

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, NOVEMBER 3, 2008.

Mayor Benton called the meeting to order.

Reverend Ted Rice, St. Peter Lutheran Church, gave the invocation.

The Pledge of Allegiance was recited.

Upon Roll Call, those present were: Mayor Robert J. Benton; Commissioners Rufus Alexander, Edward Becht, Christine Coke, and Reginald Sessions; City Manager David Recor; City Attorney Robert Schwerer; and City Clerk Cassandra Steele. Those absent: None. (Commissioner Becht left the meeting at approximately 7:40 p.m.)

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The next item on the Agenda was Approval of Minutes of the Regular Meeting on October 20, 2008.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve the Minutes of the Regular Meeting on October 20, 2008.

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

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Mayor Benton issued a Proclamation for the Month of November as NATIONAL HOSPICE/PALLIATIVE CARE MONTH.

**Ms. Gail Gerstrup**, Fort Pierce Branch Director of the Treasure Coast Hospice, said she came to Hospice about three years ago after having been a Health Care Practitioner in St. Lucie County for almost 30 years. She has never been so satisfied as a Health Care Professional working with a team of Health Care Providers who come to the home, to the nursing homes, to the assisted living facilities, and to the hospitals to care for those who have been told that their life is coming to an end, not knowing exactly when, but knowing that every day is precious. They come with a complete skilled team to administer to their needs and their families. They assist them with whatever may be troubling them, what physical attributes need to be addressed. Pain, they are the specialists there. They have social workers who help them work through family problems, social issues, housing. They would be surprised how many of her staff pull money out of their pocket to buy groceries for their patients. They have built the St. Lucie Hospice House on Midway Road and Dunn Road. It is a magnificent facility and she urges each of them to take a tour and see the wonderful work this has brought to Fort Pierce. They look forward to adding their Counseling Center adjacent to that property in the very near future. They have passed some of the zoning issues. And now they are looking forward to maintaining a solid funding drive to get a Counseling Center built where they can bring families there for their counseling needs that continues long after their loved one has passed. They do services for the school system as well. Whenever there is an incident in a school or perhaps when they have an unfortunate accident, such as when the child at the bus stop was killed, it is Hospice that goes into the school and does the counseling for the students in the school. She thanks the Commission very much for this recognition and opportunity to share a little bit of what they do for this community. She is happy to represent Treasure Coast Hospice as the Fort Pierce Branch Director, one of the largest growing branches within the company. They are reaching more individuals in Fort Pierce than ever before. And with their help and assistance and further education, they hope to reach those who need them so they can continue to provide the quality care that Treasure Coast Hospice's reputation stands.

Mayor Benton said he wants to say a big thank you to Hospice. About a year and a half ago, Hospice helped his family get through some very difficult times. It seems like they are helping a lot of people. He does not know what they would have done without their help. So thank you and keep up what they are doing.

Ms. Gertrup said it was certainly their privilege for the opportunity to be of service.

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Mayor Benton proclaimed November 15, 2008 as NATIONAL PHILANTHROPY DAY.

**Ms. Donna Benton** said she would like to thank the Commission for recognizing the philanthropists throughout the entire United States, but also the Treasure Coast. They are going to be honoring the local philanthropists from Martin County, St. Lucie County, and Indian River County on November 13th at a luncheon, so they would like to invite them. It is those philanthropists who really do help provide to the majority of the non-profits throughout the area, so thanks for recognizing them.

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

Letter from Arden Peck, South Beach Association, thanking Chief of Police Sean Baldwin for his help.

Letter from Arden Peck, South Beach Association, thanking Public Works Director Bob Hood and his Staff for their help.

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**Ms. Tiffany Noel** said she is here representing the 1100 block of South 7th Street located within the City Limits of Fort Pierce. She is here tonight to hopefully see that the FPRA is able to expand their boundaries and provide some assistance to the 1100 block of South 7th Street. She has lived in this City since she was 6 years old. She is now 26 years old. She has lived on the same block, in the same home, since she was 6 years old. Their road has not been paved since she has lived there. She was told a few years back the road hasn't been paved since her house was built in the 1950's. Unfortunately she cannot provide that documentation as the City officials have stated these documents were damaged in the 2004 hurricanes. There have been several instances where her mother and she have contacted Mayor Benton and his Secretary, City and County Officials, and City and County Commissioners. Every time she contacts someone, she is told to speak to another Department or she is told there is no money in the budget, that they have to go to the next year's budget. She has also spoken to Christine Coke. She called her to see if she could find documents to prove when the last time the road was paved. She then called her back two weeks later and instructed her that her home was located within the County. She knows for sure her home is located within the City. She called her back, informed her of that. She has yet to receive a phone call back. She walked her block the other day and she counted 64 patches in her road. One patch that was just paved two weeks ago is already sinking in. This is not a huge street. This block is made up of 29 homes. She is not talking about just some street, this is where 29 families live and have lived there for some time, where they have chosen to have their home and raise their families. Their block has absolutely no drainage. When it rains, it floods their street as if it was a river and their yards as if it was a small lake. They have three street lights on their block. Two of the three street lights do not work. One of them that does work is at the intersection of Wendel Road and 7th Street. She has also asked a couple of times to have "Children at Play" signs on her block, as 12 of the 29 homes on this block have children who live in it. The cars, trucks, and even police officers speed down this road constantly. Code Enforcement has been on their street quite frequently asking that they keep their homes in order as the City demands. All they are asking is for them to please follow through with their request as well. Her aunt lives on the other 7th Street that is located in the County which is a dirt road. That road is in better condition than her street. There is a Homeowner's Association that consists of many blocks in her community except for South 7th Street. She is not sure why, but it is as if they were always treated as the forgotten block or the redheaded stepchild. She is here tonight representing her block. She does have one of her neighbors with her, but there is a language barrier on her street so she has difficulty speaking with her neighbors, but a lot of them do agree with her that improvements need to be made. She is a taxpayer as well as the other residents. She just got her tax bill in this weekend. She has to pay \$2,500 this year. She paid \$2,900 last year. Can they please use it toward something on her block? She is asking, pleading, and begging that someone please help

them, they are in desperate need of improvements. The last thing she has to say is she is very grateful to a City Official who has been very helpful to her and that is Ed Seissinger (Engineering Project Coordinator). He has provided her with all the information he could possibly provide her with. So she is begging and pleading that they find some kind of funding to please pave her road and fix the drainage issues.

