

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 20, 2008.

Mayor Benton called the meeting to order.

Dr. Willie Russ, Miracle Prayer Temple, 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 Minutes of the Regular Meeting on October 6, 2008.

Motion was made by Commissioner Becht, seconded by Commissioner Coke, to approve the Minutes of the Regular Meeting on October 6, 2008.

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

Mayor Benton issued a Proclamation for NATIONAL BUSINESS & PROFESSIONAL WOMEN'S WEEK from October 20-24, 2008.

Ms. Peggy Murphy, President of Fort Pierce Professional Women's Week, said this week is National Business & Professional Women's Week. They are actually members of a national organization known as the National Federation of Business & Professional Women's Club. These are some of her members from the Fort Pierce Chapter. There are chapters in all 50 States. They are honored to be here in front of the City Commission this evening.

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

Letter from Hosely Gibson thanking Public Works Director Bob Hood, Deputy Director Nick Mimms, and Foremen Vincent Ricketts and Vasco DaSilva for their quick response and professionalism.

Ms. Arden Peck, South Beach Association, said on behalf of the Association, she wants to thank the City for their sponsorship of the advertising for their first annual Pops In the Park. Their purpose for this event is to showcase, for those not accustomed to crossing the bridge, their spectacular new and improved beach parks. There are currently six parks that are either completed, near completion, or in the pipeline on the beach. They commend and thank the City for their commitment to provide quality parks, or what she calls outdoor living rooms, even in these trying times they are in. Pops in the Park is on Saturday, October 25th, with a rain date October 26th, from 2:00 p.m. to 5:00 p.m. at Jaycee Park. They have a great band - two women from South Florida who play everything from oldie goldies to classic rock, swing, show tunes, whatever. So come, bring your seating, coolers with soda, water, pops please only, and snacks. Come tap your toes or dance. Public Works has said the pavilions, which they have all reserved, the flooring has been brought up to competitive dancing standards. They thank Public Works, they are all encompassing, they know everything and they can do everything.

Ms. Carole Mushier said she wishes to speak on Agenda Item #24, the Analysis of the Special Magistrate and Code Enforcement Board. She supports the Staff recommendation to eliminate the use of the Code Enforcement Board. Let her give her experience in this area that she believes qualifies her to speak to this issue. For a number of years she served as the South Beach Association's Code Enforcement Committee Chair. Among other duties, she attended Code Hearings before the Special Masters and Code

Enforcement Board when properties on the beach were involved. As President since March of 2007, she has continued to attend these hearings when appropriate. So she does have some experience in observing the differences between the Special Magistrates and the Code Board. She concurs completely with the findings and recommendations of Staff. The elimination of the Code Board is a simple and short answer to the concerns raised. While she is not a fan of always finding out what other cities do before Fort Pierce acts, it is interesting to note that several months ago Port St. Lucie did just that. Port St. Lucie had a dual system similar to Fort Pierce; and determined that in the interest of efficiency, cost, and fairness, they would go completely to a Special Magistrate system. While some might argue that a Code Board represents a jury of one's peers; in practice, the Board attempts to act as judge, jury, prosecutor, and defense counsel - a most cumbersome and time-consuming role. A training seminar for the Board is an interesting notion. Many of the Board members have been on the Board for a number of years, yet she has observed that they ask the same questions of the City Attorney as to procedures, drafting of proper motions, and applications of rules and policies over and over again, something a seminar will not cure. Watching the Code Board is like watching grass grow - a very painful process. Unfortunately, as stated in the July 14, 2008 Staff Report: Codes are not uniformly applied by the Board, despite counsel, and enforcement is often determined by group dynamics or personal feelings instead of legal interpretation of the Code. The bottom line for these hearings is to determine: (1) Does a violation exist; (2) Does it still exist; (3) How much time will be given to come into compliance; (4) Are there mitigating circumstances; and (5) The amount of the daily fine if compliance does not occur within the time frame. The Special Magistrates, in her opinion, deal with these issues in an efficient and fair manner. The Code Board takes three times as long, wastes Staff time, costs more money, and does not always arrive at a legally defensive position.

Mr. Greg Bader said he is with Artisan Building. He has been following The Oaks at Moore's Creek redevelopment. He spoke at the Fort Pierce Redevelopment Agency meetings a couple of times. He is here to talk to them about the short list. He understands that is coming up on the Consent Agenda. He understands it came down to three builders. One of them is Hartnett Building Group LLC, they are from right here in Fort Pierce; one is RP Witt Construction, Inc. out of Jacksonville, Florida; and then they have S&V American Contractors Inc. S&V lists Fort Pierce as an address, but as he checked on their license and corporate papers, they are out of Hollywood, Florida. That is where he seems to have a little bit of a problem with that. As he said in the FPRA meetings, it seemed clear that a lot of members on this board were looking to have local builders participate in this project. He would suggest that they remove it from the Consent Agenda today and place a little greater weight on the builders who are here locally in town instead of sending one-third of that money out to Jacksonville and one-third down to Hollywood. Additionally about himself, Artisan Building, they were encouraged pretty aggressively about two years ago to come to Fort Pierce and participate in the redevelopment. They took them up on that and they are here. They invested in some property in the Moore's Creek area, they built a model house at 904 Avenue C, and they are very interested in the area. A little more than two years ago, five houses came up for bid by the City. Three people bid on them. He was one of the three. None of these 25 bidders on this list were here two years ago. He thinks that is kind of important. He just wanted to bring that up to them, ask that it might be removed from the Consent Agenda until they had a chance to see that the local people can participate a little more on this. He would say that better than 90% of the people who subcontract and work for Artisan Builder are from right here in the City of Fort Pierce and the rest are in St. Lucie County. He can only think actually of one person who lives in Vero Beach. He just wanted to bring that to their attention. Hopefully it can be re-evaluated and get some local people involved there. That is a lot of money to be shipping to other cities.

Commissioner Alexander asked did he say he is from Fort Pierce?

Mr. Bader said he lives in Port St. Lucie. Everybody that works for him, 90% or better, are right in Fort Pierce. The rest are in the County. He recalls that was an important thing in the early stages, they had an interest in that.

Mr. Marty Laven, 2400 South Ocean Drive, Ocean Village, said he comes to the Commission tonight as the President of the Marine Industries Association of the Treasure Coast, Inc. He also should identify himself as a licensed real estate broker who pays taxes here in the local municipality. Although he doesn't entertain clients in his place of business, he thinks it is his responsibility to do that. He also has a third company and does some consulting to marinas and boat yards, with an office in Fort Lauderdale. He is here to talk to them tonight about Amendment 6. It has been very contentious and very difficult for a lot of the public bodies to determine what their position should or shouldn't be on amendments that are before them. He had the opportunity to hear Mr. Wilkinson, the Lee County Property Appraiser, the other night when he was in Tampa talk about Amendment 6. Mr. Wilkinson actually was the one behind Save Our Homes some number of years ago. He has spoken with people here in the community - Mr. Dean Kubitschek, the Marina Manager. They have some of their folks here with them tonight, the Executive Director of the Association as well as Mr. Blazak from Culpepper & Terpening with Harbortown. They have had support from the cities and municipalities around them - Indian River, Stuart, Martin County. They have talked to the Chamber of Commerce here. He thinks it is particularly difficult for anybody in a position of public trust to talk about any tax issues right now. Let him tell them why he thinks they ought to consider this resolution and why it would be a benefit to Fort Pierce and to the citizenry. The long and short of it, it is all about jobs and public access. They have probably noted a downturn in the marine industries to disposable income business. He can't tell them what the chapter and verse is on the folks here in town; but the bottom line is, there is a lot of pressures on them. The added pressure of being taxed unfairly at the highest and best use as condominiums as opposed to their current business is more an issue for folks who have fish, bait, and tackle shops, waterfront property, and the like. All he can tell them is that it is not too often - every 20 years - they have a chance to get something they think is important to right the ship. This is important to the businesses in this community and to the jobs and to public access for everybody. He knows it is on their Agenda later as Item #20 and he doesn't know its disposition at this point. But he just wants to encourage them to consider it. Amendment 6 is basically fairness, it is about jobs, it is about the economic multipliers. The bottom line is, if some of these businesses go out, they won't have the taxes from them whether it is more or less. He thinks those are important issues. He appreciates their forbearance on this item tonight.

Mr. Richard Sinnott said everybody knows his position on this red light traffic light thing, so he doesn't want to bore everyone. He knows Commissioner Alexander did receive a letter he sent and he trusts that everyone else did, so he is not going to be redundant. He sees it is on as Agenda Item #21 tonight. But it appears from what it says here that there won't be a vote on it tonight. Is that correct?

Mayor Benton said what he is looking for tonight is to see if there are three Commissioners who want to go out for proposals on this. They have debated it, they have heard presentations. Now it is time to decide, do they want to go in that direction or not?

Mr. Sinnott asked so far a proposal has not been sought?

Mayor Benton said no.

Ms. Mary Plain said she resides at 305 North 31st Street. She had a fine last year to this year. She is trying to waive the fine because she is on a fixed income. She won't be able to pay that fine they gave her of \$1,350.

Mayor Benton said there is nothing the Commission could do up here now. It is on the Consent Agenda, they can have that discussion then when that item comes up. Does she have the ability to stick around for a little while? If it is something that could be paid for over a period of time, that is the recommendation that has been made to the Commission.

Commissioner Alexander said they can resolve it at that time.

Mayor Benton asked was this an agreement that had come up at the Code Board meeting or the Special Magistrate?

Ms. Plain said yes.

Mayor Benton asked now, with that agreement, she couldn't live up to her end of it?

Ms. Plain said no, she sure can't, because she is on fixed income and nowhere can she be able to afford that.

Mayor Benton said when that item comes up, if a Commissioner pulls that for discussion, they might ask her to come on back up.

The next item on the Agenda was Public Hearing on Application for **Waiver of Distance** submitted by Charles & Mary Jackson to obtain a 2-COP license to sell beer and wine for consumption on premises in **CNC Soul Food Restaurant** at **1143 Avenue D**; said property zoned C-3, General Commercial Zone.

Mr. Paul Williams, Urban Forester, said Section 3-7 of the City Code prohibits the City from granting approval for the sale of alcoholic beverages by retail for consumption on premises where the establishment is located within 1,600 feet of other licensed establishments, churches, or schools, unless a Waiver of Distance is granted. The applicant is requesting a 2-COP license to serve beer and wine for consumption on premises. The establishment is located within 1,600 feet of other licensed establishments, churches, and a private school. This aerial photograph shows the location of the property. The numbered boxes are the churches, the lettered boxes are establishments, and the one box marked "S" is the private school.

Commissioner Alexander asked does he know whether that school is still open?

Mr. Williams said no, he doesn't. He was there today and...

Commissioner Alexander said it looks like it has a "For Sale" sign in front of it.

Mr. Williams said he didn't notice that, but he would take his word. He just wanted to include it, since it does have the description of the school painted on the front of the building. Again, that was a private school as far as his records show. The property is in the C-3 zoning district. It is surrounded on all sides by C-3, except for the south which is adjacent to R-4 zoning and separated by Lincoln Place. This photograph shows the exterior of the existing establishment where landscaping has been added in the parking lot and brought up to code. This is a floor plan showing the 40 seats and kitchen area that is required as part of the Waiver of Distance process. Property owner notifications were mailed to property owners within 500 feet. 167 notifications were mailed out. As of today they have received 14 responses - 10 which approve the Waiver of Distance, 4 which oppose. All affected departments have reviewed the proposed Waiver of Distance and approved it based on it meeting the requirements of the City Code. The Planning Board recommended approval of the Waiver of Distance at their September 9, 2008 meeting. As the proposed establishment does not appear to adversely affect community health, safety, or general welfare, and meets all the requirements of City Code criteria, Staff recommends the City Commission approve the Waiver of Distance for a 2-COP alcohol beverage license for the proposed establishment.

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 declared the Public Hearing closed.

Motion was made by Commissioner Alexander, seconded by Commissioner Coke, to approve the Waiver of Distance for Charles & Mary Jackson to obtain a 2-COP license to sell beer and wine for consumption on premises in CNC Soul Food Restaurant at 1143 Avenue D.

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

City Clerk Steele said Agenda Items #10 through #18 are annexation ordinances. They have a bit of housekeeping to do first. The City Manager is requesting that Item #13, Ordinance No. L-47 (Annexation of 5300 & 5520 Glades Cut-Off Road), be postponed to the December 1st City Commission Agenda in order for the Planning Department to complete a Zoning Text Amendment which would coincide with the annexation of this property. So Ordinance No. L-47, they would need a motion to postpone.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to postpone Ordinance No. L-47 to the December 1st City Commission Meeting.

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

City Clerk Steele said next, she is just going to read Ordinance Nos. L-44 through L-51 for the Commission to act on. When they get to Ordinance No. L-52, they will be flip-flopping (a) and (b) to take care of that issue.

Ordinance No. L-44 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **LOT 6, BLOCK 1, SURFSIDE PLAZA**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2009; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Paul Broome)

Ordinance No. L-45 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **3315 DELAWARE AVENUE**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2009; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Poornawattie Tiwari)

Ordinance No. L-46 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **4171 ORANGE AVENUE, 4301 ORANGE AVENUE, AND 4753 ORANGE AVENUE**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2009;

DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Donnini Enterprises, Kel-Joe Enterprises, Juli Arnold)

Ordinance No. L-48 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **2206 SOUTH 34TH STREET**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2009; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Banana Fields, Inc.)

