had regarding the closing documents, whether those were correct for Form & Correctness. Yes, the City Manager authorized the closings to proceed.

Commissioner Alexander said that is just a fact, that's all.

Mr. Margotta said to expand on the subject, there are more allegations in there as far as how it was handled, maybe the way it was advertised.

Commissioner Alexander said that wasn't brought to their attention. He only just repeats what was stated for a fact.

Mr. Margotta said the next one, they have a hazard mitigation program. The allegation is, funds were improperly administered to employees and their families. This was several years ago. The program was set up that it allowed for very low and low income qualifying applicants to have their loans forgiven after one year, as long as they stayed in the residence. Any of the moderate income qualifiers received just a low interest loan. As far as employees and their family members, there were 7 out of 28. Doing a percentage, that seems like a fairly high number. Very low to low income recipients, all their loans were forgiven after a year because they stayed in the residence. All the moderate income recipients were on a payment schedule. People talked about maybe a forgiving of the loan or something. That was the program.

City Manager Recor asked for hazard mitigation, what kind of dollar values were eligible, in a range? These weren't big dollar loans.

Mr. Margotta said they were replacing shutters, ceilings, windows, doors.

City Manager Recor said not \$40,000 downpayment assistance or \$15,000 SHIP loans.

Mr. Margotta said looking at ranges of \$3,000, \$4,000, or \$5,000.

Commissioner Becht said he appreciates Mr. Recor pointing that out. But 7 of 28 is 25%. There are 400 city employees and 40,000 residents. That does seem a bit distorted.

Mr. Margotta said the Housing Rehabilitation Program, likewise the accusation is that city employees and their family members had their loans just plain forgiven prematurely or without even satisfying the loans. That program was set up to be a 15 year

loan for very low to moderate income qualifying individuals. There were 26 recipients in this case. They have 1 employee and 3 family members involved in the program. But when the program actually started, the way the paperwork was done, it was done as a 30 year loan repayment. That was changed to 15 year loans. So all those folks that started in the program and had their documents made up as 30 year repayments, those 30 year repayments were replaced by 15 year repayments, and the 30 year documents were voided or rescinded. So all the recipients in this program are on a 15 year payment schedule, nobody has had their loan forgiven or whatever without satisfying the loan.

Commissioner Alexander asked is there anything wrong with that?

Mr. Margotta said not at all.

City Manager Recor said this responds directly to one of the most egregious accusations; and that is, the family member of one of the staff members loan was forgiven prematurely. The facts suggest that is just not the case.

Commissioner Alexander said he wants to make sure they make it publicly known that they went from 30 years to 15 years, so that means their payments went higher. It was harder for them to do that.

Mr. Margotta said in some of the allegations that have been sent towards them to look at was this 30 year loan was just plain forgiven prematurely. But that isn't the case, it was replaced by a 15 year loan.

Commissioner Alexander asked even the replacement was signed off by other than that department, right? It didn't go through Mr. Schwerer's office?

City Attorney Schwerer asked which loans are they talking about?

Mr. Margotta said the repayment loans for a housing rehabilitation program. It is usually a Community Services and Finance Department function.

City Attorney Schwerer said the only loans that went through his office were the loans for The Oaks subdivision.

Mr. Margotta said the REACH Program.

City Attorney Schwerer said they did get involved in the after the fact closings on two to help assist in correcting those documents.

Commissioner Alexander asked so this is just an ordinary day?

City Attorney Schwerer said it may very well be. But his office was called in for The Oaks closings...

Commissioner Alexander said no, he is speaking about these 30 year loans. For it to be changed to 15 years, Mr. Schwerer didn't find any problem with that, did he?

City Attorney Schwerer said not his office. He doesn't think they reviewed those loans. The loans that go through this program are subject to state and/or federal guidelines, so those guidelines have to be followed. His office generally does not get involved in those loans, unless there are questions concerning certain documentation and a need to review those documents.