Mayor Benton said that is what they are hoping the FPRA can do eventually. He knows how bad her road is. Her mom had called him many years ago. It has been on the list. Their Engineering Department, where Mr. Seissinger works, has been going through that list for years. It is just coming up with the money to do it. Hopefully this will give them a mechanism to do it.

City Manager Recor said Commissioner Coke did pass along the inquiry to the City Manager's office. Ms. Noel identified the issue - it is a matter of competing for very limited resources. Is Mr. Andrews able to elaborate at all as far as the status? Have they identified this even as a project in the CIP? Is this a matter of determining the level of priority as part of their upcoming CIP Workshop and identifying a funding source?

Mr. Jack Andrews, City Engineer, said this particular street has been on their resurfacing list for a good many years. Resurfacing itself is an item on the CIP, so this is on their list too, along with numerous other streets.

City Manager Beach said Ms. Noel's inquiry is actually in the City Manager's office and not in Commissioner Coke's hands. They will be following up with a more definitive time frame.

**Ms. Anne Sinnott** said she lives at 3111 North Indian River Drive. The topic she would like to talk about is the Ais Indian Burial Mound. The Ais Indian Burial Mound on South Indian River Drive at Old Fort Park is a unique historical resource of this City. The remains of their earliest residents, some which may be possibly 1,000 years old, rest in peace here. She is most concerned about the recent desecration and despoiling of the mound and the destruction of the mound's historical vernacular landscape. Recently most all the plants and trees at this mound were removed, to her understanding, by the Public Works Department. Over the years this vegetation has protected the mound from erosion, from looting, from bicycles, from foot traffic, from ATV traffic too. Burial mounds, such as the Ais Indian Burial Mound, are protected by the State Division of Historical Resources, by the Bureau of Archeological Resources, by State Statutes, by Federal Mandates. She is concerned that the City did not okay this work with the State nor did it okay the work with the Fort Pierce Historic Preservation Board. She sees at least three Historic Preservation Board Members here tonight who have told her that this never came by the Board. She knows that the damage has been done. But she would appreciate assurance that the City is stepping up its efforts to protect this mound, to police the mound. She would be very curious as to what the plans for the Ais Indian Burial Mound are. She would not like to see any kind of creation of history, historicism, creating history that never existed there.

Mayor Benton said he has asked Staff to give him something in writing, because he has seen what has been done down there. He received several letters. He just hasn't received anything in writing from Staff as of yet. When he does, he will see that she gets a copy of it. They are all looking for some answers. He doesn't want to say any more than that until he gets it in writing.

Ms. Sinnott asked would he like a written letter from her too?

Mayor Benton said he has several. Ms. Rights has given him a letter. They are looking into it, he just hasn't gotten a response yet. When he does, he will see that she gets a copy of it.

Commissioner Alexander said he thinks they all received letters concerning that and they are all waiting on a response.

Ms. Sinnott said she knows that Commissioner Alexander, especially in the business that he is in, would be very sympathetic to this. They do gauge their humanity not just by the way they treat the living, but by the way they treat the dead.

**Mr. Marty Laven** said he resides at 2400 South Ocean Drive. He is the President of the Marine Industries Association of the Treasure Coast, related to Resolution No. 08-47. He was here a couple of weeks ago and a suggestion was made that staff and themselves might look into the various taxes that are being paid by waterfront development, marinas, boatyards, and the like. He just wanted to bring a couple of statistics to them this evening. He knows how contentious the tax issue is, so he just wants to put it in perspective if he can. They did a little bit of research about the number of jobs in St. Lucie County, which he thinks Fort Pierce probably represents about 80% of them because the majority of the marine industries is located here in the City. There are some 1,650 jobs contributing approximately \$174 million annually to the economic development of this community. It is possible and probable that the taxes that are currently being levied on waterfront properties are somewhere between \$2 million and \$3 million. They don't have the exact figures. They did call on their marinas and boatyards and other folks. It is kind of like corralling cats, it is a little difficult, and there are a lot of other issues as they can well imagine. But the perspective he wanted to put to them is, it is always the 80/20 rule. They are thinking that probably 80% of those businesses are being adversely impacted by the fact that the taxes. If the highest and best use is condos, is it probably about three to four times what they normally are. The industry is down significantly. It is disposable income. He just came from the Fort Lauderdale Boat Show after about three or four days. He has been walking a lot and talking a lot. But they know the industry is down. He thinks folks in disposable income businesses like boats will agree. People have to have a car, have to do all those other things, and pay their bills, but they don't have to boat. Their marinas and boatyards are looking for a little bit of relief, a little bit of understanding, little bit of support. He knows it is a tough issue for them as a municipality, he knows it is a tough issue for everybody in government, to be looking at taxing. All he can suggest is, if they can get their forbearance in helping them with this Amendment #6, it would be sending a big message to the folks that the marine industries, waterfront, and public access are mighty important to them. Without that he thinks they are kind of taxing these folks out of business. He can't tell them they are not going to have to find other tax monies, that is always going to be a challenge for everybody. The only question he wanted to bring up to the Commissioners is, someone brought to his attention that Mr. Bell's property is not taxed at its highest and best use. He does not know if that is or is not the case, but that is the only other property in the community that he doesn't have in his calculations. He understands the resolution is coming up on the Agenda sometime later this evening. He just wanted to ask the Commission's help on this one.

**Ms. Carole Mushier**, President of the South Beach Association, said she wishes to speak to the Application for Site Plan for Deeken Plaza. She sincerely hopes it is the last time she has to speak to this issue. On October 6th the Commission postponed consideration of the Site Plan, asking that the applicant revise his plans to include retail space. She must commend the applicant, Gerald Wurhman, for completing this task within a short time frame and for coming up with a much improved total Site Plan. Their concern has always been compliance with the parking regulation, the same regulation that has no definition of a sleeping area. With the reconfiguration of the units, deleting extra sleeping alcoves in B Units and less square feet in C Units, they believe he has come as close to meeting the undefined parking regulation as he can. And they raise no further objections. Any fault at this point lies with the regulation itself, something that will be corrected in the near future. Therefore, the SBA supports the Staff recommendation with the associated conditions. The Commission should be commended for their attention to this Site Plan. Their review and postponement has caused a more innovative total Site Plan to be presented tonight. If at all possible, if they approve the plan, they urge them to take what they believe is their authority to make their approval subject only to the granting of a variance by the Board of Adjustment and the submission of a revised landscape plan and associated color

architectural plans, and not send it back to the Planning Board. This Site Plan has lingered long enough. That being said, please consider a Performance Bond and at the very least a voluntary contribution to be paid within 30 days of final approval.