Ordinance No. L-49 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **5125 PETERSON ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2009; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Walton Peterson LLC)

Ordinance No. L-50 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **604 WEST MIDWAY ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2009; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Port St. Lucie Ventures, Inc.)

Ordinance No. L-51 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **603 WEST MIDWAY ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2009; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Michael J. Huber)

Mayor Benton declared a Public Hearing in session on Ordinance Nos. L-44, L-45, L-46, L-48, L-49, L-50, and L-51, 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 Session, seconded by Commissioner Becht, that Ordinance Nos. L-44, L-45, L-46, L-48, L-49, L-50, and L-51 be passed on second and final reading.

Those voting in favor of the passage of Ordinance Nos. L-44, L-45, L-46, L-48, L-49, L-50, and L-51 on second and final reading were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

The next item on the Agenda was (b) Authorize execution of Annexation Agreement between the City and Zentex Ventures Ltd. setting forth guidelines and agreement with respect to the annexation, development, and use of the property; and (a) Ordinance No. L-52, Annexation of 77 acres located west of Sunshine State Parkway, south of Okeechobee Road, and north of Ten Mile Creek.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to authorize execution of Annexation Agreement between the City and Zentex Ventures Ltd. setting forth guidelines and agreement with respect to the annexation, development, and use of the property.

Mayor Benton said on the record, he has met with the developer and his attorney.

Commissioner Becht said as has he.

Commissioner Coke said as has she.

Commissioner Alexander said so has he.

Commissioner Sessions said yes.

Mayor Benton said he has a problem with the Agreement. On Page 3, Paragraph (4), it basically says they are going to allow 616 multi-family rental dwelling units. He knows that is if the plan is approved. But he had a little heartache when he saw the plan. It could have been home-ownership, he would have felt a lot better. That is a lot of rental units in a country estate neighborhood. He just has some concerns with that. Are they legally held to all the language in this agreement?

City Attorney Schwerer said first of all, he thinks there is a revised version of this; but this provision remains the same. The title of the agreement is: Annexation Agreement and Non-Statutory Developers Agreement. That had been changed (from: Annexation Agreement). There were two clauses that were deleted at his request, Paragraphs (10) and (11) of the draft that is in front of them. He just wanted the Commission to understand that has taken place. As to Paragraph (4), basically that is a statement of the land use. This Commission is not binding itself that it is going to approve a multi-family rental dwelling subdivision of approximately 616 units. That would depend on the Site Plan that comes before them. So this does not preempt their discretionary ability. All this is, it is a statement of what Zentex proposes to develop the property with, and the City's acknowledgment that it is consistent with the County's land use of the property as mixed-use development and the City's land use of mixed-use development. So they are stating it is consistent. When they come in, they still understand they have to go through Site Plan approval.

Mayor Benton said he just wanted to clarify that, because he hasn't seen an agreement in the past in 13 years come in front of them before an annexation. He wants to make sure they are not held to 616 rental units, because nowhere does it define in the codes those have to be rental units. Right?

City Attorney Schwerer said that is correct.

Commissioner Becht said he thinks they are going to see a change with the annexations as they move forward. He thinks they are going to see a lot more of these agreements. They have not had a situation of this magnitude with this piece of property. Keep in mind that it is almost 80 acres. It does about the Turnpike, if he recalls correctly. He thinks the important thing for tonight's consideration is that they are not bound to anything other than they are annexing it and they are agreeing that the County zoning applies to it. And under the County, they would be entitled to 616 multi-family rental dwelling units provided they met all other provisions of the code. So they are not bound to anything other than acknowledging that they had certain rights, which they are going to have in the City.

Commissioner Alexander said he remembers when they came before them with an annexation and he is thinking they are outside the City limits. He remembers asking this Commission when they annex this type of properties in here, are they going to be able to allow to utilize the variables they had coming in? They all agreed to that. Commissioner Becht is the land man and Mr. Schwerer says the same thing. Again, he doesn't want to vote for something they are going to give again that mean face, the City of Fort Pierce not being a kind city. He has said that a couple of times. Again, he is saying the same thing. They are not going to allow individuals to do what they can and are allowed to do, then there is no need to pass 77 acres. What do they think they were going to put out there, a horse and buggy ranch or something?

Mayor Benton said he doesn't believe the County ordinances or codes or the City's defines whether a residential unit is rental or ownership. When somebody is going to develop land, that is a question the Commission asks them. He has never seen rental versus home-ownership in their codes.

City Attorney Schwerer said that is correct. But the applicant's counsel is here if they want to direct anything to her or her client. But this is a statement of what Zentex proposes to develop. All the City is acknowledging is that what they propose in a general concept is something that is consistent with their mixed-use development plan. Certainly he does not think the applicant stands before them expecting this is a carte blanche or even an approval of what they are going to do. They understand they have to come before the Commission under the Site Plan approval process and comply with all codes of the City.

Ms. Cynthia Angelos said she is here on behalf of the applicant. Actually she is glad Mayor Benton raised that point, because this is truly a voluntary annexation on the part of the applicant. They are not seeking utility service from the City, they are outside the FPUA's utility service area, so presumably the County would be providing service. Again, this is truly a voluntary application. It is important to the property owner that in concept the Commission is agreeable to what they are proposing on the property. That is why this Agreement is to be before the Commission before the annexation. Because if the Commission at this juncture has a problem with it, in all likelihood the applicant will ask that the Annexation Ordinance be removed from the Agenda. The number of units are certainly part of the Site Plan approval. But what is important is, the land use on that property is mixed use - it is mixed use in the County, it is mixed-use in the City. When they come into the City, mixed use will allow for really nothing but multi-family development and some commercial, if that is the zoning they plan to come in with. What they plan to do is come in with an application, because they don't want to hang out there with a zoning that the City does not have. They are currently AG-1 zoning. The City doesn't have AG-1 zoning. She is prepared to file the application tomorrow for a multi-family zoning comparable or consistent with the Future Land Use (MXD). Of course they have discussed all this with

Staff. They submitted a conceptual plan. They have gone to a Technical Review Committee with all members of Staff, which the process is really a fabulous one. But in concept, if the Commission has a difficulty with what they are proposing, now is the time to tell them. They are not going to do anything that is inconsistent with the comprehensive land use designation in the City and the County. But if there is a problem, please let that come out in the discussion so they will know that now.

Mayor Benton said that is why he brought it up.

Commissioner Coke said she wants to get some clarification that what they are doing in essence here is guaranteeing these people development rights that would be consistent with what they would have had if they remained in the County.

City Attorney Schwerer said he doesn't like the word guarantee; but what they are stating plainly is, they have the same development rights they had in the County and that it is consistent with City codes, correct.

Commissioner Coke said point of fact is, they have had some instances previously where the City codes and rules did not quite meet up with the times that were necessary, and they need to make some amendments there. Quite frankly she has met with them several times, more times than they needed to meet. The plan for out there is going to be... When they talk about rental property, they have talked on many occasions that they have an abundance of rental property. Every time, she tries to go back to the same point that she really doesn't think they have an abundance of quality rental property. They have an abundance of substandard rental property that she wouldn't let her dogs live in. Until they get some rental property that is quality where they can have people live, she thinks at this juncture in time when they are looking at... This economy is not going to stay like this forever, it is going to stay this way for a few years. But IRCC is now IRSC, so they are going to have an influx of teachers and workforce people there. They are looking at expanding the research park areas. She thinks they are going to have a desperate need for some quality rental units. She thinks this is the perfect location for it. So not only is she going to support this amendment, but she is going to support it when it comes through again.

Commissioner Alexander said if they are looking for some consistency, he is going to be supporting it also.

Commissioner Sessions said if in fact the developer has a plan with anticipation of this being mixed-use and rental property, he doesn't want to sit here and smokescreen with them and agree in concept, and then look at them in the face when it is time to put up the money and tell them no. So he is going to let them know up front that he is in support of it with the anticipation of it coming back for purposes of being rental property. He may not necessarily agree with the numbers, but certainly the concept and the idea.

Mayor Benton said he has given his opinion. He knows there is literally thousands of rental units in Fort Pierce at some real high quality. There are quite a few units in Harbour Isle alone. Half of the condos in Fort Pierce that they can't sell are now rentals.

Commissioner Alexander said they are talking about people on fixed income. Those are individuals who can be subsidized. He looks at the northwest section and they can tear down half of those houses over there. But people have to have somewhere to stay. They get beat every day with \$600, \$700, or \$800 for a one or two bedroom dump. He calls them dumps. They don't like it? That is just his opinion.

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

Ordinance No. L-52 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE APPROXIMATELY 77 ACRES OF PROPERTY GENERALLY LOCATED **WEST OF SUNSHINE STATE PARKWAY, SOUTH OF OKEECHOBEE ROAD, AND NORTH OF TEN MILE CREEK**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2009; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Zentex Ventures Ltd)

Mayor Benton declared a Public Hearing on Ordinance No. L-52 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-52 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. L-52 on second and final reading were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

The next item on the Agenda was Mr. John Donahue, Boyle Engineering, to give State Road A1A Status Report.

Mr. John Donahue, Boyle Engineering, said they are done. They submitted their preliminary final plans to Staff. Staff is reviewing it and will give them back their comments. They expect those will be minor. And then they will make the final submittal to FDOT and the South Florida Water Management District. The Commission doesn't have to see him once a month any more.

Commissioner Coke asked does Mr. Schwerer have in his office for review an agreement from the Pelican Yacht Club on the easements necessary?

City Attorney Schwerer said yes, he does. He and Mr. Fee are working on that and comments will be provided.

Mayor Benton asked the Harbour Isle Roundabout, where are they with that?

Mr. Jack Andrews, City Engineer, said they have a pre-construction meeting scheduled for Phase 2B and for the Roundabout, so they are getting closer to it.

Mayor Benton asked at that point they will have a construction start date?

Mr. Andrews said yes, they will.

Mr. Donahue said that pre-construction meeting is October 23rd, this week.

Commissioner Sessions asked who is going to pay for it?

City Manager Recor said they haven't resolved that yet.

City Attorney Schwerer said that issue is not 100% resolved. They have some disagreements with the developer. Suffice it to say there are some disagreements

concerning the roundabout and there are also issues concerning some building permit fees that they are currently discussing to try to get an idea of what the developer's final position is going to be on that.

Commissioner Becht said his recollection is there is a letter of credit that the developer put up for the roundabout. What is the dollar amount of that?

City Attorney Schwerer said it is some \$680,000.

Commissioner Becht asked the projected cost to build what they think they might be able to finally get approved is?

Mr. Andrews said \$1.2 million.

Commissioner Becht said they are looking at somewhere between \$500,000 and \$600,000 in additional cost for the roundabout, independent of the building permit fees.

City Manager Recor said which coincides with the amount the developer believes he is due.

Commissioner Becht said oddly enough.

City Clerk Steele introduced the following resolution by title only:
RESOLUTION NO. 08-47

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, TO SUPPORT THE PRESERVATION AND PROMOTION OF WORKING WATERFRONTS AND PUBLIC ACCESS TO NAVIGABLE WATERS OF THE STATE AND SPECIFICALLY THE PASSAGE OF **AMENDMENT 6** ON THE BALLOT IN THE NOVEMBER 2008 ELECTION."

Mayor Benton said he put this on the Agenda to support the Marine Industries Council, not only on the Treasure Coast but throughout Florida, to keep their working waterfronts alive. That is why it is in front of them tonight.

Commissioner Becht said he has some questions. This certainly and unfortunately would appear to help friends of his, but the questions he has relate to his job as a City Commissioner. If this passes, what is the financial impact to the City based on the number of working waterfronts that are currently within the City and the working waterfronts that are expected to be in the City? Do they have an answer to those questions?

City Manager Recor said no. The City has not done any kind of financial impact or assessment.

Commissioner Becht said he is not going to say how he is going to vote on Amendment 6 when he goes into the booth because he really is not prepared to say how he would vote. The question he has with his City Commissioner hat on is, how will it affect the City financially? That is a direct financial impact. The Mayor has mentioned jobs. The gentleman who came up earlier under Comments from the Public mentioned jobs. That is a secondary financial impact. If they lose those jobs and those properties become condos, then they have lost something. But he is not sure... The gentleman who spoke earlier also mentioned that the sponsor of this is the same fellow who came up with the wonderful idea of Save Our Homes amendment, which has been a disaster for municipalities and counties. He doesn't know that it has been a wonderful thing for residents, there are a lot of problems that could be traced back to that amendment. So this one scares him because he doesn't have the analysis from his staff or anybody other than the marine industry. The marine industry is definitely going to benefit from it. But he doesn't know what the impact is to the City or the State. So he is not prepared to vote on it without a staff analysis of what the dollar cost to the City is on current rolls and a best guess crystal ball estimate on what

the impact would be the last time. Again he wants to go on record, he is not saying this is a bad amendment, if he was a voter. What he is saying is, as a City Commissioner, he is not prepared to vote on it without having the financial details on knowing how it affects the City. He might vote one way as a City Commissioner and another way when he goes into the voting booth.