Mr. Margotta said next, income qualifying recipients are eligible for multiple programs, drawing allegations of improper use of Community Services programs. Somebody would come in and use the hazard mitigation loan to fix their shutters, and then turn around and apply for rehabilitation of the house. That does happen. But understand, their housing assistance program as just that, assistance that people apply for. It does subsidize income qualifying individuals. They do have a policy in place that if an applicant gets awarded, they can't apply for that funding source again for three years. But his main point, as far as anybody getting into the door, they are talking about income qualifying applicants. That has been one of the main criteria in use by this department to consider applicants, that they are income qualifying, including city employees or their relatives, then they are eligible for these programs. He will talk a little bit about how things are decided. When applications come in, staff processes those applications, do a review to make sure it meets the minimum guidelines just to intake the application. Staff approves the applications for assistance, that is the way it is set up right now, and then reports it to the Communitywide Council monthly. Except in those cases, the Communitywide Council reviews and approves applications from public service agencies or economic development funds. The REACH loans, the ones that have received a lot of the chatter or discussion or scrutiny, were approved by a selection committee. That is the next topic. He thinks that is the one that probably has got the most attention. When the City was working towards this first mortgage program, the REACH Program, they reached out to the lending consortium, which they use on a daily basis now, in an effort to alleviate the perception of bias. But what happened was only one member of that lending consortium came forward. So staff also looked at other people that know about this business. The committee ended up being five people - two city employees, two county employees, and one local banking official. There is a lot of controversy involved in how the decisions were made. One of the main ones - and this goes to maybe what Commissioner Alexander was talking about before - not just the City Manager approved it, but when they looked at the REACH Program, the applications themselves were accepted and the technical review was done by a Program Specialist that was also an applicant. While she did not do her own review or intake of her own application, it was done in-house. The selection committee does not consist of any appointed or elected officials. The Florida Housing Coalition report does speak to this subject. It will drill down on details in this area. So there is more to come, he owes them more information on this subject.

City Manager Recor said it is his understanding that the two county employees were not just any county employees, but rather

they were officials that worked in the community services area of responsibility with the County, so they were familiar with the programs. Is that accurate?

Mr. Margotta said yes. It wasn't a random thing. The folks that were on this committee are knowledgeable of the programs and know what to look for. Getting to recommendations. First off, they need to have the results from the Florida Housing Coalition report. He thinks that is going to lead to further work on this. There may be other independent audits. He would almost expect at this point that they are going to have to be able to describe these programs better and how they administer them. The main thing he wanted to bring up tonight is, he can develop policies for them to consider locally. He has a lot to consider. It was in the staff report. If they want, he can go ad nauseam over each one. But there are policies that have been developed by other municipalities that they could mirror or use as a guide as they create their own policies locally. He would recommend that he take that to the Communitywide Council and then to the City Commission for approval. Timing may be an issue there, because the Communitywide Council currently can't raise a quorum. But he can bring it back to the City Commission. It is a lot to review, that's all. So with marching orders, he can develop policies out of what he has already written in his report. If they have something else they want him to consider, he will work on it.

Commissioner Becht said he thanks Mr. Margotta for the report. It is an interim report, definitely not a final report. He read through some of his recommendations. The issues as he is seeing them, in his opinion they are not getting the information to the public that would qualify for these programs. The demographics he is seeing on their fair city are that they should have hundreds if not thousands of people that qualify for these various programs. So that is broken. He does not know how to solve it. There are a variety of ways, but those cost money. He did not see any radio spots in the way she is disseminating the information out to the general public. She sent an email blast, he doesn't know if that is going out to the churches or if it is just... It needs to be broader than it is. It can be on their website. He does not know if they can or cannot develop a policy that addresses how they balance being fair to their employees that would otherwise qualify for this program, with the general public. Knee jerk reaction is, they just disqualify the city employees from qualifying for these programs. That may be against the law, they may not be able to do that because of the rules of the program. But beyond that, is that fair to the employees? And he does have a responsibility to the employees. Another thing that was broken in the past is allowing city employees to review applications of other city employees, even if they are in a different department. He wouldn't even think they would need a policy for that, but apparently they do. They had city employees determining who is getting the money of other city employees and apparently determining the terms of the loan that other city employees got. Again, he wouldn't think that they needed a policy for that, but obviously they do. So in his opinion, those issues have to be addressed. As the investigation goes

further, he is sure Mr. Margotta will come up with other recommendations for improving how they deliver this service to the community. They are getting somewhere between \$3 million to \$11 million a year for these programs. It doesn't do them any good sitting in a bank and they need to get it out to the public. But they need to do so in such a fashion that the public trusts and has confidence that this money has been fairly disseminated to everybody.