**Ms. Carol Importico** said she is opening up a new business here in Fort Pierce, the Sunrise City Bakery Café. It is owned by Mr. Bread, which is down in Stuart. They have been doing the Farmers Market here for 11 years. They really like Fort Pierce and that is why they chose this for their second location. Unfortunately she is having a little bit of a problem getting a sign up. She didn't realize when she put her permit in that it had to be approved by the Historical Committee. At that time if she had known it, she would have applied for a banner. She didn't realize it until she was waiting for her permit, then they said she needed to fill out a thing for a Certificate of Appropriateness. She did that. And then for the banner it is going to be another two weeks. So now she is going to be opening up her business without a sign or without a banner. She is just here to see if there is any way maybe she could fast track this or something, so people would know to come in her door. She is at the Renaissance building and she is not going to have a doorway there, people actually have to go into the Renaissance building to get to her location the way it is set up. She has signs in her window; but she would like to take those out, they are just white pieces of construction paper. She does not know if there is somebody who can fast track to get a banner.

Commissioner Alexander said she just did, on TV.

City Manager Recor said there may not be any good news as far as immediate relief. The permit needs to work its way through the process. Unfortunately, there is very little discretionary authority granted to the Historic Preservation Officer. He can tell them however that the Historic Preservation Officer has initiated a workshop with the Historic Preservation Board to talk about that very issue, granting more authority to Staff and allowing Staff to approve certain types of applications administratively. So the good news is, the next business owner may not experience the same kind of delay that she did.

Ms. Importico said if they would have said something at the beginning, it would have been helpful. Kim West (Permit Specialist) has been so wonderful. Then she went into something like this. If they would have said this is going to have to be approved by the Historical Committee, then maybe she would have...

City Manager Recor said they are constantly looking at ways to streamline and reduce the amount of red tape and bureaucracy that businesses have to face when they come into the community. So he thanks her for her patience.

Commissioner Coke asked since her five minutes isn't up, could she repeat the name of her business and exact location?

Ms. Importico said it is Sunrise City Bakery Café. It is in the Renaissance Building, 134 South Indian River Drive. She hopes to see all of them there.

City Manager Recor said welcome to Fort Pierce.

Commissioner Alexander said free advertising for two weeks right there.

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The next item on the Agenda was a Public Hearing on Appeal filed by the Fort Pierce Building Department of the Historic Preservation Board's denial of a **Certificate of Appropriateness** (No. 08-16) for demolition of three structures located at 407 & 409 North 2nd Street.

Ms. Leslie Olson, Historic Preservation Officer, said this is an Appeal of the Order of Denial by the Historic Preservation Board, denying a request for demolition of 407 and 409 North 2nd Street. On July 28, 2008, the Historic Preservation Board denied the request for demolition based on finding that the subject structures were connected to persons and events of great note in the history of Fort Pierce as it is the site of the original Hill Photography Studio, the first photography studio in St. Lucie County. This appeal has been filed by the City of Fort Pierce Building Official. Their Historic Preservation Officer and their Building Official sit before them this evening with opposing recommendations on this request. While this may appear contradictory, this is exactly what these two Staff members should be doing. The Fort Pierce Building Official is governed by the International Property Maintenance Code and the Historic Preservation Officer is governed by Chapter 23 of the Fort Pierce Code of Ordinances. The Building Official must look solely to the safety of the public and the Historic Preservation Officer is solely responsible for the caretaking of their historic heritage. These two goals will not always align; and when they do not, the City Commission is responsible for weighing the important and competing goals. They will hear from Staff that these structures are very historic and this is well-documented. They will then hear that these structures have gone through a long period of neglect from the current owner, as it has been the owner's desire to demolish these structures. It now falls to the Commission to decide what is in the best long term interest of the City. Section 23-66 requires all appeals to be brought before the Commission within 60 days of filing. Staff recently received a letter from the owner of the property requesting that this item be continued until February 2009, when he can arrive from Canada. But Staff must place this item before them this evening as required by code. The purpose of the Historic Preservation Ordinance is found in Section 23-3. The purpose of this chapter is to promote the health, safety, education, cultural, and economic welfare of the public by preserving and protecting properties of historical, cultural, archeological, aesthetic, and architectural merit which serves as visual reminders of the City's cultural, social, economic, political, scientific, religious, and architectural history. Under Section 23-36(a), criteria for the designation of local historic sites include significant events and significant persons in which a site is associated with events that have made significant contributions to the pattern of history in the community, St. Lucie County, the State, or the Nation, or that the site is associated with the lives of persons significant in their past. As the history associated with these structures is presented, a series of photos will be shown, all of which were taken by the Hill family, owners of the Florida Photographic Concern. 407 and 409 North 2nd Street originally housed the business operations of the Florida Photographic Concern run by the Harry E. Hill family - one of the pioneering families of early Fort Pierce. Nearly all the photographs taken of this region at the turn of the century were taken by this business and processed and stored in these structures. The history of Harry Hill reveals an intelligent self-made man with wide-ranging talents. He was born in 1865 in Canada. Before the age of 30 he moved to Pennsylvania where he married his wife, to California to manage the operations of a large honey producer, back to Canada to study under a famous beekeeper, and to Cuba to set up his own beekeeping business. The political unrest in Cuba soon encouraged him to move to Florida around 1898, where he and his young family arrived in Edgartown with 100 beehives and settled at the site they are discussing tonight. Soon after his arrival he became the co-owner and editor of a professional apiarist journal called The American Bee-Keeper. He was a regular contributor to professional beekeeping journals. And much of the material used in the first publications on apiculture by the Japanese government was written by him. His interest in photography appears to have been initiated by an interest in capturing images of his bees for publication. However, the hobby in photography soon became a vocation. In 1905 he was hired by Henry Flagler as the official photographer for the East Coast Railway and the East Coast Railway extension to Key West and for the Flagler chain of hotels. The business of photography soon crowded out his other businesses of bee-keeping and pineapple farming. By 1908, his exclusive business was the Florida Photographic Concern. He had the finest and latest photographic equipment, including a camera capable of taking a 360 degree photo. The curator of the Hill Collection at the St. Lucie County Historical Museum believes Harry Hill may have utilized one of the earliest methods for taking color photographs. Over the course of his life, his photographic work was published in the National Geographic and numerous