Commissioner Alexander said he just wants to explain to the public, sitting here reading this Amendment, he doesn't have anything here stating to him what kind of jobs are coming here on behalf of this and what kind of cost is it going to be to the City of Fort Pierce. He is just looking at someone trying to get kudos for saying yes on an Amendment. He is not ready to vote on supporting that either.

Mayor Benton said a lot of the marine industry businesses are basically being taxed out of business - the boat yards, the commercial fishing docks. That is the history of Fort Pierce and the Treasure Coast. When they are taxing them comparable to that ten story condo... Luckily they don't have any. But if they compared the taxable to the Renaissance building versus Cracker Boy over there, they would be putting them out of business. Right now it is hard enough to get a boat pulled out of the water. They can't very well pull a 60-foot boat out of the water and drag it a few blocks. They have to pull it out of the water and work on it right then and there. Basically it is really putting a lot of the boat businesses out of business in Florida. It is saving the working waterfront he guesses they can say what this Amendment is trying to do.

Commissioner Alexander said he is an avid fisherman. The Mayor just said something in 30 seconds that people going in to vote yes or no, they have more input on it. Again, they are not creating jobs, they are just saving the jobs they have.

Mayor Benton said they are trying to save jobs.

City Attorney Schwerer said traditionally his office has always advised the Commission that if they take a stand on an issue that is political in nature... Because this one would be that there are groups and politics and debates and money on both sides of this being debated every day. If it is an official statement of the City of Fort Pierce, then perhaps the Commission should consider it if they are unanimous in their opinions, because some of them may not be unanimous on this issue. So they have always advised the Commission that unless they feel unanimous about a particular position on a political issue or an issue like this, that perhaps the better practice is to refrain from making an official City of Fort Pierce statement on that matter.

Commissioner Coke said she has always been in support of commercial fishermen for many years. She has concerns with her Commission hat on. Number one, they don't know what the fiscal impact of this would be to the City. They are already struggling with some of the other things that have passed. Secondly, she was very surprised to see this on the Agenda as a resolution, rather than a discussion of whether or not they wanted to have a resolution. In the past they have talked many times about staff is always under the gun and overworked and everybody always jokes about the black hole at the City Attorney's office. She thought they had reached an agreement a couple of years back that if they wanted to do a resolution, the first step is the same for the Commission and the same for Staff. Before they went through the time, effort, and energy of drawing it up and putting it into a resolution form, they should discuss it. Because they may have been able to make some modifications or suggestions up here as a Commission that everybody could have lived with. At that juncture in time, if they had that discussion, they could have brought up the discussion about the financial impact; and it might have been easier to move forward this evening if that were in fact the case that the majority of them wanted to. She quite frankly doesn't think it is fiscally responsible for them to move forward without having the facts and figures attached to this. They saw what moving forward with Amendment I did. Everyone was told it would not affect law enforcement, it would not affect the services that are

provided. And now, they are struggling to provide them. She can't really as a City Commissioner support this until they know what the impact would be.

Mayor Benton said the reason it is on the agenda, this came from the Marine Industries Council, it was a request from them. This is a resolution that has gone around to all the local governments in the State. This is not something the City of Fort Pierce drafted up. They just took the generic one and put his name at the bottom of it. If it is something that the Commission would like to be brought back, he knows the time frame before the election is less than a month. That is why it is here tonight for discussion.

Commissioner Becht said this is an important issue. But they don't even have attached to this the actual proposed amendment, it isn't in their packet. He thinks it is such an important issue that he would like it brought back, even if it is brought back after the election. Now that may seem silly - the time to vote has come and gone. But the time to influence their Legislature has not come and gone. When is the election? Do they have another meeting?

Mayor Benton said November 4th.

City Clerk Steele said their next meeting is November 3rd.

Commissioner Becht said he would like to have a staff report back on what the effect of this amendment is. But even if it is a negative impact, he thinks they could ask the Legislature to address the issue, because preserving working waterfronts is important. He is just not sure this amendment accomplishes that. He is sure it accomplishes some tax savings for these properties. But their goal is to keep the jobs there, not just to save taxes. They are being told that if they save them taxes, they will preserve the jobs. As much as he hates to say this, he thinks maybe through proper legislation, not through this amendment, that they might be able to accomplish what they want, which is to preserve the jobs. He noticed in the language in here they talk about preserving public access to the waterfront. He could be totally wrong, but he doesn't remember reading that in Amendment 6. He remembers there is the tax savings. Maybe what they want to do is say, because of that the public will have access to this waterfront; as opposed to what he thinks they are saying is, if they let them have a working waterfront, there won't be condos there and then they are going to have access to their waterfront. He doesn't think there is anything in Amendment 6 - and he could be wrong - that says they have access to the water and they are going to preserve their public access. It could be about preserving jobs. He is not prepared to vote on it tonight as a Commissioner. When he goes in the booth he may vote for it. He doesn't want to slam the idea, he just needs more data. He would like more data back in two weeks.

Commissioner Sessions said looking at the amendment and the resolution, it may somewhat differ he guesses. He agrees with the language personally in the resolution. But he just doesn't feel comfortable sitting here with his City Commissioner hat on, using it as a point of persuasion on a political issue. So he would leave it up to the individuals in terms of making a decision. He thinks when they should have come forth and passed a million and one resolutions with regards to Amendment 1, they failed to do so. But this particular one, he is comfortable with letting the voters decide. He just doesn't want to use his Commissioner's hat to try to persuade the voters from a resolution standpoint with regards to a City Commissioner trying to persuade them one way or the other, even though he does like the resolution. What he does after he leaves these doors in terms of persuading individuals is his business personally. But he is just not comfortable with doing that from this standpoint.

Mayor Benton said that is why it is here. Would the majority like this brought back at the next meeting with input from Staff? (The Commissioners agreed.) It is the night before the election, so if it is going to get any attention, what better time one way or the other?

The next item on the Agenda was Mayor Benton request update regarding Red Light Cameras for traffic control.

Mayor Benton said they have had a lot of debate and presentations. He was looking to see if the majority of the Commission would like to go out for RFP's on this item.

Commissioner Coke asked do they have a report from the Chief?

Mayor Benton said no. They were told they were going to have a report, but they are not ready for a report yet. It is another one of those items where they have talked about it and talked about it and they have heard hours of debate. There are three companies out there that he knows of that do this. If they go out for proposals, he is sure the Chief is ready to make a presentation probably as those proposals come in.

Deputy Chief of Police James Nygaard said yes. They have had communication with the City Attorney, trying to clarify some legal points. They are in preparation for a presentation, it is coming forward, but they need to get some answers from the City Attorney's office first.

Commissioner Becht said he is confused. He thought they were waiting on the Chief and the City Attorney to confer on some issues involving the RFP for legal reasons, actually the sustainability if the tickets are issued and those types of issues. So once again, he is not ready to make a decision on whether he does or does not want red lights until he gets the answer back from Staff. He was not comfortable with the contract they had received based on a six-year buyout and some other issues in it. But he didn't have to make that decision because Staff said don't do the RFP until they see if they can work the issues out. He was not sure those issues could be worked out.

City Attorney Schwerer said he is not sure that he has seen the entire set of questions from the Chief. What he wants to caution the Commission about is the fact that he thinks they need to make a policy decision that this is a program they want to enact. Because if the majority of them want to go forward with this and they do want to have a program whereby they are going to be issuing these types of civil infractions or whatever they are, not tickets, but issuing these violation notices and collecting revenues as a result of that, they need to make a decision that is a program they want to do. There are legal nuances, but other cities have found a way around some of those legal nuances. He was informed the other day that, for instance, Orlando is going full force with a program. There is going to be some legal issues no matter what they do. But the majority of those cities that have looked at this, made a policy decision to do it, and did it, believe they have a legal mechanism in place. The complicating factors are going to be the use of the state and county right-of-ways. That is the key. They cannot have an effective program - at least in the opinion of those who have put these in place - unless they address how they are going to do that. Some utilize private property to utilize devices that do the same thing as those things that are put in the road. There is a lot of technology out there. But they need to make that conceptual policy commitment, then staff will find a way to bring back to them something that is legal. They will have to go out for RFP on this for presentation from the various different companies that do this.

Commissioner Coke said she guesses she had a completely different understanding. It was her understanding when they had their presentation at their budget hearing the first week in August she believes it was, that they as a group decided to move forward and explore this. To the best of her recollection, the Chief asked that they let him take over the investigation of it, looking at the different companies and moving forward that way. It was her understanding that they were already conceptually on board and that the Chief was going to bring them a list of pros, cons, and proposals about moving forward and how they should move forward. She is glad the Mayor put this on here tonight because it kind of slipped her mind. But it has been three months. She does recall them saying the day of the meeting that they don't want this dragging on six, eight, or ten months, that they want to

move forward. And now here they are three months later with no recommendation from the Chief.

Commissioner Becht said that essentially is his understanding, that the Chief had said before they move forward on this, let him iron out some issues with the RFP. So let's have him report in two weeks and then they can move forward. But what Mr. Schwerer said causes him another issue. Where in the City do they have a red light that isn't on a state or county street?

City Attorney Schwerer said they discussed that at the workshop meeting when they were listening to that one presentation. He can't tell him that. Those are probably few and far between that they have red lights on what is purely City streets. To be effective, this program has to utilize the major intersections where the accidents are happening. This is all safety and prevention.

Commissioner Becht said he just told him they are not going to be able to do it on...

City Attorney Schwerer said no, he didn't tell him that. What he told him was, they heard a proposal from one company who puts a device in the road and that is not going to work, because FDOT is not going to let them put that device in the road. What he said was they need to come up with a mechanism whereby... Other cities have found ways where they can monitor FDOT and County intersections with devices that are off of the right-of-way and put on adjoining lands that are 100% effective in doing the same thing as a device in the road. So they can do it. But that program involves getting assistance from private property owners sometimes or from the County. The County sometimes owns right-of-way adjacent to the State roads.

Commissioner Becht said so they don't have a comprehensive proposal on how much money might be generated by something that could very easily be viewed as anti-tourist if not anti-resident.

City Attorney Schwerer said the proposers who would come before them would give the data and statistics on that. But the policy decision of whether they want this program or not probably needs to be made before they embark on this process.

Commissioner Becht said he would like to hear back from the Chief in two weeks.

Mayor Benton said he has been told by Staff that they have a very lengthy meeting coming up in two weeks. This is an item just like the pet spay and neutering ordinance, which they have talked about for two years, and they still don't have that advertised and in front of them, so he hopes that is back very soon. There are too many loose ends out there and this is one of them.

Commissioner Coke asked does the Chief think this is a cost feasible program to put in place? Before they spend any more time - the Police, the City Attorney, and the City Commission - are they looking to act prematurely on this? Should they sit back and wait two years while other cities argue the legalities of it in the court system?

Deputy Chief Nygaard said he and Chief Baldwin have done research from multiple different companies and have also talked to multiple cities, including the ordinances and how they moved through with this. So they are moving, perhaps not as quick as the Commission would like, but rest assured, sure-footedly. The City of Orlando, which has a huge tourism industry, has given an indication that they are moving forward with this. They hope to have statistics on what Orlando has learned coming up in the next presentation they wish to have, so he is hoping they can answer some of those questions. There are some legal issues that they are going to work through the City Attorney's office on. When they have those answers, they should be able to give a complete presentation.

Commissioner Coke asked does he have a time frame for that?

Deputy Chief Nygaard said he is at a loss, because he doesn't know how long the City Attorney's office is going to take. He is hoping it shouldn't be long. After that they can give their presentation.

Commissioner Coke said what he considers shouldn't be long is always a far cry from what she considers shouldn't be long.

City Manager Recor said let's tentatively try to come back at the next Commission meeting. But as the Mayor has acknowledged and he has mentioned to several of them, the November 3rd meeting is shaping up to be a pretty lengthy agenda with a number of projects and initiatives they are all interested in. If staff is not able to or they feel it may not be given the attention that it needs because of all the development issues they are going to see on November 3rd, they will bring it back at the second meeting in November for sure. He thinks within 30 days they should be able to resolve whatever outstanding legal issues there are and have a presentation from the Police Department at that time.

Mayor Benton said if that is the case, maybe what can happen is the Chief could get in contact with the Commissioners and sit down, as do the representatives from these companies, and go over it. It is not like they are having a Public Hearing, they are looking at whether to go out for proposals. So if the Chief has this information ready in the next five days to a week, he can contact all the Commissioners prior to the meeting so they don't have to sit here and discuss it for an hour and be here past midnight.

City Manager Recor said in fairness, the Chief has been out for an extended period of time and is literally back on his feet as of today, although he saw him earlier and he was in extreme pain. Be that as it may, they will plan on moving this forward. He thinks that is a good suggestion, walking it around and meeting them individually to give them the background information, so the discussion goes more smoothly.

Mayor Benton asked is that all right with everyone? (The Commissioners agreed.)

The next item on the Agenda was Interim Assistant Director of Planning to advise of approval of a **Minor Replat** for three parcels located at 3801 Edwards Road, owned by North Fork Realty Investments, into two parcels for construction of single family homes.