Mayor Benton said after his discussion with Mr. Thiess the other day, he would ask that they add to the list flyers in the utility bill. Everybody in Fort Pierce gets one, so what better way to get a message out? The Weatherization Program worked very well getting the information out through the utility bills. It is a way to reach everyone.

Commissioner Alexander asked is there a cost associated to that?

Mr. Margotta said a printing cost.

Commissioner Alexander said he is very careful when he hears the words, against the law. That is where he brings it back to the dias. If it is against the law, why haven't they taken charge and corrected that?

Mayor Benton said because of the audits that are done yearly, he does not think they have done anything that is against the law. He thinks the problem is the public's aggravation when they see how slack the federal government is. Most of the programs that were handing out money after the hurricanes went by HUD guidelines. When they see the way HUD does business, to him it is appalling. But they are going by the rules that they set up. In some cases, they would have to give this money back. He does not think they have done anything wrong, he will stand by that. As far as the law is concerned, he thinks staff does an excellent job. But the guidelines are so slack with all these federal agencies, as they saw after the hurricanes, especially FEMA. FEMA's job is to get all this money out as quick as possible and nobody wants to give it back, so the guidelines are easy to go along with.

Commissioner Alexander said they are talking about a substantial amount of monies. Mr. Margotta's cover sheet says "Recommendation - Not Applicable". He does have recommendations? Where do they go from here? Is he going to come back with another report?

Mr. Margotta said he believes so. For the time being, he thinks it is safe to add it as an update until they Commission thinks they are heading in the right direction. He can certainly back off from there. It needs to be dealt with. But it is a fairly complex subject and it may take some time.

City Manager Recor said he is going to make a commitment to the Commission as the manager of this organization; and that is, they are not taking on this endeavor to simply appease the public interest that has been generated as of late, they are taking on this initiative to make their process better, and to

reach out to and be able to assist more people. As he indicated very early on in this process to Commissioner Becht, at the end of the day they are going to have a bigger better program as a result of this inquiry. For that, he thanks the public interest because it has pushed this issue to the top of everyone's agenda priority list. They are going to be better as a result of it.

Commissioner Sessions said from looking at Mr. Margotta's recommendations, he has in fact thoroughly reviewed all of the accusations under the strictest standard of scrutiny. When he looks at his recommendations, he turned stones, he has done his homework. He has really covered all issues and potential issues. He can't reiterate enough how important it is for them to take into consideration the policymakers and what their rulings and findings are, and that is the FHC. Until they in fact do so, he thinks it is premature. He thinks Mr. Margotta would feel more comfortable with waiting to get those recommendations before he proceeds even further with regards to what he is recommending to the Commission. He thinks it is vital that they have that element, their input in terms of what their investigations are, before they proceed with actually taking on these recommendations. He believes Mr. Margotta probably has some things covered here that FHC didn't even think about. He commends Mr. Margotta because he dealt with any potential issue.

Commissioner Alexander said they ask the public to partake in assisting them. They put everything like they are in a fish bowl. They televise every comment. Sometimes they get the opportunity to be able to disagree with each other. But they agree that they are able to do that. So their watchdog committees and their community, they should be watching, they should be commenting. But it shouldn't be like they are hiding anything from them because they ask for a paper trail. When they speak to one, they should be speaking to everyone. So if comments come in to Mr. Margotta or the City Manager, he should relay it to them in this forum.

Mayor Benton said they look forward to that report from FHC.