professional journals. He created images for advertisements for national companies, and was frequently published in domestic and international publications. He documented the early built environment of Fort Pierce. He captured pristine landscapes of the State as he traveled taking photographs for Henry Flagler's East Coast Railway. He paid a sociologist's attention to detail in documenting the earliest settlers and their homes, as well as the Seminoles and their evolution as a culture as they began to live alongside their new neighbors. Mr. Hill's son Lowell joined the Florida Photographic Concern. Later in life Lowell pioneered color film for the earliest color motion pictures. Originally, 409 North 2nd Street had a single story front with an Italianate inspired two-story flat roofed rear portion. In World War II, a second story was added to the front portion to add space for rooming soldiers. Hundreds of glass photographic negatives were stored in the back shed until Lowell Hill's daughter, Catherine Hill Flowers, donated the entire collection to the St. Lucie County Historical Museum. There another Fort Pierce native, Bob Gladwin, utilized the help of young Sea Scouts who cleaned and made three sets of reprints of the old negatives. These reprints represent most of the turn of the century photographs of this region today. Nearly all photographs documenting early Fort Pierce life and history is a result of this family's work. Nearly all of the work was produced out of these three structures being appealed for demolition. These three structures are as closely tied to the events and people that shaped Fort Pierce as any in their oldest neighborhoods. The Florida Master Site Files for these structures assess both buildings as contributing structures for a potential new National Register District for Edgartown. Fort Pierce currently has no National Register Districts. The benefits of creating a National Register District for Edgartown can mean additional tourist income for the City as well as new grant funding possibilities. In conclusion, the Historic Preservation Officer finds that the Historic Preservation Board properly considered the criteria pursuant to Section 23-49 for demolition of historic structures. The significant people and events centered around these structures is well documented. In fact, the reason they have historic documentation of the early development of Fort Pierce is a direct result of the people and events associated with these structures. In addition, Staff received a petition last Friday with over 100 signatures opposing the destruction of these historic buildings. The Historic Preservation Officer is very aware of the dilemma faced by the City Commission. If they are to deny this appeal for demolition, what benefit will these structures contribute to the City? These structures cannot stand forever in this condition with an owner who is uninterested in maintaining them. However, the support of local preservationists indicates to Staff that there may be a solution to this. If instructed by this Commission, Staff will work diligently with interested parties to find a new owner who is interested in rehabilitating these properties. The Historic Preservation Officer recommends the City Commission deny this request for demolition on the grounds that these structures are connected with people and events of significant note in the development of Fort Pierce. However, if the City Commission is interested in pursuing demolition, the Historic Preservation Officer has no objection per Section 23-49(1) to a demolition with a deferred effective date of 18 months to allow an opportunity to clear the title issues associated with this property and work with potential interested parties to purchase and rehabilitate this historically important site. If this cannot be accomplished within 18 months, the Building Official would then have approval to demolish these historic structures.

Mr. Marc Meyers, Building Official, said Ms. Olson dealt very nicely with the past. He will bring them into the present with the condition of the buildings today. The current owner purchased this property in 1990. He had it transferred into a fictitious name which has caused a lot of problems with the title. They had Code Enforcement cases starting in the early 1990's going through until October 2001 when condemnation proceedings started against this building. Interestingly, these buildings were designated three weeks later in November 2001 as contributing structures. Several of his predecessors have been dealing with this property. It started in 2001, then again in 2004 prior to the hurricanes, 2005, 2006, 2007, and now in 2008. It did not come to anyone's attention, specifically his, that they were dealing with historic structures until the July 28th meeting when he went to the Historic Preservation Board and asked for a Certificate of Appropriateness for demolition. The owner does live in Canada and is in poor health and he does not seem to want to take

care of these properties. They have had them boarded up at least twice in the last seven years. This slide shows the current condition. This is the condition in March. They have since had it boarded up. The buildings have been altered, as Ms. Olson noted. There have been additions put on. He is pretty sure this is vinyl siding. They have had vagrants living in it. This is the foundation that has deteriorated from lack of upkeep. If they do nothing with these structures, eventually they are going to crumble into themselves. The foundations are not secured, they continue to deteriorate. This is the inside. This is light they are seeing through the roof. There is basically no roof in that area. When it rains, it is raining inside. Someone has gotten in and made an endeavor to strip copper wire and the plumbing copper has been removed in areas. This is where someone broke into the walls to steal the plumbing copper. There is the fascia and the soffit area. That was the 407 building. This is the 409 building. They had an addition put on as Ms. Olson mentioned for barracks during the war for additional soldiers. In this area they assume vagrants came in underneath the foundation. The joist there on the floor, someone had started a fire on the floor. It burned halfway through the joists before the Fire Department got there and put the fire out. This photo was taken October 8th. They have someone else moving their bedding in. The water damage to the floor continues. They did not get this piece of romex. The plumbing has been opened. This is the dental work and soffit area outside the overhang. There are vines growing into the electrical boxes there. This is the upstairs back apartment and it is just completely deteriorating. This is the back kitchen. The sink, he doesn't know if it collapsed or if it was stolen. This he thinks is the front downstairs apartment. This seems to be a concrete block building where the slides were stored for the Hill Florida Photographic Concern. They see the roof has lost its shingles as well as its felt paper. Water is just pouring in. Soon the stucco on the block will be popping off because of the damage and lack of maintenance. His responsibility as the Code Official is that when he sees buildings like this, he is to have them removed, that is what he is paid to do. So it is sort of like the old cartoon - the sheep dog and the wolf, they used to go to work every morning and punch their cards and then they went to war. That is Leslie Olson and him. They walk in in the morning and then they proceed to pick at each other. But his responsibility is to protect the health and the safety of the public. These buildings, in his opinion, are beyond reasonable repair; and to protect the population in general, they need to be removed. He does appreciate that they are historically significant buildings. But it comes down to their decision as the Commission - do they deal with the history or the present condition of these buildings, and what is the most important at this time.

Commissioner Sessions asked in the "Facts Bearing on the Appeal" in the Staff Position Report (October 17, 2008), under the comments of March 21, 2007, there is some mention of ownership issues and pending lawsuits. With regard to those lawsuits, what are they in reference to?

Ms. Olson said it is her experience with this file that at some point in the past the owner of these homes, Lino Chermaz, transferred title into a fictitious name, which is illegal in the State of Florida. He didn't change it to a corporate name, he transferred it to a fictitious name. That has clouded the title. They are still in the midst of clearing that title.

Commissioner Sessions said that makes sense when they talk about the ownership issues. But the pending lawsuits, is there any liability issues out there with regards to any accidents? When he looks at that, at first appearance that is the first thing that comes to his mind.

Ms. Olson said not that she is aware of. She thinks the statement there, she kind of cut and pasted this from the previous Staff report, but she believes what Kia Powers was referencing at that point was the clear title issue.