Ms. Diann Ploetz, Planning Specialist, said the applicant is proposing to replat three parcels totaling approximately 8 acres into two separate parcels. The purpose of the replat is to provide buildable lots for the construction of single family homes. A 60 foot wide access strip extending north/south to Edwards Road would be used as a shared driveway for ingress/egress and for a utility easement area for both parcels. The proposed two parcels meet the minimum lot size requirements specified in the R-1, Single Family Low Density Zoning District in Section 22-23(d)(1) of the City Code. According to Section 18-6 of the City Code, a minor replat may be approved administratively by Staff if the resulting parcels conform to the requirements of Chapter 22, Zoning, and any other applicable City regulations. The City Code requires that a minor replat will not become effective until the City Commission is advised of the administrative approval. All affected Departments have reviewed the plan and have approved the minor replat based on it meeting the requirements of the City Code.

The next item on the Agenda was Interim Assistant Director of Planning to advise of approval of a **Minor Amendment** to the Site Plan for 84 Lumber, located on the south side of Digiorgio Road, west of Enterprise Road.

Mr. David Carlin, Interim Assistant Director of Planning, said the applicant is requesting a Minor Amendment to the Site Plan. This project is located on the south side of Digiorgio Road, west of Enterprise Road. This development was approved by the Commission on

January 17, 2007, to construct an 86,000 square foot lumber storage facility, with the condition that the applicant provide a fair share contribution, which has been satisfied. The Minor Amendment consists of a modification to the Site Plan to permit the construction of Building #3 at some future time. The original Site Plan specified that six buildings would be constructed. Buildings #1, #2, #4, and #5 have all been constructed and issued Certificates of Occupancy. Due to market conditions, Building #3 was not constructed. The Building Official conditioned the Certificate of Occupancy on the applicant completing the Minor Amendment process to permit the future construction of Building #3. The Minor Amendment standards, according to Section 22-58 of the City Code, is to approve provided that the use or the character of the development is not changed, there is no increase in coverage or height by more than 10%, the open space or impervious surfaces are not changed by more than 10%, and there is no increase in density or dwelling units. All of these conditions have been satisfied. In addition, all Departments have approved the Minor Amendment based on it meeting the requirements of the Code. The Department of Planning has approved the Minor Amendment and they are notifying the Commission the earliest practical opportunity.

Commissioner Becht asked is there any time limit on them finishing the Site Plan?

Mr. Carlin said no, it is a future development. They could come in for a building permit at any time. There is no specific time frame that they have asked for. It is a future development.

Commissioner Becht said it has been his observation in the short time he has been around here that the City actually changes codes every now and then. They increase codes and come up with Design Review Guidelines and South Beach Overlays. He is concerned with this being open-ended, that they would be allowed to build it ad nauseam. He thought they had changed that deliberately. He doesn't mean to pick on Harbour Isle, but he will use them as an example. With Harbour Isle they did not include a requirement that they finish their commercial buildings, so they haven't built them. This is a good development, it creates jobs. But he is concerned at leaving it open-ended for them to come back and build this additional building under 2007 codes in the year 2020 is not a good idea. He doesn't know what authority they have to change this minor plat revision or not. Do they have any authority to bend what he has done?

City Manager Recor said the Interim Assistant Director of Planning is advising the Commission of the action that has already been taken. If however this is one of those asterisks that they would like to consider during rewrite of the LDR's, to perhaps develop an additional criteria, that is something... In other words, change the code and add additional criteria, then that can be done. But at this point the action is administrative and the report is simply being provided for the Commission's information.

Commissioner Coke said the cover memorandum has a recommendation that they approve the Minor Amendment. It would appear to her if they have to approve it, they ought to be able to modify it.

City Manager Recor said he thinks it is simply mis-stated, because the issue is to advise of the approval of a Minor Amendment to the Site Plan. That is how it should have read. If it reads otherwise, he is sorry they have misled the Commission.

Mr. Carlin said that is correct, it should be administrative approval, that is what the Code does say. So he does apologize if that was a typographical error. To speak to Commissioner Becht's reference on Site Plan approval, they do find that quite often developments that do come in, there is no specific provision within the Code that references phasing or anything like that as to when these buildings will be completed. So that may be something that needs to be included within the Site Plan changes that are done through Minor Amendment.

Commissioner Becht said he for one would like that addressed as they go through the LDR Rewrites. He doesn't want to second guess Mr. Carlin. This needs to be built, they need to have the jobs, they need to have it open, and all of that. But leaving open the issue of when it will be built causes him some heartburn, that they are going to come back in 2050 and...

Mr. Carlin said there is a representative for 84 Lumber here tonight who may be able to speak to when that building will be constructed, that maybe there is a more definitive time line.

Commissioner Becht said it would not be binding. So happy as they might be to tell him it will be in a year, it is not going to be binding on them.

The next item on the Agenda is Code Compliance Manager to present Analysis of **Special Magistrate and Code Enforcement Board**.

Ms. Margaret Arraiz, Code Compliance Manager, said she provided everyone a lengthy analysis on the Special Magistrate and Code Enforcement Board. She will summarize some of the highlights and important issues. There are two relevant ordinances that deal with the Special Magistrate - Ordinance No. K-91 and Ordinance No. K-427. Ordinance No. K-91 was adopted July 16, 2001, and it created the Special Magistrate. At that time the types of cases that were heard before the Special Magistrate were restricted. There were only seven chapters that the Special Magistrate was able to hear - the Building Code, Fire Prevention, License & Business Regulations, Parks & Recreation, the Sign Code, Solid Waste, and Zoning. Per the ordinance, the City Attorney or his designee was required to represent the City presenting cases before the Special Magistrate. That is different than in front of the Code Board. The Code Board has a City Attorney who represents the Code Board, not the City. Ordinance No. K-427 was adopted July 3, 2006. It amended Section 2-253 and changed the title from Special Master to Special Magistrate, which is why they see that term confused a lot, it was changed. This removed the restrictions on the Special Magistrate and allowed the Special Magistrate to hear all cases, the same as the Code Board. It made them equal. Her original request was made to analyze the time spent before the Special Magistrate and the Code Board. In 2006, the average time for Special Magistrate Blandino to hear a case was 9 minutes, for Special Magistrate Ross it took 6 minutes per case, and the Code Board took 30 minutes. In 2007, the times are very similar - Special Magistrate Blandino took about 11 minutes, Special Magistrate Ross took approximately 7 minutes, and the Code Board 27 minutes. The bottom line is that cases heard before the Code Board take about three times longer than in front of a Special Magistrate. As far as staff time and cost, on average - and she did have to average these numbers out - it costs approximately \$3,379 for the time involved with a Code Board hearing. For a Special Magistrate, that cost is reduced by approximately \$1,000 to \$2,409. If they average that out over a year, Special Magistrate Blandino has 12 hearings a year and it comes to just about \$29,000 for the year; Special Magistrate Ross has 11 hearings and that comes to about \$26,500; and the Code Board has 8 hearings, which is a total of 7 hearings less for the year, at \$27,000. So the cost is very comparable, but they do get more hearings with the Special Magistrate than they do with the Code Board for about the same cost.

Commissioner Alexander asked did he understand her to say how many Code Enforcement hearings there are?

Ms. Arraiz said there are 8 Code Board hearings a year. They do not have hearings in June, July, November, and December.

Commissioner Alexander asked she is telling him Code Enforcement Officers don't have anything to do during that time?

Ms. Arraiz said no. Special Magistrate Blandino has 12 hearings a year, January through December. Special Magistrate Ross has hearings January through November.

Commissioner Alexander asked when she is saying 12, she is talking about 12 individuals walking in the door, 12 meetings, or what? He doesn't know what she is saying.

Ms. Arraiz said Special Magistrate Blandino has 12 hearings. He hears cases the first Wednesday of every month. The Code Board hears cases the second Wednesday of every month. Special Magistrate Ross has hearings the third Wednesday of every month, January through November.

Commissioner Alexander asked 8 months out of the year is what she is saying?

Ms. Arraiz said for the Code Board.

Commissioner Coke said they hear more than one case at each hearing.

Ms. Arraiz said yes. Regarding cases with legal representation, in 2007, 10 property owners appeared with counsel at a total of 13 hearings. Of these property owners, 6 were individual owners and only 4 were businesses. 2 cases came before the Code Board, 4 cases came before the Special Magistrate Blandino, and 7 cases came before Special Magistrate Ross. There is currently no requirement for a respondent to notify the City if they will be having legal counsel present. And there is no procedure for restricting cases with legal counsel to be heard before a specific authority. Items of concern, two of the important ones that were mentioned in the report provided to the Commission is interpretation and application of the code and legal procedure. Special Magistrates are members of the Florida Bar and are familiar with local and state laws, as well as legal procedures; while Code Board Members are lay persons with no or little legal knowledge or background. Then use of legal counsel by the City, a City Attorney is provided to Staff to assist in the preparation and presentation before the Special Magistrate. Whereas with the Code Board, a City Attorney is provided to the Code Board, but not to staff; and staff is required to prepare and present their cases without any legal assistance. It should be noted that per Florida Statutes Chapter 162, the attorney cannot act in both capacities - the attorney has to be either representing the Board or representing the City with Staff, but cannot do both.

Commissioner Alexander asked he sees nothing here of bilingual or Creole or any other language other than just... Are their attorneys bilingual or are they just English? Does Code Enforcement have any type of... They have a lot of cases coming from Spanish people or the Haitian community. Do they have that available?

Ms. Arraiz said they actually do. They have a Code Officer who is fluent in six languages, including Spanish and Creole. So they do have that ability.

Commissioner Alexander asked she has one officer to attend all of these meetings?

Ms. Arraiz said if it is necessary. It is the respondent's responsibility actually to provide their own interpreter, but the City does provide that, they have on many occasions provided that benefit.

Commissioner Alexander asked they have one individual who speaks six languages?

Ms. Arraiz said yes. They have another Code Officer who speaks Spanish. She doesn't believe the City Attorneys speak... But they represent the City, not the persons who are...

Commissioner Alexander asked none of the City Attorneys, right? He has a serious concern when they want to eliminate a watchdog group who watches over Code Enforcement and just turn it over to the attorneys and they don't speak any other

languages. Commissioner Sessions was a Special Master at one time. Was it difficult for him?

Commissioner Sessions said he is right, he was a Special Master at one time. But at any rate his concern is, a prime example, a lady who came before the Commission with mitigating circumstances, financial inability to pay. When he stood as a Special Magistrate, he was pretty much obligated to follow the black letter law. Whenever he deviated from that, he was afraid to do so because he doesn't want to set precedents for other individuals to follow. However if there is a body of individuals, which is what they have as a Code Enforcement Board, they are in a better position to analyze and look at mitigating factors versus a Special Magistrate. They can sit here and compare themselves with Port St. Lucie all day long; but face it, a lot of their citizens are not in the economic status as individuals who are in Port St. Lucie, where there are factors that need to be considered such as their financial inability. So he felt more comfortable with allowing those cases to be heard by their peers on the Code Board as opposed to him individually, because he was obligated to follow the black letter law. So he has a problem with doing away with the Code Board itself and going completely to a Special Magistrate for that reason.

Mayor Benton said what he learned this week, if the Special Magistrate makes a ruling, that person within 30 days can appeal to the Circuit Court and then after six months appeal to the City Commission. Is he right?

City Manager Recor said once a lien has been filed.

Commissioner Alexander asked isn't that being fair?

Mayor Benton said that is what he is saying that the Special Magistrate has done.

Commissioner Alexander asked their Special Magistrate Blandino, isn't he part time in Port St. Lucie?

Ms. Arraiz said he is Special Magistrate for Port St. Lucie also.

Commissioner Alexander asked so how can they expect to turn everything over to these individuals when they are part time in Port St. Lucie. How do they expect him to take this full load?

Ms. Arraiz said they don't anticipate changing the schedule at all. He would still maintain having one hearing a month that he already has. If she could address the comments Commissioner Sessions made. One of the issues she did put into their report is equity of enforcement. When they are hearing a case, the Special Magistrate and the Code Board have to address the exact same issues. They both have to take in mitigating factors, they both have to take in whether a violation has been committed or not. They are looking for equity of enforcement, not that they got lucky because they got the Code Board. That is what they are trying not to do.

Commissioner Sessions said he understands what she is saying. But by the same token, he feels that a group of individuals are more sympathetic and they have the common sense approach when considering mitigating factors, in his opinion. Being a Special Magistrate and looking at what the Code Board enforced, it appeared that those individuals were more sympathetic and had a more common sense approach as opposed to himself personally. He was obligated to follow the black letter law.

Commissioner Coke said first of all, she would agree that there are many times mitigating circumstances and there needs to be a sympathetic board. She thinks that is why the Commission sits here. Number two, she has been to Code Board meetings where people show up with attorneys and they beat up these poor members of the Code Board or try to - they use intimidation, they start throwing out laws, codes, and chapters. They know they

can't go in front of the Special Magistrate and get away with that, so they request the Code Board and then they get up and try to baffle them. She is a firm believer in things ought to be even-handed across the board. If they have a rule and somebody doesn't follow the rule, then it needs to be applied. And if there are mitigating circumstances, they should take 5 or 10 minutes of their lives and take care of that. Her concern is that attorneys are looking to intimidate these people. And it really concerns her that the City Attorney then is not presenting to the case of the City, but there are lay people representing the interests of the City when they go in front of the Code Board, rather than having their City Attorney representing the interests of the City. So she thinks it would resolve the issue in her mind so they have uniformity of compliance and then they would just hear what they needed to.