The next item was the Consent Agenda. Mayor Benton asked does any Commissioner have an item they would like to pull for further discussion?

Commissioner Alexander said Item #25a (Application for Public Funds) and Item #25g (Grant Agreement with Federal Department of Energy).

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

b. Request by Michael Cassens, Spot On LLC, for \$1,000 in Public Funds for Spot On's Riverside Reggae Weekend on November 27, 2009.

c. Award bid for Housing Rehabilitation Project for 423 North 16th Street to Emporium Homes Corp. in the amount of \$39,922.23.

(CDBG Disaster Housing Rehabilitation) Bid No. 5946

d. Accept 2009/2010 Agreement between the State of Florida Office of the Attorney General and the Fort Pierce Police Department for **Victims of Crime Act (VOCA) Grant** in the amount of \$42,150 for full-time victim advocate to provide assistance to crime victims.

e. Award contract for **Underground Stormwater Locating Services** to USIC Locating Services in the amount of \$50,000. RFP No. 5943

f. Authorize application to Florida Department of Transportation (FDOT) for **Keep America Beautiful Systems Grant Program** for litter control, community awareness, and beautification.

h. Approve Change Order No. 1 to Contract with Burkhardt Construction in the amount of \$2,730.66 to complete contract close-out for the **14th Street Bridge Replacement** at Moore's Creek.

The next item considered was Item #25a, which had previously been removed from the Consent Agenda: Request by Bob Swisher, Downtown Business Association of Fort Pierce, for \$11,000 in **Public Funds** for advertising Classic Car Cruise-Ins (October 2009 - January 2010), Holiday Downtown Shopping, and Bike Nites (October 15 & 22, 2009).

Commissioner Alexander asked they budgeted how much for advertising for the year?

City Manager Recor said \$15,000.

Commissioner Alexander said he is not against any of this. But his thoughts are, should this be coming from somewhere else? Because if they give them \$11,000 out of \$15,000, that does not leave too much more for the rest of the year. This organization does wonderful things on a continual basis. He does not want to deplete their advertising funds.

City Manager Recor said the Fort Pierce Redevelopment Agency has also assisted in this regard in years past. Unfortunately, the funds were not available in the FPRA this year. This budget amount is consistent with the amount that was approved in previous fiscal years, \$15,000 for the year. He thinks what has happened is, in light of the decline in resources in the FPRA, these organizations are now turning to the Commission for that very limited pool of resources.

Commissioner Alexander said his only concern is, it is only \$1,000 per event.

Commissioner Coke asked how many events are here?

Commissioner Alexander asked are they only allowed one event per year per organization?

Commissioner Coke said no. They funded any single organization many thousands of dollars, but they couldn't get more than \$1,000 for any single event.

Commissioner Alexander said he is not against this. Maybe they can find these dollars elsewhere. He is sure they are going to have more people coming before them for \$1,000 for advertisement. If they deplete it, so be it.

Mayor Benton said because of the limited funds, as soon as they notice it, the next organization that does stuff on a yearly basis will come in and ask for what is left. He does not know how they resolve that.

City Manager Recor said they could fund a portion of the request. His understanding is there are four Classic Car Cruise-Ins (\$4,000), a request for \$5,000 for the Holiday Downtown Shopping, and then two Bike Nites (\$2,000). They could grant \$500 for each of the Classic Car Cruise-Ins. The Holiday Downtown Shopping event, the DBA is asking for \$5,000. He believes it is eligible for \$1,000. But if they want to fund it at a certain level... He is trying to offer some alternatives.

Commissioner Alexander said that is not the direction he is going in. The request is \$11,000. He does not think they would be asking for that if...

Commissioner Coke said they do have a cap of \$1,000 per event. So if they have seven events, she would think the max is \$7,000. Is Bike Nite a DBA event?

Commissioner Alexander said if they ask for \$11,000, they can compromise with \$7,000. Evidently they need it or they would not ask for it. Can they find those funds from somewhere else - Chief?

Chief of Police Sean Baldwin said the City Manager took all his money.