Ms. Peggy Arraiz, Code Compliance Manager, said the pending lawsuit, the fictitious name was owned by two partners. One of the partners passed away and his heirs have filed a lawsuit.

Commissioner Alexander asked does the City of Fort Pierce have any liens or fines on these properties?

Ms. Arraiz said they do not have any fines currently running. It has been before the Special Magistrate multiple times, but they always give extensions.

Commissioner Alexander asked how is that possible?

Ms. Arraiz said 30 days is given for certain actions to be taken and the owner has taken those actions every time; however, he gets stonewalled because he does not own the property, so he cannot get a building permit, he cannot go before the Historic Preservation Board. In fact, the owner was on the Agenda for the Historic Preservation Board and it was removed because of this title issue. So every time he tries to take action that they ask him to take, he hits a stone wall because of the title, so he can't take any further action. So they have never initiated the fines because he has been making his due diligence, he has been making an effort, but can't get anywhere. So the fines never started because of that. The case has been continued ten times just in the past year. It has been before the Special Magistrate multiple times, but the title issue is the problem.

Mr. Meyers said there still is not a clear title as of this evening. His concern is not who owns it, his concern is the public safety.

Commissioner Alexander said his concern is not either. His concern is those buildings have been there and they tell him there is not one fine, not one lien. But for whatever reasons they give him, he just can't accept that. Those buildings are dilapidated. Anyone who visits this City, that is an eyesore. It just saddens him because he thinks of the other homes that have been torn down. And there is not one fine, not one lien.

Commissioner Coke asked as a point of clarification, what they are saying is not that this gentleman has been unwilling to repair the property, it is not demolition by neglect, it is the fact that he has a clouded title so he has not been able to obtain permits to do the work the City has requested on the property?

Mr. Meyers said he can't speak on the owner's behalf. But he wouldn't say they don't have demolition by neglect also. The owner's choice is to remove the buildings and put up townhouses.

Commissioner Coke said when she originally read the file, that was her impression of what had happened, that this was demolition by neglect. Now she is hearing that the owner has tried to apply and that is why they haven't put fines. He has attempted to get the necessary permits to make the repairs; but since he doesn't have clear ownership, he hasn't been able to obtain the permits. It is kind of like chasing themselves around and around. They tell him to do something, but then they won't give him a permit to do it.

Mr. Meyers said he is not aware of any application for any permits to do anything. It has been a code issue. This situation has been before the Special Magistrate. That is why the fines did not get started, because of this ownership issue.

Mayor Benton asked if they were to wait 18 months, how could they resolve this problem? Because it appears the owner of the property hasn't tried to resolve it. He would think by getting an attorney, somebody could get a clear title to that property in a decent period of time.

City Attorney Schwerer said his review of the file shows that this is an owner-generated title problem. Apparently this gentleman went through a divorce. At the time of the divorce he transferred this property to Adria Homes, which is a fictitious name and there is no such company. He is not going to sit here and tell them that with due diligence the owner could have fixed this within a very brief period of time if he wanted to. But he does suggest to

them that this has been a long-standing problem where perhaps, had an attorney been retained a long time ago, this matter could have been resolved. It is only up until recent code action has been taken that this title issue has been raised. He does want the Commission to understand that, because his office was involved with some of the earlier code actions. In other words, he took the property from his divorce, put it into a company, and did nothing with it for 10 or 12 or more years, and that is how it has been. Just recently he hired a lawyer. The lawyer gave them a status report, he thinks. He is not up to date on that report, but he understands a court hearing is set on a quiet title.

Commissioner Coke said that doesn't have a lot to do with whether or not they are going to move forward here.

City Attorney Schwerer said right. But they should have that title issue resolved, because he thinks they are being pushed by the Special Master to do that.

Commissioner Coke said she spoke with a member of the Historic Preservation Board this morning and she understands there is a movement underway to try to actively have someone pursue purchasing and rehabbing that property.

Ms. Olson said she has received some correspondence from local preservationists who say they are interested in forming a group to buy and rehabilitate this property. She has also talked with others who are interested in creating some kind of movement to create a Hill Collection Museum out of this property. In this economy that would be a challenge, she fully acknowledges. But she has had unsolicited support for a number of different items on that. She believes they will see that during public comment.

Commissioner Coke asked is it possible for them to secure the building so the vagrants can stop going in and sleeping there and maybe the Chief can have somebody drive by on a more regular basis?

Mr. Meyers said they did in mid-October have it secured all the way around. It was secured and painted.

Commissioner Coke asked is it no longer secured?

Mr. Meyers said it is currently, at least as of last week it was.

Mr. Meyers said here is a picture of what it looks like today. It has been secured around the foundation as well as the doors and windows.

Commissioner Alexander asked did Mr. Meyers say it was painted too?

Mr. Meyers said they painted all the plywood.

Commissioner Alexander asked did the City pay for that?

Mr. Meyers said the City paid for it, their demolition contractor; and they are in the process of applying a lien against the property for the cost of that.

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

**Ms. Lucille Rights**, 816 St. Lucie Crescent in Stuart, said she is part owner of a townhouse on North Beach. The Historical District is full of old homes and some are in bad repair. In listening, she too wonders - why hasn't a fine been attached to this building and why isn't a fine either put on the taxes or collected, so something can be done with that fine to protect the houses? Like any manmade structure, houses deteriorate. Did they know