Commissioner Alexander said they do have a City Attorney at all those meetings.

Commissioner Coke said but when he is in front of the Code Board, he is not representing the City, he is representing the Code Board.

Commissioner Alexander said that would keep the people from lambasting the Board if he is there representing them.

Commissioner Coke said she has been to those and they do a good job. What she is saying is, there is no one there representing the rights of the City as an attorney.

Commissioner Sessions said right now there are no parameters distinguishing Special Master versus Code Board. So what if they made sure that those individuals who file an appearance as an attorney would appear before a Special Magistrate as opposed to the Code Board?

Commissioner Becht said it is a great report. He loves the analysis, it was very comprehensive, and he has come to expect that of her. He thinks she did what she was supposed to do; which was, she has come up with a very specific efficient way of executing Code Enforcement. His job is slightly different than that. He has to balance the people who actually come into the system. In a former life, he got to appear before the City's Code Enforcement Board and found that...

Commissioner Alexander said scary.

Commissioner Becht said no, he would not say scary. It was refreshing, because there were people from different perspectives up there that if he could reach one of them with common sense... Attorneys can be intimidating. He thinks a Special Magistrate can intimidate somebody into a position that maybe isn't really fair to that person if they get carried away. He is not saying anybody has. He had used the term before, a jury of peers. He has appeared at the County. And the system at the County is, usually they can get to somebody up there who has some common sense. He has appeared more at the County so he is more familiar with the way that one works. They can't go in there with a bogus argument, they have to go in there with something special. Because they have sat up there long enough and they have heard the sob stories that, if they don't come up with something legitimate and specific to their client and their situation, the hammer comes down and they have 10 days or 15 days to fix it or else. So as he is looking at this report, Staff has come back and said they can more efficiently administrate the Code if they will go with just straight Special Magistrates. He thinks that probably is a logical assumption. He is kind of torn here tonight between doing that and balancing the citizens who have to come before the City having been charged with something that they did or did not do with their property according to the Code. He has to balance that against the neighbor who is sitting there looking at this condition and really might be offended by this person who hasn't taken care of his property when they are taking care of their property. This is a tough one for him. The efficiency of operation helps the City, it helps the neighbor who has taken care of their property. But it really puts an interesting burden on the person who comes in who is financially strapped or who perhaps is wronged by an interpretation of the Code given by a

particular Code Enforcement Officer who is - he doesn't want to say overzealous, because that wouldn't be appropriate -zealous in the application of the Code. He doesn't know which side of this one he is going to come down on.

Commissioner Coke said of course, she always likes efficiency. But her concern here is less for the efficiency and more for things are equal across the board. She doesn't like to see somebody come in and talk a good game, like attorneys do, and then can talk their way out of it, versus if they have an equal application of codes and interpretation across the board where everyone is being treated the same. She has seen that, even in front of the Special Magistrates, who do make exceptions to rules and consider the circumstances. Her concern is more along the lines other than efficiency, she is afraid they leave themselves open to those times when something is not applied equally. Are they setting a precedent? Are they leaving the door open for a major lawsuit? They have had some corporations who have requested the Code Board rather than the Special Magistrate and she thinks they have done it just for that purpose. So she would suggest that if they don't have three Commissioners who are ready to move forward with just a Special Magistrate, at bare minimum that they require that if somebody is going to be represented by counsel that they go in front of another lawyer - the Special Magistrate - rather than the Code Board.

Commissioner Alexander asked does anyone know when the Code Enforcement Board was established? How long has it been?

City Attorney Schwerer said 1983 or 1985, somewhere in there.

Mayor Benton said this used to be something that was done by the court system and the court system quit doing it and put it in the hands of the cities.

City Attorney Schwerer said yes. When Article V was adopted by the State Legislature in 1975, it abolished the municipal courts; and the Code Enforcement Board legislation that followed, he thinks it was in 1980, the replacement of municipal courts. It was December 6, 1982.

Commissioner Alexander said he has only been here just a few years. Prior to him coming, it was a lot of unjust... He says it out front. He doesn't have anything against Code Enforcement, but they all know he has been fighting with justice for when they come down. They are not here to punish people. He thought they were not here to come into compliance. They had quite a few circumstances they listened to. They don't even get a chance to do that now. For whatever reasons, they get one or two here or there. Again, he thinks that is a watchdog group that will be able to help them interpret it, how the people feel, what is the mitigating factors about their properties. If it is not broke, he doesn't see how they are fixing it. If they don't meet but 8 months out of the year, that is a lot of time in between for the Code Enforcement not to be active.

Ms. Arraiz said again, they do have hearings in November and December, just not the Code Board. The Special Magistrates have two hearings in November and one hearing in December, and then they have two hearings in June and two hearings in July. Staff did give some possible solutions and alternatives. The first one is to require all attorneys to file a Notice of Appearance. This was recommended by City Attorney Walker. That would require any respondent who wishes to have an attorney present to file an Appearance Notice with the City five days prior to the hearing. If that hearing has been scheduled in front of the Code Board, that would give them time to reschedule it in front of a Special Magistrate. Regardless who it was in front of, it would give time for the City Attorney; because again, the City Attorney prepares cases for the Special Magistrate, unlike the Code Board. It would give the City Attorney time to review the case and prepare for it. The second is to educate the Code Board on policies and procedures. This is a request made by the Code Board at their most recent hearing. They have asked for the City Attorney and

Staff to help them become more fluent in making motions and be familiar with the policies and procedures they have in the City.

Commissioner Sessions asked when was the last time the City offered these individuals some form of education to familiarize them with the Code? In essence, have they offered them seminars or anything of that nature in order to educate them so they become more knowledgeable, or are they just relying on the same people from year to year to come back and forth with the same old decisions without being abreast of what the Code is?

Ms. Arraiz said they had actually planned one session last year. It had to get cancelled due to scheduling conflicts and they weren't able to reschedule it. When they do have some new Code Board members, a packet of information is prepared for them; and she will review it with them briefly and explain how things are done. But it is almost an on-the-job training. No seminars have been presented to them. They did plan one, but it did get cancelled unfortunately.

Commissioner Sessions said it is incumbent upon the City to educate these people on these issues and the codes and ordinances. When he hears them say they recommend a Special Magistrate, that is like an analogy of a prosecutors office saying they recommend every trial be heard by a judge. He feels that individuals will get a more sympathetic and a more common sense approach from a juror of their peers versus an individual who is obligated to follow the black letter of the law.

Ms. Arraiz said both the Special Magistrate and the Code Board are required to follow the same set of rules. They can't have one be more sympathetic than the other. They both have to be equal and apply the same rules, or else there is no equity in the code enforcement. They both have to. In fact, there are four types of hearings that go before either the Special Magistrate or Code Board. One is a regular hearing. They receive a Notice of Violation; and if it doesn't get cured, they are brought in for a hearing. The other two are for a fine reduction or a lien reduction. For those two, the criteria are specifically laid out in their policies and procedures. There are three items that have to be addressed for a Massey hearing. Those are clearly laid out, what they have to consider. So when there is a lien reduction request, such as what is going to come before the Commission later tonight, there are seven criteria that must be considered regardless of who hears it - the Special Magistrate or the Code Board - those are exactly the same criteria that must be considered. The criteria includes whether there are prior violations, prior notices, how long did it take to cure the violation. These are very clear cut and defined. So each hearing authority, whether it is a Special Magistrate or Code Board, they have to apply the rules equally, or else there is no equity. Otherwise it would just be, "Oh I got lucky, I got in front of the Code Board, so I got off". That is just not right. There has to be some kind of equity and enforcement.

Commissioner Sessions said as an administrator, he would expect to hear that from her, that is what they pay her for.

City Attorney Schwerer said he just wanted to inform them that his office had put together a seminar twice in the past for Board Chairmen, to educate them on quasi-judicial processes. They had the last seminar a few months ago. They are in the process of doing that right now for the Code Enforcement Board, they are going to try to put something together. He just wanted them to know some of the legalities and some of the other issues. But the Chairman of the Code Board was a party to those prior seminars where they went through the quasi-judicial process, motion making, evidence received, and the proper process. So that is happening, at least in his office.

Commissioner Alexander asked is Mr. Schwerer telling him in the last 30 or 40 years, he only had one seminar?

City Attorney Schwerer said no. They have had several. But just in the last year or two, they have had... When they formed this Code Board, in fact he was the one who was in charge of putting together the ordinance in 1982 to create this. They were the first Municipal Code Enforcement Board on the Treasure Coast, if he recalls correctly. Prior to Port St. Lucie getting their Municipal Code Enforcement Board, they borrowed very heavily from Fort Pierce's ordinance. But over the years they have attempted to do that. Of course, the Board changes and the personalities change. But they try to do that on a fairly regular basis and meet with primarily the Chairmen of those Boards, because they are the ones that control the meetings, they are the ones who are actually in charge of the processes and procedures. But they will try to do their best to advise all the Boards and bring them up to date on some of the laws governing their procedures.

Ms. Arraiz said one last item she wanted to clarify is the use of legal counsel. She just wants to make sure that it is understood. Prior to a Special Magistrate hearing, Staff meets with one of the Assistant City Attorneys. He reviews every case that is being presented before the Special Magistrate. He makes sure the Codes they cited are the correct codes, that everything is done legally. During the hearing, he sits with Staff. He questions respondents if questions need to be asked, doing almost like a cross-examination. He helps Staff present the cases and makes sure that all the cases going before the Special Magistrate are legal and proper. Staff does not have that benefit for the Code Board. Staff reviews the cases themselves, using the knowledge they have to present the cases. They do not have any legal counsel to rely on for assistance as far as making sure the Codes are proper and correct or that the cases are truly prepared to be presented. They have the knowledge, they do use it. But knowing that an attorney has reviewed it and confirmed what they already know and is there to back them up is what they are missing from staff's point of view before a Code Board. They do not have legal counsel behind them.

Commissioner Becht said he has his concerns about the Notice of Appearance. It seems to him that some less reputable attorney might deliberately file his Notice of Appearance within that five day period just so he can get a continuance, because they are going to continue the hearing if the attorney makes an appearance.

Ms. Arraiz said Assistant City Attorney Walker is working on that. She is not sure of all the particulars about it. It was recommended by him and she knows he is working on that. But yes, it could be used as a delay tactic.

Commissioner Becht said not that he would do that. If it is going to get abused, and he would suggest to them that somebody is going to abuse it, that is going to ruin their ability to schedule these hearings if the attorneys start filing this just for the purpose of getting an extension, a continuance. So they might want to change the days so it is convenient for her and convenient for scheduling. Because if they knew they were going to have 5 or 10 cases, he would approach it from that standpoint. He thinks the 30 minutes, for a property owner who is about to have his property liened in front of five or six of his peers, is not too much of an inconvenience on the City in order to keep this going. He is not saying a year or two years from now he couldn't go along with it. But she showed him that the Code Enforcement Board hearings take on the average between 27 minutes and 30 minutes. Some of the people they are liening have never done any public speaking and are shaking in their boots at the idea that their property is going to be liened. That Board is processing them on an average of 30 minutes. He doesn't think that is too much of an imposition on staff, the money, the extra expense. He is not in favor of eliminating the Code Board. Ms. Arraiz has done the report correctly, it would be more efficient if they did. He heard Commissioner Coke talk about a perception that they have a more consistent ruling with the Special Magistrate. But his observation is that they have consistent rulings with all three. They have Mr. Blandino, they have Ms. Ross, and they have a Code Enforcement Board. At this juncture he is just not in favor of taking away the citizen's right to have 30 minutes to pitch their case to five or six lay people like themselves, rather than 9 minutes to talk to a Special Magistrate, and ask please don't lien their property. He understands there are abuses in the system, he understands that lawyers are coming in, and there are some

landlords and other people who are coming in and know how to work the system to get their extra time and not fix their properties. But he has to balance that against the retired person who has not had the money to fix the air conditioner or the paint job, or the wood rot on the eave or get the car out of the yard. He has to err on the side of being fair to those people, rather than eliminating the possibility of abuse by a landlord that is not a good guy.

Mayor Benton said he would hope a lot of those folks who come in front of the Code Board and the Special Master have already come into compliance. He hopes some of these end in a positive way. He would hope everything they see doesn't end with a lien. He hopes that is just certain occurrences where they don't follow through. He would agree with at least the first two items, her solutions and alternatives here, because he knows it can be intimidating to Code Board members if a very sharp attorney shows up. He thinks educating the Code Board and specifically the Chair, because the Chair has the ability to move the meeting along also and speed it up he would think. Especially a lot of those members have been on that Code Board for awhile. It is one thing to be sensitive, but it is also to have things moving in a timely fashion. What is the pleasure of the Commission? There is no action here, unless they want to eliminate the Code Board, and that would take an ordinance.

Commissioner Coke said she thinks they ought to move forward at bare minimum with education. She sat on the Civil Service Appeals Board for eight years, which was a very serious board, and never had one minute's worth of education.

Mayor Benton asked how do they feel when it comes to Notice of Appearance if an attorney shows up?

Commissioner Coke said she certainly thinks every hearing that someone is being represented by an attorney ought to go in front of the Special Magistrate, because otherwise they really don't have a level playing field.

Commissioner Sessions said he agrees with that.