Commissioner Alexander said they are talking about holidays in their downtown, he will not critique it.

Mayor Benton said they just need to decide how much. They could give away everything that is budgeted in one shot. He thinks they have to decide...

City Manager Recor said \$7,000 would be consistent with their past policies - \$1,000 per event.

Motion was made by Commissioner Coke, seconded by Commissioner Sessions, to approve \$7,000 in Public Funds to the Downtown Business Association of Fort Pierce, for advertising the Classic Car Cruise-Ins (October 2009 - January 2010), Holiday Downtown Shopping, and Bike Nites (October 15 & 22, 2009) at \$1,000 per event.

Those voting in favor of the motion were: Commissioners

Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

The next item considered was Item #25g, which had previously been removed from the Consent Agenda: Authorize execution of a Grant Agreement with Federal Department of Energy, Energy Efficiency & Conservation Block Grant Program (Recovery Act Stimulus Funding), for funding in the amount of \$186,300 to make energy efficiency improvements to various City buildings.

Commissioner Alexander said he thought they had spent these dollars.

City Manager Recor said this is actual Grant Agreement for the specific projects that the Commission identified.

Commissioner Alexander asked several various City buildings?

Ms. Christa Razem, Grant Writer/Administrator, said they have the memo which identifies these projects. They submitted an application with those projects several months ago. That application has been approved. Now they are just going through the process of the Agreement. These are the same projects they talked about before, before they submitted the application. The application is now approved and they have an Agreement so they can begin the work.

Commissioner Alexander asked Administration Funds - \$2,300? Are they paying their employees? So what is the purpose of the \$2,300?

Ms. Razem said as they went through the different projects, those were their estimated project costs. The grant amount was \$186,300, that is what the Department of Energy said they would give to the City of Fort Pierce. So that was just the leftover amount from their project costs, so they put that under Administrative Funds.

Motion was made by Commissioner Alexander, seconded by Commissioner Becht, to authorize execution of a Grant Agreement with U.S. Department of Energy, Energy Efficiency & Conservation Block Grant Program (Recovery Act Stimulus Funding), for funding in the amount of \$186,300 to make energy efficiency improvements to various City buildings.

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

City Manager Recor said Staff is going to initiate a text amendment to the LDR's in anticipation of the **Rail Station** to actually provide for the rail station as a use permitted in the Land Development Regulations. That text amendment will be on the November 2nd City Commission Agenda. Staff didn't actually bring that forward to talk about it, although they have talked about the concept of the rail station. They wanted to make sure they have everything in place to expedite the construction, once that is actually approved.

Commissioner Coke said she was at the **Tourist Development Council** meeting last week. The County has accumulated \$500,000 of capital improvement money, which is the 1/3rd of 1-cent of all the TDC money that can be spent north of Midway Road. They have been working on a grant process. She did let them know that she did not think it was fair, since Port St. Lucie spent theirs and the County spent theirs, so she thought that Fort Pierce should get their say. But TDC is opening it up to 501's and different organizations. Everybody is running around talking about this \$500,000. She is here to tell them that it is now \$400,000 because at the last TDC meeting they were approached with the possibility of the TDC using part of that money, the County coming up with a match, and then getting federal funding to expand the terminal building at the Airport. She couldn't think of a better thing to help promote tourism in their City and County than the expansion of their Airport Terminal. So they will be proceeding with that. The TDC Board asked if she would let all of them know that they did it.

Commissioner Sessions said after their Joint Meeting with the City of Port St. Lucie, the County Commission, and the FPUA Board, he wanted to share something with them. First of all, he felt somewhat hypocritical going to the table asking for something that they are guilty of themselves in terms of violating. They wanted PSL to establish a borderline, but yet FPUA has actually violated the gentlemen's agreement themselves by crossing the border. It is like what they call in law school unclean hands. He thinks it is incumbent upon them, just based on PSL's responses to the Joint Meeting, he thinks they need to rectify that situation if they want PSL to take them serious with regards to establishing a border. He thinks they need to give those accounts back to PSL. He knows they had discussion that during their workshop before that joint meeting, but it wasn't brought up during the joint meeting; but he thinks they need to consider that. If that is something they want Port St. Lucie to abide by, then Fort Pierce needs to come to the table with clean hands. Right now he feels like a hypocrite because they are asking them to do something that they are guilty of.