there are only 29 structures listed that are historic in their Historic District? If they are thinking about the National Register, they have to have a majority of buildings that are historically significant to get on the National Register. Have they done a historical survey of each house? Whoever didn't know that these buildings were historical didn't have anything to read from the historic district, because they know by looking at them they are old. But if they are from anywhere around here, they know something about the history or they should have it in writing for their historical district. She interviewed Catherine Hill Flowers, who is the granddaughter of the Hill's when she was 70 and dying of cancer. She was living in 409 North 7th Street. This was in 1978 or 1979. So this information she is giving them came from her. It was a pineapple packinghouse first, 409 North 7th Street. When the war came they put on a second addition, not as a barracks, but for the families who were following the servicemen down here. Everybody, either if they had a big closet or garage, they made it into an apartment for the followers of these men. And they did the same. At this time Ms. Flowers was living downstairs in the two-story building. They sat in the front room and she told her these things. The house at 407 North 7th Street was where they did the business. The one at 409 North 7th Street is where they did the photographs; and they had room for accessories so they could change their backgrounds and furniture and so forth. She didn't get a date for the house at the time because she was new at this. At one time the Hills were living in a house that since has burned, which was on the north side of these, but is now a vacant lot. No other county or town in this area can claim ownership of such an outstanding collection of homes, which at this time is underutilized. Maybe they could think about that suggestion to use them as a photographic gallery with a gift shop, note cards, souvenir things. If this becomes a tourist attraction, they would need something like that to bring them in. She would also like to make a suggestion that some of the ordinance be either changed or something so that more assistance is given to the homeowners to repair their property instead of spending untold sums on demolition. They are waiting until they get so bad and then they are tearing them down. Whereas when they are neglected, they could start maybe some type of aid to them. And that fines when applied be paid at the time so appropriate actions can be taken. And that a definite limited time period be set for the City's Special Magistrate's ability to continue violation hearings. This has been going on how many years? They have yet to get a fine. If the owner is unknown, then attach the fine to the tax bill. Surely they can do something to make it legal to repair the building or others. Everyone realizes that speculators and developers who want to build a townhouse on the lot acquire property to benefit themselves and not the community. Seldom are their values the same as the neighborhoods in which they invest. Only the City or County can control the zoning changes to protect the citizens who already live in established neighborhoods and to create special districts to protect their valuable local landmarks and history. It is a big responsibility to add to all the other duties they have. But for Fort Pierce, which once was the biggest town and still is the oldest in this area, it is worth it. She would also like to bring up one other thing. Having houses destroyed and vandalized like this is nothing new, nothing unusual, when they have empty houses sitting there. She has been working on an Indian mound in Martin County where there is a 12,000 foot mansion on top of an Indian mound, completely vandalized over ten years. No glass is standing, no copper is there. But they have gotten grants, so they are fixing it up. But this is what happens. Also look at the house at the corner of Midway Road and South Indian River Drive. That is in the County. There again they have an absentee landowner. The house is going, demolition by neglect. Did this person have insurance on the houses before the hurricanes came? Did he get hurricane money? There are lots of things they should look at to protect their buildings. She encourages them all. She knows it is something else to do, but they only have a one time chance to do it. Wooden buildings can be repaired and can be restored. Please be positive in keeping this part of their heritage.

(Commissioner Becht left the meeting at approximately 7:40 p.m.)

**Mr. Ed Register** said he wants to thank the Commissioners and Staff for giving him an opportunity to speak today. He brought along a copy of a publication of the Florida Trust for Historic Preservation. It shows them retrieving a building down in Fort Lauderdale that

they want to preserve for historic purposes. He comes to the Commission to represent only himself, although he has been for a few weeks now working with a number of friends of his who are all local people just as he is. He is a native of Fort Pierce. Actually he was born just over on the corner over there on Avenue A and U.S. #1 back in 1917. A lot of pictures they showed a while ago, he may be the only one here who has seen those places in person somewhere along the line. He and his friends have no official organization, although they did do the petitions for Ms. Olson and he worked on that some. They learn more each day. They have been to the site. They think there is a very strong reason for preserving this. Mr. Hill gave their community something that he doesn't think anybody else in Florida has; and that is, the ability to look at the pictures of the way it was then and to learn from those pictures. The photograph negatives are stored in the County buildings, he is not sure exactly where, but he has been told they are. As he sees the possibility for the future of this project, it will be to preserve these buildings. He came thinking there might be some way to figure out what kind of a reasonable price they could get to buy the property, but he can't see that. He thinks the only possibility of keeping this program intact, having Mr. Hill's facility, recreating it the way it was, using the films and the negatives that are available, and educating their children about the history of St. Lucie County. Because at that time it was bigger than it is today. He thinks that is important. It was all of Indian River County, all of Martin County, and part of Okeechobee County - it was all St. Lucie County. The places like Jensen Beach were major cities. Viking up the road here a ways was an important location. So to be able to bring all of those kinds of things back and to teach their children and to entertain the adults with those things is very important. He hopes they all got a copy of this Letter to the Editor that they got in Sunday. He thinks that covers a lot of territory. So on the lighter side, there are a couple of people on the Board that have a claim to fame in Fort Pierce. He was also once known as Aunt Nell's Daddy. There may be one member of this Commission who will figure that one out. And he was also once a part owner and general manager of Horton Stores, so one of them will figure that one out. He hopes they will not demolish those buildings and he hopes they will allow them to go and look to see if there is any way... Maybe they can move them to another location. Maybe they can do this thing for the community. He hopes they will reach out to all the community and ask them to take part.

**Mr. Jerry Vincent**, 1240 Binney Drive, said for the record, he is one of the seven members of the City of Fort Pierce Historic Preservation Board that this issue came before them on July 28th. There is only a little bit that he has to add that has already been said at this table and by the contributors behind him. But may he address this situation on two foundations. When this came before them on July 28th, it was quickly apparent to the Board that the interim or transitional staff that was handling this had no idea, as Mr. Meyers just pointed out, the historic importance of this building. In fact, they had to do some rather quick education from their side for the dias there. And he appreciated Mr. Meyer's honesty. What troubled them is that early in the discussion that evening of July 28th when Mr. Meyers was asked, in proposing demolition, had he entered the building? He quite candidly and truthfully said no, he had not. His proposal for demolition was based upon an exterior inspection. The photographs they saw tonight were taken a month ago, but they did not have access to those photographs at that time. So a few weeks later a team consisting of the transitional staff, Sunny Gates and some others, received permission from he assumes an attorney to venture into the building. At the following meeting they asked for an inspection report; and they were told though there had been major changes made by people living there over the decades, that they found no major water or termite structural damage. The photographs they saw tonight showed evidence of transients living there. But he wishes there had been more photographs of the rafters, the beams, and not just the damage done by people looking for copper coils. Because the team that came back informed them that they found the building still sound structurally. The second basis on which he wishes to address this is, he wishes former Judge William Tye were here tonight. Judge Tye grew up in that neighborhood and was an extended member of the Hill family. He met him, he was just a college student at the time in 1963. He is sure his testimony tonight would completely swing around whatever feeling there may be. But while visiting with him and Mural Hill, the widow of Lowell Hill, he did pick up several facts. He appreciates Ms. Rights pointing out that this building goes back far before being a home

and a photo studio. According to Mrs. Hill, who told him this in 1963, it was indeed a pineapple packinghouse, thus the strange configuration of that three-building complex. That takes it back if it served that purpose to the very beginnings of St. Lucie County and a way of life that disappeared somewhere around the World War I era. She also proudly pointed out at that time in 1963, though she was working as a nurse, she was still keeping the business open. It was the oldest photo studio between Jacksonville and Miami. He also would like to point out that the so-called stucco building, where the glass negatives were stored, was called the stone room by the Hill Studio. If there is any single building standing in St. Lucie County aside from the Platts/Backus home that has historical significance, it has to be that little insignificant stone room back behind the clapboard frame building. May he also point out they somewhat lost track of the fact that at the beginning of this it was pointed out that the owner who lives in Quebec did offer to try to be here in February to present his case if this issue was delayed. But they somewhat got away from that and never returned to that.