Mayor Benton said there are three people who agree with requiring a Notice of Appearance by attorneys to go in front of the Special Magistrate, and educating the Code Board members on policy and procedures.

Commissioner Alexander said he will agree.

City Manager Recor said he thanks Ms. Arraiz, that was a very good report.

Commissioner Becht said as a point of clarification, a Notice of Appearance by an attorney within a time limit, he will leave that to Staff's discretion to figure out what the best time limit is. He didn't read that to be that just because someone chooses to be represented by an attorney, he gives up his or her right to appear by chance - because that is the way it happens now - in front of the Code Enforcement Board.

Commissioner Coke said she heard Ms. Arraiz say that if an attorney files a Notice of Appearance, they would schedule it in front of the Special Magistrate.

Ms. Arraiz said that was the intention, yes.

Commissioner Becht asked so if the property owner decides to hire an attorney, that property owner has made a decision then that he and his attorney cannot appear in front of the Code Enforcement Board?

Ms. Arraiz said that was the understanding, yes. If an attorney files a Notice of Appearance, that hearing would be rescheduled before a Special Magistrate.

City Attorney Schwerer said the rules of the Code Board and the rules of the Special Magistrate would then be required to be amended, and that would be before the Commission for their consideration and approval, they are required to approve those. So if this process is put in place, they will have an opportunity to look at the rule, how it is going to work, and make comment or amendments as they so deem. It would require a rule change, it is not something they can put into effect by a consensus of the Commission.

Mayor Benton said they can bring that back.

Ms. Arraiz said they will do that.

The next item was the Consent Agenda. Mayor Benton asked does any Commissioner wish to remove an item?

Commissioner Alexander said he would like Item 25f (The Oaks at Moore's Creek) and 25i (Lien against 510 Orange Avenue) removed for discussion.

Commissioner Coke said she would like 25f (The Oaks at Moore's Creek) and 25i (Lien against 510 Orange Avenue) and 25j (Lien against 305 North 31st Street) removed for discussion.

Commissioner Sessions said he would like to have 25d (Contribution to the Economic Development Council) removed for discussion.

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

a. Approve travel and attendance by Commissioner Alexander to the **Florida League of Cities** 48th Annual Legislative Conference in Orlando on November 20-21, 2008.

b. Approve Grant of **Utility Easement** and execution of an **Agreement with Florida Power & Light** for an electric utility easement across City property in Foster Subdivision for installation of transmission lines to provide backup power to the citizens of Fort Pierce.

c. Approve Leave for **City Manager** Recor for October 30 & 31, 2008.

e. Approve Blanket Purchase Orders for **Solid Waste Department** for FY 2008-09: A-1 Metal, Atlantic Truck Center, BP, Bennett Auto Supply, Cintas Corp., Cliff Berry, David's Machine Shop, Elpex Tire, Inc., Fire Equipment Services, Florida Powertrain, General GMC Truck Center, Heil Environmental Inc., Hickman's Brake & Alignment, McNeilus, Nextran Truck Center, Paint House, Performance Napa, Praxair Distribution South, Southern Truck Equipment, T&T Refuse, Total Truck Parts, Turner Industrial Supply, Turner Machine, and Unifirst.

g. Approve purchase of three 2009 **Chevrolet Impalas** with emergency and electronic equipment for the Police Department from Garber, Inc. in the amount of \$88,025.00.

h. Accept the lowest and best bid from Glover Oil Company for **Gasoline and Diesel Fuel**. Treasure Coast Cooperative Bid 08-39

k. Approve extension of 120 days for payment of lien in the amount of \$1,000 against **1202 Avenue B**, owned by Alice Mitchell.

The next item considered was Item 25d, which had previously been removed from the Consent Agenda: Approve contribution in the amount of \$15,000 to the **Economic Development Council** of St. Lucie County.

Commissioner Sessions said the reason he wanted to have this brought up was because he knows it has been customary to do this year after year, time after time. But with regards to the end result of whether or not they actually receive results that are favorable is what he questions. He doesn't know if it is worth it to continue this because they have been doing it year after year. Are they getting their money's worth? But \$15,000 towards a contribution for economic development when he personally does not see the benefit of it in light of what they have been receiving from the EDC. He thinks they could take that \$15,000 and redirect it from City staff's standpoint and actually receive some results that amount to economic development.

Mayor Benton said he would have agreed with him a few years ago; but the last two years since Larry Pelton has come on board and they sat down and had a heart-to-heart talk, that Fort Pierce didn't feel they were getting their fair share of attention when it came to economic development. He knows now that City Manager Recor is on board. He is called to their office to meet with the County staff and representatives and folks who want to come in and bring businesses to their County and to their City, sometimes several times a month. The unfortunate thing is, he can't put it down on paper and tell them all about it, because a lot of times it is kept out of the press, a lot of this is done behind closed doors. He is glad now that Mr. Recor is on board, because he brought him to several of these meetings and now he is going to be playing a bigger role with them, he will be going to their monthly meetings, which Fort Pierce has not had...

Commissioner Coke asked can he tell them one business the Economic Development Council has brought to their City in the last year?

Mayor Benton said he can tell them that when it comes to the Federal Courthouse, he can't say whether it was Mr. Barnes or it was Mr. Pelton, but when he came back and they needed to advertise to find the contractor, they jumped on it. When GSA did it, they only had two contractors. They had over 21. He is going to give credit where credit is due. He thinks Mr. Barnes has done an excellent job with the City, but the Economic Development Council got it out, and there is also working relationships throughout the State. Regardless, it worked. There is one right there that is a \$50 million project. He calls it a team effort. But there are several others they have had attention from. Right now they are working with Natalie's Orchid Island to try to keep them in Fort Pierce, there are some issues there. He thinks they have done an excellent job. It is just the economic atmosphere right now is very difficult to work with. They have worked with some call centers out in the Orange Blossom Business Center to bring some folks in there. But he thinks for \$15,000 they are getting a pretty good deal.

Commissioner Becht said to answer Commissioner Coke's question, he doesn't think there has been one. He has attended - independent of the Mayor - several meetings of that Council and Mr. Pelton has been present. The timeline for getting a job created is not overnight. It takes the meetings, it takes the knowledge he brings to the table, coupled with them. He would suggest to Commissioner Sessions, now that he is on the Commission, he might want to call Mr. Pelton and ask him to come up to Fort Pierce and have lunch and ask him that question directly. The more of them who do that, the more likely it is that Mr. Pelton is going to be aware of what Commissioner Sessions knows, because he can share that with him about prospects in the area, and he is also going to get the information out of him because he does work for the City. Like the Mayor, he would have a couple of years ago... Actually he was tempted to do it when they created the economic position with the gentleman whose name he forgets (Don Root - AGCR Group). But he had as many meetings that year with Mr. Pelton for \$15,000 as he had with the other gentleman for \$60,000. This other guy was working solely for the City and he didn't create any jobs either in that time frame. He is not being critical of him for not having created any jobs in that time period, he just thinks it was naive to think he would create a job. Stir it up, get interest, follow dead-end leads. It is like any sales job, he has to make 100 calls to make one sale.

All he can suggest to him is, call Mr. Pelton and he will come up here and have lunch with him; and he can state his criticism to him and ask him the hard questions.

Commissioner Coke said she really doesn't want to become an advisarial position on this, except for the fact that Mr. Pelton was on board for many months before any of the City Commissioners heard a word from him. Quite frankly, she honestly believes in her heart that they are now supporting the Port St. Lucie Chamber of Commerce and the Port St. Lucie Economic Development Council. She sees no efforts here in Fort Pierce. She doesn't see the Chamber doing anything here. She sees the Economic Development Council has been very responsive to bringing jobs out to the Tradition area. She has not seen one business in the seven years she has sat here brought to the City of Fort Pierce from the Economic Development Council. Part of what they talked about at the Waterfront Charrette was the need to bring a major business into Fort Pierce, whether it is along the U.S. #1 corridor or the Avenue D corridor or Downtown. She would prefer to spend the \$15,000 to hire an agency, not a person, but an agency to recruit the types of businesses that were suggested to them at that Charrette that they need here, and the types of businesses that were suggested on the Avenue D Charrette that they need there. She would rather spend the \$15,000, and perhaps a little more if they needed to, to get some results. But in seven years she has not seen one business brought to the City of Fort Pierce from this Economic Development Council.

Mayor Benton said the EDC made a presentation in front of the Fort Pierce Utilities Authority Board last month. He wishes he had the list they gave out. He will ask Mr. Pelton to get that to all of them, the jobs and the businesses they have brought to St. Lucie County. Let him remind them all, when they create jobs in Port St. Lucie, that doesn't mean somebody from Port St. Lucie is filling those jobs. People from Fort Pierce are filling jobs throughout St. Lucie County. To him, they are part of St. Lucie County. If somebody has to drive a few miles, so be it.

Commissioner Coke said she would agree if they would bring one business here.

Mayor Benton said he doesn't agree with the way Port St. Lucie does business. What they paid for bringing in Torrey Pines, what that is costing everybody who builds a house down there, he doesn't think this group would buy into it. There is an impact fee. They could have put that money in the bank and hired folks. But that is going to benefit Fort Pierce because of the Research Park. He and Mr. Recor have been to Harbor Branch, meeting with people who wanted to do some things here. It happens, but it takes time. He thinks there is a lot of interest in this area, specifically with the Education & Research Park. He thinks now is the time to really get involved with EDC. They didn't have anybody from Staff going to these meetings until a couple of months ago. Mr. Ward has been going. But their argument was that there hasn't been anybody from Fort Pierce on a regular basis. He knows they have somebody from Fort Pierce Utilities Authority going. They are trying to fine-tune some things with the Utilities Authority to make it more attractive, if they can. In fact, that is one reason why they haven't got a couple of business in, because there are certain things the Utilities Authority can't give up.

City Manager Recor said the Mayor hit on a couple of points he wanted to make. The first one is, every local jurisdiction is asking themselves the very same question they are asking tonight - is it worth the \$15,000 for competing from their limited resources? The FPUA at their last Board meeting struggled with this decision and ultimately decided that it was worth the investment. Since he has been appointed City Manager, he has made this a must attend monthly meeting on his calendar, he cannot miss the meeting. They have always had a seat on their Board of Directors. The Mayor has pointed to several meetings they have had with Mr. Pelton and the EDC Staff. He thinks they use the word partners a lot. But this is truly an example of where they are partners with the EDC. While no, they can't put their finger on a specific company or x-number of jobs that have been brought specifically to Fort Pierce, the EDC is strategically marketing certain portions of St. Lucie County, areas the City will eventually incorporate that will become the City of Fort Pierce

and that will take advantage of the only Enterprise Zone which directly affects a property owners ability to be eligible for State funding. St. Lucie County doesn't offer an Enterprise Zone. The City of Fort Pierce does. Again, he thinks now is the time they need to be committed to the EDC and continue that investment, continuing to forge and move forward with that partnership.

Commissioner Becht said he is going to make a motion in support of this. But before he does that, if they want to task Staff to come back with a \$15,000 budget for a consultant or an agency, he doesn't have a problem with that either. They will have to find where they are going to take the money from in order to do it. Personally he has gotten more than \$15,000 worth of return out of Mr. Pelton and his Staff as a resource with a few businesses he has been able to talk to that might have been interested in coming to Fort Pierce. There is a wealth of information there. It is not that Mr. Pelton has brought it to him so much as somebody came to him and said that a business might be interested in this property, what do they have in their bag of incentives? He has had to bring Larry Pelton into the room and he has helped.

Commissioner Coke said two years ago she was working with a gentleman through the Tourist Development Council to bring a multi-million dollar per year group of ballfields here that would have taken off and brought tourists to the City and this County from June until September. The gentleman basically told her after his conversation with Mr. Pelton, he was why he didn't come.

Commissioner Becht said he didn't have that experience.

Commissioner Sessions said change is inevitable, especially when they spend money like this on a routine basis year after year and not get the end results. He thinks it is incumbent upon them to bring about a change. If they have individuals representing them who also have to be concerned with the competitor's interests, which is Port St. Lucie, he doesn't feel comfortable with that, because they are competing with that municipality to try to bring about economic development. However if they go out and hire an independent agency that is obligated to answer to the City of Fort Pierce as opposed to both Fort Pierce and Port St. Lucie that have competitive interests, he thinks it would be in their best interest from a standpoint of trying to attract and bring industry in so they can get some jobs in this area, to bring forth someone who is obligated to the City of Fort Pierce. He just doesn't feel comfortable with that agency that is representing both Port St. Lucie and Fort Pierce because they have competitive interests there.

Mayor Benton said his suggestion would be, the discussion they are having about a separate agency, he would recommend they task that with the FPRA because they are talking about the FPRA area. He thinks they need to support this. Remember, they are still in St. Lucie County. Their kids go to school all over. These are jobs putting people to work in Fort Pierce. If they have to drive a few miles down the road, it is St. Lucie County. He doesn't believe there is competition. Port St. Lucie is going after the Torrey Pines and Fort Pierce is going after the Research Park, which can add to that, but also industrial. They are talking about creating a boat industrial zone. The Economic Development Council came on board and did the homework.

Commissioner Coke said she doesn't want to ever compete with St. Lucie County or Port St. Lucie. That certainly is not her point here that she is in competition with them. Her point here is when they talk about maintaining and retaining jobs here, it seems to her St. Lucie County Chamber of Commerce just picked up lock, stock, and barrel, and moved to Port St. Lucie. So they took jobs from the City of Fort Pierce. Now they have the Economic Development Council that she has not seen move one job or one business here.