Mayor Benton said they had discussed that. They are only talking about three or four facilities and he believes those are all non-profits. When it was done years ago, they needed water and sewer. The FPUA just went underneath the road. He thinks the intent was, when PSL could serve them, FPUA would just turn the lines over to them. Also, Tropicana is being served by Port St. Lucie on the northside, so... He does not think there would be any objection for FPUA to turn those over to Port St. Lucie.

Commissioner Becht said he would want a report back from FPUA before he agreed to that idea. He thinks there has been poor behavior on all three sides. On that specific issue, he would like a report back from the FPUA.

Commissioner Alexander said he understands an **FPUA Board** member resigned.

Mayor Benton said Tom Perona has stepped down. If applications

can be brought in to the City Clerk's office by next Wednesday...

City Clerk Steele said no later than 12:00 Noon next Wednesday.

Mayor Benton said that way those can be in their agenda packet for the November 2nd meeting for accepting the applications, so they can make an appointment by the last meeting in November. So anybody that would like to have an opportunity to sit on the Fort Pierce Utilities Authority Board, there is an opening.

Commissioner Alexander asked they will make the appointment the last meeting in November? Why can't they do it the first meeting?

Mayor Benton said because the way the rules are, they accept the applications at the next meeting and they make the appointment at the following meeting, for all boards.

Commissioner Becht said they have alluded tonight to a subpoena. He is led to believe that 17 City Employees and all 5 City Commissioners have been subpoenaed for a trial. He wants to talk in general terms about this. He does not think the public understands sometimes how and why a lawsuit might get settled. Recently with a decision the City Commission had control over, they collectively decided to go to trial on a case and they won that case. More recently they had another situation where they had an insurance company involved and the insurance company didn't want to go to trial. Since it is the insurance company's checkbook, the case got settled. But there is more to settling lawsuits than just the dollar payment. They literally have 17 people that have been subpoenaed to appear at a trial. His knowledge about this is limited and what he knows comes from City staff, so why would they need him to repeat what he heard from City staff. But it is this tying up City staff with lawsuits that prevents them from fulfilling more efficiently the people's work, the work of the City. He wanted to point that out, because there is a cost to these... He is not going to call it a frivolous lawsuit. But the fact that a sitting U.S. Attorney would subpoena all of them is, in his opinion, an egregious breach of good conduct. He is going to suggest this - and they are going to think he is being sarcastic - but as far as he is concerned, to the extent Mr. Schwerer is involved in this lawsuit, he can subpoena the Executive Director for any Agency that is involved in this process and all of the members to their staff, because they are going to know about as much about this lawsuit as he does, so they might as well be there too. Then Mr. Schwerer can hopefully work reasonably with this U.S. Attorney that thinks that she can willy-nilly subpoena all of them to appear at a trial in two weeks.

Commissioner Alexander said he does not think it is lackidaisy on their behalf, their management. But he has a problem when they don't take care of business in-house. Some of these lawsuits they have had to settle could have been settled right here. He does not like to be put on the spot of not necessarily being subpoenaed. But when he reads from day to day, that means he might have to be there all day every day until its

conclusion. That is not fair to his livelihood. If they don't take care of business right up here through their City Manager, then he is not very pleased about that.

Mayor Benton said there are two sets of rules in this country - one for government and one for the private sector. Three-quarters of these lawsuits would have never been seen in the private sector. But when it comes to government, everything they do becomes something an attorney is going to chase down and take them to court for that they have to respond to. So if anybody wants to know what their Legal Department has such a high expenditure, it is because of all these absurd ridiculous lawsuits.

There being no further business, Mayor Benton declared the meeting adjourned at 11:15 p.m.

Adjournment.

ATTEST:

CITY CLERK

MAYOR COMMISSIONER