**Mr. Brad Culverhouse** said he also has the pleasure of serving as a member of the Historic Preservation Board and as President of the St. Lucie Historical Society. A month or so ago Bud Adams called him and said they need to put a group together to raise money to buy the Hill house. He called the attorney who is representing the owner and asked the attorney if he could tell him what the owner was willing to sell it for. He said, make an offer. It is kind of hard to go about it that way. With all due respect to Mr. Meyers, who he thinks does a fantastic job in trying to beautify this City and keep all the buildings up to code, he would respectfully request that the Commission consider upholding the decision of the Fort Pierce Historic Preservation Board. The reason is that if they were to reverse the Board and put on an 18-month deferment period, that would just encourage the owner - who has been able to escape having fines put on the property - to not have any incentive to really get anything done. For whatever reason, there are no fines against this. The owner has no incentive to do anything. With the King Power Plant coming down and with the plans they read about in the newspaper for that area, all the owner has to do is, even if the City put fines on him, if they reverse the Historic Preservation Board and assess fines, with what he could get for the property it really wouldn't matter, because it would be close to property that he thinks the value will skyrocket. They have this problem in St. Lucie County. He has the honor to serve as Chairman of the St. Lucie County Historical Commission. As Ms. Rights mentioned, the County designated the William Robinson house on the corner of Midway Road and Indian River Drive, but it doesn't have anything in its ordinance to be able to make the owner go in and do the repairs. They have the same problem here in the City. But he thinks the City has the ability to put a fine on it and have the fine begin running and to continue to run until it is brought into compliance, which he thinks is a different situation than the County. In the interest of Historic Preservation, he is requesting that the Commission consider denying the appeal of the Building Department, affirming the decision of the City of Fort Pierce Historic Preservation Board. He doesn't know what the legal methodology is insofar as having the fine to start running, or if it has to go back to the Special Master or not. He would request that. And that way he thinks the owner will get the message that he can't, for whatever reason, allow this building to sit there and deteriorate like this 18 year period and get away with it. This has to be one of the most significant historical sites and structures in this area. So respectfully he requests that the Commission deny the appeal, affirm the decision. The Society is certainly willing to work with Bud Adams, Anne Sinnott, Ed Register, O.C. Peterson, and others to try to negotiate with the owner to try to acquire the property and to restore it. If they are going to restore a property, if they move it somewhere, then they really are getting rid of the opportunity to apply for most of the grants for historic preservation.

**Mr. Mike Simone** said he lives on North 6th Street. He just wanted to bring to the attention of the Commission that one of the major things that is being sold about this City as far as what it is all about, he thinks it is the history. Historic Fort Pierce, they hear it all the time. Of course the environment, being a waterfront community. He believes that these buildings being the gateway to Edgartown, which is the oldest Historic District in the City of Fort Pierce, they will be sending the wrong message to demolish them. The waterfront

charrette that was recently done he believes had a section for Edgartown and mentioned that historic buildings should be saved if they can. He thinks they are finding out that the structural integrity of these buildings is pretty good. If they have someone who is willing to rehab them, they should be given a chance. He understands there is a bad history and he can make no apologies for that. Also he wanted to address a possible double standard. He can't understand how no fines have been levied on this building. When they go into some of the other neighborhoods, this house would have had thousands of dollars of fines.

Regardless of whether or not there is clear title, that makes no difference to him whether or not a fine could not have been assessed against the property. They can still give a fine and decide later who is responsible for it. Also, what kind of statement would they be making if they compare this property to the Governor's House in that they recently overturned the Historic Preservation Board's decision, which was to possibly allow it to be moved. Anyhow, to save that building, a historic structure, a contributing structure in a historic district, and also associated with historic people and events. How can they vote to save one and vote to demolish another? Isn't that a mixed signal?

**Ms. Anne Sinnott**, 3111 North Indian River Drive, said she knows they have already heard what a valuable historic resource the Harry Hill buildings are and what an ingenious photographer Harry Hill was. Mr. Simone has mentioned a wonderful point. What a great gateway that would be to the Historic Edgartown District, especially with all the improvements and the refurbishing of the Platts/Backus house. If they think back to the 1970's, think about Delaware Avenue east of 10th Street, the little houses that were there, so many of them probably slated for demolition. They were going to be demolished in the name of growth. Fortunately they had a recession and so those buildings stayed on. Look at those buildings today, look what they have become, a lot of nice beautiful little offices in a wonderful little area. She thinks the Harry Hill buildings would make a wonderful cultural complex. Those would be a great boost to eco-heritage tourism, promote economic development, serve as a cultural or possibly a community center, complement what has been done. They already have the Backus Gallery and the Manatee Center there. It would be a wonderful cultural center right there in that historic district. She thanks them for their consideration of saving these buildings.

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

Commissioner Coke said she has no clue why there are no fines and liens on this building. That being said, she is going to tell a very short story. She was driving up I-95 headed north from Palm Beach on Saturday. A wonderful billboard was on the side of I-95, thanks to their friends at the County for allowing them to use it. It said: Sunrise Theatre - in big bold letters - in Historic Downtown Fort Pierce. She doesn't think there is any choice in the matter here. They have some historical buildings, they have definitely the will of their citizens to get together. They know the City doesn't have any money. They can get together, do whatever. The City will be glad to help them in any way it can.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to deny the appeal filed by the Building Official of the Historic Preservation Board's denial of a Certificate of Appropriateness for demolition of three structures located at 407 & 409 North 2nd Street.

Mayor Benton asked do they want to put a time frame on that? They are asking for 18 months.

Commissioner Coke said she did not.