So she has a difficult time, when they have major budget problems, supporting an agency that they talked about three years ago and two years ago and last year that if they didn't start seeing some results in this City, because it is their City tax dollars that are going to support this agency, that they weren't going to continue to support it. They never get a

written update from them, a monthly report, a newsletter, something. As far as she is concerned it is the black hole down there, because they have made no attempt whatsoever to keep her or Commissioner Sessions informed on any of their actions or anything they are trying to do here.

City Manager Recor said that is actually a really good suggestion and something they probably should have been more prudent in asking for, at least that type of communication for their investment. He will follow up with that. He doesn't see any resistance to that at all.

Mayor Benton said their City Manager is now taking a very active role with the EDC. That wasn't the case in the past.

Commissioner Alexander said next year at this time the EDC is going to come back before them again. He is willing to give their City Manager a chance. He is listening to Commissioner Sessions and Commissioner Coke. He is about ready to agree with them. But he is willing to give their City Manager and Mayor... The Mayor attends those meetings too?

Mayor Benton said he attends those meetings. He has attended a lot of private meetings with firms. Now with the City Manager going, he can sit down and give the Commissioners a call and go over it with them. That couldn't happen before, because he couldn't do it.

Commissioner Alexander said he is willing to give them the opportunity. He doesn't even know what the person looks like if he walked in the door. He won't be calling Mr. Pelton, that is for sure. But Mr. Pelton has an opportunity between now and then to call. If Commissioner Sessions and Commissioner Coke would do the same, he thinks they can live with this for a year. He agrees with Commissioner Sessions and Commissioner Coke, but he is just willing to let the Mayor and the new City Manager have a chance at it.

Motion was made by Commissioner Becht, seconded by Commissioner Alexander, to approve contribution in the amount of \$15,000 to the Economic Development Council of St. Lucie County.

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

The next item considered was Item 25f, which had previously been removed from the Consent Agenda: Approve short list for awarding contracts for construction of four homes each at **The Oaks at Moore's Creek** to Hartnett Building Group LLC, S&V American Contractors, Inc., and RP Witt Construction, Inc. RFP 5861

Commissioner Alexander said his concern is, he knows they have one Fort Pierce group here, but he heard the gentleman who come in (Greg Bader - Comments from the Public), he doesn't know what kind of truth it is, of this other company being from Hollywood and one from Fort Lauderdale. Again, if they don't take nothing but manual labor off the street, it don't take rocket science to build a home, it just takes the contractor or subcontractor. Mr. Barnes and he have talked about this ever since he has been here about local help. He knows he has his job.

Mr. Tony Barnes, Director of Purchasing, said he has two local contractors on that list.

Commissioner Alexander said he heard a gentleman say S&V...

Mr. Barnes said this Competency Card from the City of Fort Piece lists 106 North 9th Street as his address. S&V is from Fort Pierce, they have a Fort Pierce address.

Commissioner Alexander asked do they have a City license?

Mr. Barnes said yes, he has a City license that lists his office as 106 North 9th Street.

City Manager Recor said they have the tally sheets, the rating sheets in their packets. He recalls the discussions from the interested party who spoke earlier from their FPRA meetings. He indicated to him that they are not competitors, but they are partners. His firm submitted a proposal. Unfortunately his firm was not ranked in the top three. He does know that Staff spent a lot of time going through and analyzing this.

Commissioner Alexander said he wouldn't doubt that. But when he looks at the address at 106 North 9th Street, that is Orange Avenue and 9th Street, he pictured in his mind nothing but dilapidated buildings there.

City Manager Recor said they are here and would be glad to go through and talk with the Commissioners about those discussions that occurred. He thinks it literally took an entire day of weeding through... If the Commissioners have questions, they are here to answer them.

Commissioner Alexander said 106 North 9th Street, put a picture up on the screen for him.

City Manager Recor said unfortunately he cannot do that right now.

Commissioner Alexander asked do any of the Commissioners know where it is?

Commissioner Coke asked when did 106 North 9th Street get a phone number with a 954 area code?

Mr. Barnes said he doesn't know that. But the Commissioners said they wanted local bidders. They have a local vendor.

Commissioner Coke asked what did they do to verify he is a local vendor? Because on this letterhead...

Mr. Barnes said he has a Competency Card.

Commissioner Alexander said where is 106 North 9th Street?

Mr. Barnes said he doesn't know.

Commissioner Coke said his letterhead has 9th Street and the phone number says 954 area code.

Commissioner Alexander said picture Orange Avenue and 9th Street. The 100 block starts at Orange Avenue.

Mr. Barnes said he will guarantee that they have a lot of companies within the City of Fort Pierce that have addresses that are probably not local contractors. But they did not task staff with going into that. This guy can't move his business from Hollywood to Fort Pierce? They can't stop a contractor from becoming a licensed bidder in the City of Fort Pierce.

Mayor Benton said if he has a business license here, maybe if he gets the job he is moving here and going to hire local people.

Mr. Barnes said they can't prohibit new bidders from coming into Fort Pierce. He thought that was what they were trying to do.

Commissioner Alexander said no, they can't. But if he is a builder, why would he be in a dilapidated building? The first thing he would have done is make sure that office is... Does he understand?

Mr. Barnes said he doesn't issue licenses for the City of Fort Pierce. He is the Procurement Director.

Commissioner Coke said she is sure they do inspect those offices before they issue a C.O.

Commissioner Alexander said he thought they did.

Mayor Benton said on the north end of Fort Pierce as they come into town, next to Publix, if they remember the tackle and bait shop, that was permitted the way it looks. It was allowed to open its business there. He was appalled at what it looked like. It looked like if a thunderstorm came through, it was going to blow over. So he is sure they don't inspect everything.

Mr. Barnes said they have done all of the due diligence that is necessary. They followed all of the rules and regulations.

Commissioner Alexander said he trusts his judgment. He was just asking him one question. Anybody who tells him 106 North 9th Street has a contractor's office in there and knowing the equipment being kept there, that just has him suspicious. That is all.

Commissioner Coke said she guesses if they have a City occupational license...

City Clerk Steele said that is a Contractor's Competency Card they are looking at, not an Occupational License, the thing that was passed around.

Commissioner Coke asked do they have an occupational license for doing business here?

Commissioner Alexander asked what does that mean versus a license?

City Clerk Steele said a Contractor's Competency Card has to do with the fact that he is a licensed contractor. The location of a business would be a business tax upon the business itself. She does not know that they collect those for their background records or not.

Commissioner Becht said he doesn't want Mr. Barnes to get defensive with them, but they are trying to make sure the goal is not being circumvented.

Mr. Barnes said he doesn't think the goal is being circumvented. He thinks they have done what they have needed to do in order to do due diligence that is necessary, and they made what they thought was a very competent decision.

Commissioner Becht said he is getting defensive and he doesn't want him to get defensive.

Mr. Barnes said he is sorry, he is not.

Commissioner Becht said there are two things he would like to understand. One is, the competency card he showed them was applied for in August 2008.

Mr. Barnes said he thinks that is correct.

City Clerk Steele asked applied for or renewed? That could be a renewal date.

Commissioner Becht said it doesn't say that it is a renewal or not.

City Clerk Steele said right, the issuance date.

Commissioner Becht said the issuance date is August 12, 2008. It was applied for in a time frame of bidding on the job. At that time in August, he listed his address as 106 North 9th Street. He has generated a letter dated September 26, 2008, and that letter lists his cell

number as a 954 exchange, which is not the area code attached to 106 North 9th Street. He lists his office phone as area code 954 and he lists his fax number as area code 954. None of those are a 772 area code, which indicates to him his phone number is going through a different area code. Does Mr. Barnes have or did he look at the business occupational license for S & V American Contractors?

Mr. Barnes said no, they did not.

Commissioner Becht said that would be an area of due diligence to verify that they are a local business that he would ask that he does, because that business license tax would indicate that they are at least either a Fort Pierce or a St. Lucie County business. Without that, he doesn't think they have demonstrated that they are a City of Fort Pierce or St. Lucie County business. He is not saying it is a Hollywood business. Did anybody go into the corporate screen for S & V American Contractors, Inc. and see where their resident agent is located? That is like a 30 second mouse click adventure.

Mr. Barnes said correct. That is what Community Services does. His Department does not do that. But they go by the comp card, that is what they have been using in the past.

Commissioner Becht said he doesn't want to be ugly, but he is getting a little upset. So the due diligence was based on him bringing in a competency card.

Mr. Barnes said the committee's due diligence.

Commissioner Becht asked did Mr. Barnes do any due diligence?

Mr. Barnes said from a procurement standpoint, yes.

Commissioner Becht asked diligence in ascertaining that is was or was not a St. Lucie County business?

Mr. Barnes said that was not done by his Department. It was done by the Community Services Department.

Commissioner Becht said then he doesn't need to talk to Mr. Barnes about the diligence part. He needs to talk to the person who did the diligence. Who is the person who did the diligence?

Mr. Barnes said the Community Services Department did that.

Commissioner Becht asked which is Ms. Jenkins, correct?

Ms. Dorina Jenkins, Assistant Director of Community Services, said yes.

Commissioner Becht asked what diligence did she do to ascertain that this person is or is not a St. Lucie County business and when? Hopefully before she gave them 10 points for being a local business.

Ms. Jenkins said the renewal is for September. They have actually been on their contractor's list since 2007. They utilized the competency card as part of the requirement to be on their bidder's list. Also, it wasn't required that they were a local business in order to bid on an RFP.

Commissioner Becht said that is not his point.

Commissioner Coke said but they give him 10 points for being a local business.

Ms. Jenkins said right. They have a local address and the competency card states they have a local address.

City Manager Recor asked do they have a business license?

Ms. Jenkins said yes.

Commissioner Coke said having a contractor's license and being a local business are two entirely different things. If they do not have a City of Fort Pierce business tax receipt...

Ms. Jenkins said she can go upstairs and get a copy. They normally get a copy of the business license and a competency card.

Commissioner Becht asked Ms. Jenkins does believe they have a business license for Fort Pierce?

Ms. Jenkins said yes. Actually she can go upstairs and grab their contractor's book and look.

Mayor Benton asked do they want to take the other items, let her go upstairs, and come back to this one?

Commissioner Alexander said he will take their word. If they say they are in Fort Pierce... But again, when he pictures the address of 106 North 9th Street, each and every one of them know where North 9th Street is.

City Manager Recor said across from St. Anastasia, the old school.

Commissioner Alexander said no, it is across from the parking lot of St. Paul.
City Manager Recor said east of St. Anastasia.

Commissioner Coke said the registered agent is the same named person at 2619 Monroe Street, Hollywood, Florida. The principal address is Hollywood, Florida. The mailing address is Hollywood, Florida.

Mayor Benton asked could it be that this person rented that structure? If they get this job, they need an office to work out of up here. He is not trying to make excuses.

City Attorney Schwerer said 106 North 9th Street is that string of buildings that is next to the St. Anastasia. It is one big building. There are multiple offices or something in there, there was at one point in time. That is the building.

Commissioner Alexander said he will take their word for it, if they say that is where it is.

Commissioner Coke said just so they can put the matter to rest, even were they to take away that 10 points the committee gave them for being local, they would still rank in the top three.

Commissioner Alexander asked this is just 12 of how many homes they are going to build?

Ms. Jenkins said there are 12 homes.

Commissioner Alexander asked that is all they are supposed to be building?

Ms. Jenkins said yes.

City Manager Recor said this is the first phase.

Mayor Benton asked they have until when to get these houses built?

Ms. Jenkins said June 1st.

Mayor Benton said so they don't have a whole lot of time here. This is urgent.

Commissioner Becht said maybe the more important question is, what control does the City have over the subcontractors they bring in? Because there are very few construction companies these days who have their own plumbing department, their own electric department, their own carpentry department.

Mr. Barnes said they have had conversations with them. They think that is where their local vendors will be a part of this project. After tonight, if awarded, they will be meeting with the contractors and are going to stress very heavily to them that they want them to use subcontractors that are here in Fort Pierce and in St. Lucie County.

Commissioner Alexander asked are they going to put any percentage on that?

Mr. Barnes said they have not discussed percentages yet.

Commissioner Alexander asked they at least can put that in the contract, right?
Mr. Barnes said yes, they can do that, if the Commission desires.

Commissioner Alexander said yes. He has been asking for that for how many years?

Mr. Barnes said they have been doing it. He has information to show they have been doing it. On the Love Center they had a minority participation of 33%. He doesn't remember their local percentage. But they are doing that on most of their projects. It is not being talked about, they are doing that. They implemented the program last year. They do have that and they can provide that information for them to look at the percentages. They think the program is beginning to move forward and they are beginning to get more minority participation. But they have used as a benchmark for their major projects 33% minority participation and a 60% local participation.

Commissioner Alexander said that is fine.

Mayor Benton asked being there is a time frame on this and they have to have a C.O. by June 1st, do they have anything in these contracts with these contractors that if the homes aren't finished, the contractors cover the cost then? Because if for some reason they don't get finished, he doesn't want it coming out of the City's pocket. This is Hurricane Funds, this is government allotted funding here, that if the homes aren't finished the City could be stuck paying for them.

Commissioner Coke said time is of the essence clause.

Ms. Jenkins said they can put that clause in there. They haven't actually implemented the contract. As Mr. Barnes was saying, they plan to sit down and meet with each individual contractor to go over all of their concerns.

Mayor Benton said he would suggest, as they do with the street work and everything else, that they put that time frame in. If they are not finished by... Maybe it should be May 1st, so they have time to do the proper inspections. He just wants to make sure that if for some reason - and who knows how many reasons could be out there today - that if they don't get finished with these homes, that is \$150,000 or more coming out of the City's pocket to finish, because they know the Federal Government. So if the City Attorney could put something in there. He thinks everyone up there agrees to cover themselves on this.

Commissioner Alexander said there are four homes apiece.

Mayor Benton said right, it can get expensive.

Mr. Barnes asked what kind of number would they suggest?

Commissioner Becht said get a number from Mr. Ward is what he would suggest. If they lose the grant or they lose the money, then that is what the number needs to be.

Motion was made by Commissioner Alexander, seconded by Commissioner Coke, to approve short list for awarding contracts for construction of four homes each at The Oaks at Moore's Creek to Hartnett Building Group LLC, S & V American Contractors, Inc., and RP Witt Construction, Inc.; and include a time of the essence clause and use of local subcontractors in the contracts.

Commissioner Becht asked would Ms. Jenkins fax him that business license tomorrow?

Ms. Jenkins said yes.

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

The next item considered was Item 25i, which had previously been removed from the Consent Agenda: Reduce lien of \$110,064.00 and administrative cost of \$895.13 against 510 Orange Avenue, owned by Bunwin, Inc., to \$4,645.00, contingent upon payment within 60 days.

Commissioner Alexander said he didn't get a chance to drive by that particular address. But that is not the property they tore down that overhang which is a danger to the public? He thinks Mr. Schwerer brought it to their attention that they could repair that and bill them?

City Attorney Schwerer said if it is the former Grant Department Store building, that is the one they liened for the overhang that was removed by their contractor.

Commissioner Alexander asked so why would they reduce that lien if they repaired that?

Ms. Peggy Arraiz, Code Compliance Manager, said this is that building. This a new owner who purchased the property. They paid the lien for the repair. It was \$28,000 and change. They have come in and paid that lien. This is a code enforcement lien that was accruing separate to the repair. They have already paid the \$28,000. They are going to be investing in this property and redoing it, so for those reasons they agreed to reduction. They did pay that lien.

Commissioner Alexander said that is fine. That is all it cost, \$28,000 to do that repair?

Ms. Arraiz said they paid that in full.

Commissioner Coke said she read with interest that first of all the property was sold; and secondly, the people openly admit they were very aware of this \$110,000 lien on the property when they bought it.

Ms. Arraiz said that is correct.

Commissioner Coke said here they have absentee landlords. They go to buy the property, they know there is a lien on it. She is all for a reduction. Staff's recommendation was to reduce this to \$11,000. And then they went down to \$7,500. With these people knowing the lien is on here, she is quite sure the money is sitting there in escrow. So she doesn't think they need to hit them up for the whole \$110,000, but she does believe they should have gone with Staff's recommendation which was \$11,000.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to reduce lien of \$110,064.00 and administrative cost of \$895.13 against 510 Orange Avenue, owned by Bunwin, Inc., to \$11,000.00, contingent upon payment within 60 days.

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

The next item considered was Item 25j, which had previously been removed from the Consent Agenda: Reduce lien of \$17,250.00 and administrative costs of \$1,004.48 against 305 North 31st Street, owned by Mary Plain, to \$1,364.74, contingent upon payment within 270 days (9 months).

Commissioner Alexander said he does know Ms. Plain and knows the fact that she is blind. This lien on her property is for driving a car. He knows she is not going to be able to drive a car. This is one circumstance here he doesn't feel they should punish this young lady here. She is blind, trying to maintain herself and her home, and he knows she has some other problems. Is that by any chance in the FPRA district, 305 North 31st Street? He thinks they should be trying to assist this lady. This is one person he knows they should.

Commissioner Coke said she is sure Ms. Plain has told her children, don't park disabled vehicles on her property.

Ms. Mary Plain said yes, she has.

Motion was made by Commissioner Alexander, seconded by Commissioner Coke, to rescind the lien of \$17,250.00 and administrative costs of \$1,004.48 (total of \$18,254.48) against 305 North 31st Street, owned by Mary Plain.

Mayor Benton said he just wants to make sure from the legal department that there is nothing there they have to charge for.

City Attorney Schwerer said no. From what he saw, this is code lien based on a fine and administrative costs, all of which is waivable.

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

Commissioner Alexander said he would like to refer her to Mr. Ward and see if there is something they can do for a poor soul.

Commissioner Coke asked when are they are going to get an update on the contract for **Little Jim Bridge**?

City Manager Recor said the Planning Department has run into an issue of the zoning of the property and what it can actually be used for. He is expecting a determination from the Planning Department that will dictate how they move forward with the lease.

Commissioner Coke said it would seem to her that when these improvements were proposed, if there needed to be a zoning change or something else, that the people who were submitting applications all should have been very aware of that. And the last they had people who needed them to change zoning or rewrite things, the applicant's attorney paid to do it. And she thought they had established that precedent. Did Mr. Schwerer call the attorney for these people and talk to them about that?

City Attorney Schwerer said yes, he did. Unfortunately, he is not in the State right now, he is out of the country and hasn't returned as far as he knows. He did advise them of the

need for their own independent research and to perform all necessary functions to get with Staff and make sure the zoning complies with what they need to have in order to build what they are proposing.

Commissioner Coke asked when did that lease expire?

City Manager Recor said he thinks it was back in April.

Commissioner Alexander asked can they extend it for a year and then put it back on?

City Attorney Schwerer said there is an increased rental being paid according to their records.

Commissioner Coke said however, they put it out for a bid long before that, they got the bids back in. There should have been sufficient time that by now the lease should have been entered into and some improvements and cleanup should have been moving forth on that property. They have talked about them needing to do something expeditiously a couple of months ago. And now here they are two more months down the road and they have nothing. She thinks they ought to take the same tack with this as they did with the Fisherman's Wharf property, that they are either going to see some concrete things entered into within the next 30 days, or... Although she thinks they might have already taken that action. Did they not?

Commissioner Becht said he can't remember.

City Manager Recor said he will have to look into it. This is one of those projects that was handed off in the transition from old City Manager to new City Manager. He has asked the Planning Department for written determination as far as the land use and zoning goes. That was the last issue that he recalls as being identified. They will recall that the level of sophistication in the response was not very sophisticated. He doesn't mean that necessarily the way it sounds, but that is just the way it is.

Commissioner Becht said his observation is that they have done enough to make it look like it is the City's fault that nothing has happened. And nothing has happened.

City Manager Recor said they were inquiring of his office at the end of the week last week of what the status is, so clearly the ball is in the City's court.

Commissioner Coke asked then when are they planning on moving it forward? April, May, June, July, August - it is 9 months later.

City Manager Recor said obviously he will have to give this some dedicated time and get a more realistic time frame.

Commissioner Becht said the experience they had with the County and their **Code Enforcement Liens** is they have a cap of \$5,000. The Commission spends a little bit of time during the year dealing with Code Enforcement liens like \$110,000 that they never intend to collect. To his knowledge in the less than five years he has been here, they have not collected anything like that. Maybe they want to task Staff with looking at capping those Code Enforcement liens. It might save them time in the long run.

City Attorney Schwerer said they have thoroughly researched that a number of times and do not find that there is legal support for that. They would continue to advise the Commission to follow the process they have now, which allows them to consider all the relevant factors when they mitigate that. Capping fines at a certain amount is very tenuous from a legal standpoint. He is not going to get into that in a public meeting. He will be happy to have that conversation with them.

Commissioner Becht said the County does it.

City Attorney Schwerer said a lot of people do a lot of things that may not necessarily be...

Commissioner Becht said the County ordinances are that they don't exceed \$5,000.

City Attorney Schwerer said right. There is a legal memorandum in his office he needs to share with him.

Commissioner Becht said he would like to know why they can't do that, because he may disagree with him.

Commissioner Alexander said he sees a lot of properties out in the County. For \$5,000, that is why it is still there like it is. He thought they superseded Avenue D and Angle Road. He knows that is over \$5,000. It is probably over \$5 million. Was that annexed?

Mayor Benton asked the one they didn't annex because of the problems?

Commissioner Alexander said that would have been another Brownfield.

Commissioner Alexander said he had a brief conversation about those restrooms on 8th Street and Avenue D that they were supposed to put up. Mr. Hood told him he had two bathroom portables that it wouldn't take nothing to move over there. He heard it was in Mr. Schwerer's office, telling them to go away and don't worry about that. He is not going to repeat the words that were said to him, because he doesn't know how it was said. But he was really upset today when he got that little message that they say out of his office - don't worry about those restrooms, worry about putting the building up. That bothers him because he knows Mr. Hood told him he had a restroom sitting there growing weeds that they can just put there for the public. His is not a public restroom. They all decided they would do this. He doesn't know where the breakdown of communication.

City Attorney Schwerer said he apologizes, but he is not understanding what the issue is.

Commissioner Alexander asked is there some legal issue about putting restrooms there on 8th Street and Avenue D where the proposed bus stop or whatever they are going to put there?

Mr. Nicholas Mimms, Deputy Director of Public Works, said they removed two small temporary restrooms from the beach. One is presently at South 29th Street Park and the other is at the Indian Hills Golf Course.

Commissioner Alexander said so they are using them.

Mr. Mimms said currently they are both being used at separate locations.

Commissioner Alexander said that wasn't the agreement of the Commissioners. Is he right?

Commissioner Coke said Mr. Hood promised Commissioner Alexander portable restrooms within 30 days.

Mr. Mimms said he does have some news in regards to that area. He has been in talks with Corine Williams of the **St. Lucie County Community Transit**. She has a short term plan to install some restrooms in that area because of complaints that she received. She hopefully will implement that plan very shortly.

Commissioner Alexander asked how long has it been that they rerouted that bus stop, about three years?

Mr. Mimms said that he doesn't know.

Commissioner Alexander said it has been a while. He takes offense to forcing people either to utilize this big oak tree he has out there or hey come and utilize his restroom. He doesn't mind. But he resents the fact that his City Attorney's office tells them to forget about those restrooms. He is not putting that out of Mr. Schwerer's lips; but if he asks around, he will find out from which one his...

City Attorney Schwerer said he intends to do that. He was in a hearing all day long, so he doesn't know what his office told him. But he is going to get to the bottom of it. He would appreciate if he could talk with Commissioner Alexander first to understand fully what was said and he will certainly look into it. He doesn't have a clue.

Commissioner Alexander said he is just letting him know publicly that they said don't worry about the restrooms, worry about building that building, they are moving forward on that. He resents that utmost.

Mayor Benton said today he met with Steve Martino who is a representative from Senator Martinez's office. He has assured him that they hope in November they will be naming the **Orange Avenue Post Office** after CeeCee Lyles. The Senate and Congress have agreed to it, it is just the paperwork and fitting a dedication ceremony in. They are hoping some time in November.

Commissioner Alexander said on that same subject, he remembers one time the Mayor said they needed desperately to have that Post Office to either expand itself, make it presentable for the City of Fort Pierce. That is the most dangerous corner they have in the City of Fort Pierce, just the uses of that Post Office. They can reroute that traffic some kind of way. Someone is going to get killed there. He is not saying that because he is in that business. It is just that he sees that, it is so scary. But the Mayor had mentioned they should request that they...

Mayor Benton said through this process he is going to let them know they are naming this post office after a local hero and in his opinion they need to keep the place looking considerably better. If they remember Dave Wilbur, years ago he was one sending letters to the Postmaster General about the condition and the looks of that facility for years. It has been always very frustrating. But when they look at the post office on Midway Road, it might be a newer building, but the maintenance is pretty sad. But because they are going to have a name on this building, they want it spruced up. He will be talking to them and see what they can do.

Commissioner Becht said if Senator Martinez or Senator Nelson show up for the naming, he thinks they are going to see the condition of the Post Office and that may cause some good things to happen.

Mayor Benton said they talked about the **animal licensing ordinance**, like the County did. Can they get that rolling and advertised and back in front of the Commission so they can bring that to a close? They just have so many open items here. So he is asking the City Attorney to revolve it.

City Attorney Schwerer said he just got a draft from Chief Baldwin this morning.

City Clerk Steele said she just got it today from the Police Department, it went to Mr. Schwerer for review and sign off. When she gets that back, then she can advertise it.

City Attorney Schwerer said he just got it today as well. They are certainly on top of that.

City Clerk Steele said the Chief wanted to schedule a meeting and go over it.

Commissioner Coke said they ought to keep the meeting short, because between the Chief's time, the City Clerk's time, and the City Attorney's time, they have spent enough money on this ordinance that affects 50 animals in the City of Fort Pierce, that they could have spayed and neutered every animal in this City for what they have paid their professional people to look at this possibility of an ordinance.

There being no further business, Mayor Benton declared the meeting adjourned at 9:25 p.m.

Adjournment.

ATTEST:

CITY CLERK

MAYOR COMMISSIONER