Mayor Benton said he has learned a lot about history tonight. He has been here in Fort Pierce almost all his life. He took his first steps here. He has been by that house for the last 20 years. He remembers back when somebody flew over the Tickle Tummy Hill bump and hit that house and almost knocked it off its foundation. He was told that was one

reason why the tickle bump wasn't opened again for so many years and that was something this Commission did. But his frustration of all the years he did complain about those homes and nothing was done, he is just finding out there is a lot of history there. What they need to do is find out the other homes that have a lot of history so they put that on a priority list. He drives by that group of homes several times a day. He saw Marc Meyers standing there with the Historic Preservation Board in the back yard one day. He was wondering, what are they doing there and why so much interest in that building? Now he knows. Mr. Meyers probably got his marching orders because he complained to him quite a bit about the shape those three homes were in. His frustration has nothing to do with the current Staff they have now, because he has been complaining about those homes for the 13 years he has been sitting up here. Knowing the history there, he would like to see them try to save that home. But he is hoping it is not like the Betts Building where they waited five or six years and they saw no progress. Please let's really push this and get something done. He knows the City can't afford to do much. The FPRA might be able to be a partner in this, he doesn't know. But he does see a lot of history there. He thanks Marc Meyers for his efforts because he knows he was just doing what probably some of them wanted him to do.

Mr. Meyers said if this gets them off center... This has brought the community together for a purpose and a reason. But somebody needs to step up to bat here. These buildings have been like this for two decades now and nobody said anything until it has gotten to this point, which is sad. Someone should have stepped up a long time ago and made an effort. If now is the time, that is great. But he is here to protect the health and the welfare of the public. These buildings have gotten to this condition. His responsibility is to do something about it. If somebody will step up, he is more than happy... He is all for historic preservation; but they can't just let these buildings fall onto themselves.

Mayor Benton said they appreciate him doing his job. Let's make this a top priority for this Commission and the community to see if they can get something done there in a time frame that they can live with.

Commissioner Coke said she appreciates Mr. Meyers doing his job and she hates to have to overrule him. But while he is doing his job, there are a couple of places on Seaway Drive that are half taken down. Maybe he could go by there?

Commissioner Sessions said while they have stopped the clock, they still have some concerns. They asked staff to address this. This is a significant problem and it poses a danger perhaps. They have talked about it all night long; and that is, the fact that no fines have been issued on the property. He submits that is a contributing reason why there has been a lack of care. So where are they in terms of trying to impose fines? Because something needs to be done in terms of trying to impose some fines so they can get something done or else it is going to be there for another ten years.

City Attorney Schwerer said he is going to look into that issue. There has got to be a legal reason the Special Master has continued it. But his office does prosecute those cases and he will look into it immediately and determine why they haven't moved forward with the fine violation hearing or been able to based on those special master cases or hearings. He will certainly look into that and assure this Commission that action will be taken appropriately.

Ms. Arraiz said there was an order entered back in 2005. Does Ms. Olson have that time line by any chance?

Ms. Olson said it did not save onto this powerpoint presentation.

Ms. Arraiz said it was prior to her tenure. There was a case initiated in 2005 that went before Special Magistrate Blandino, who did find that a violation existed and they were given 30 days to comply or a fine of \$250. An order was entered, but fines were never initiated because the title issue was brought up. That is the documentation she has. She

doesn't know whose decision it was. It can be retroactive to that order in any way, shape, or form that it applies.

City Attorney Schwerer asked would Ms. Arraiz present that to his office tomorrow? They will start looking at that.

Ms. Arraiz said as for the current case, a quiet title action, there has been continuous communication between either the owner or the owner's attorney with a Special Magistrate as far as the status of the quiet title action. They were advised a year for a quiet title action is not unheard of and that is fairly common when they are dealing with this type of litigation where there are heirs to property. It can be quite timely, so that is why it has been continued numerous times.

Mayor Benton said let's make it a priority.

Commissioner Alexander asked making it a priority, can they have a monthly report on what the activity is on these properties?

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

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The next item on the Agenda was a Public Hearing on proposed **Expansion of Fort Pierce Redevelopment Agency CRA Boundaries** to the north and to the south per the Finding of Necessity Report issued in July 2008.

Mr. Jon Ward, Director of the Fort Pierce Redevelopment Agency, said they do have a powerpoint presentation, but for the purpose of brevity he would like to skip past that because he believes the Board is familiar with the points. He knows they visited with everyone on this issue. He is joined this evening by Mr. Chris Brown of Civic Design Associates, who is their consultant on this matter. Mr. Brown is probably the smartest fellow in the State on matters like this. He wants to point out, this evening they are only looking at approving the Finding of Necessity. They will recall that early last year they commissioned this firm with coming up with the Finding of Necessity, which is one of the required steps for the enlarging of the Redevelopment Agency's area. They have done that. They have gone before the Planning Board. They have gone before the FPRA Board, who recommended that they come before the Commission. This evening they are asking the Commission to approve Resolution No. 08-48, determining that certain defined areas are slum and blighted areas, approving of the Finding of Necessity, and then determining that it is appropriate for them to move forward and enlarge the area to include those areas. This is one of a series of steps. If they approve the Finding of Necessity tonight and it defines the area they are seeking to enlarge into, then their next step will be to develop an amended plan for the FPRA. So tonight they are not approving the enlargement of the CRA, they are only approving moving forward with an amendment of a plan. Staff is recommending that they move the fiscal improvement of the plan modification into next year's tax valuation, so there will be another step involved.

**Mr. Christopher Brown**, Civic Design Associates, said tonight is just the Commission's finding that this area is defined as a blighted area, it is simply that. The resolution would be only for those areas that are within the City limits of the City of Fort Pierce.

Mayor Benton asked could they show a map of the property or the area they are talking about for the public?

Mr. Ward said yes, they can.

Commissioner Coke asked the effective date of this would not be until next year?

Mr. Ward said yes.

Commissioner Coke said it has been pointed out to her by her friends at the County that there is a possibility that there is a half-block area included in these boundaries that has yet to be annexed into the City. It is her understanding that it will either be annexed into the City by the time of the effective date should this pass or that this half block area will be excluded from the expansion area. Is she correct in that?

Mr. Ward said yes. It is physically impossible for them to take anything into the Agency without it being a part of the City. So anything that is not officially annexed will be annexed prior to it being included here. What that will require is that they will have to come back with an additional finding including those areas as they annex them. They will notice in Paradise Park there are a number of areas they don't have in the City. So as they assemble 20 or 30 parcels, they will come back to the Commission with a finding saying here is this inclusion and they will just add that to the plan.

Commissioner Coke asked she has heard fellow Commissioners and she has heard some other people talking about the fact that they are looking to do this expansion for the possibility of building a Taj Mahal golf course clubhouse. It is her understanding that any monies that will be spent that are generated from this expansion would have to be projects that are approved and the funding approved from the FPRA Board. Is she correct in that?

Mr. Ward said he wants to be absolutely crystal clear on the fact that tonight they are talking about a concept. And any project is a project - it will have to go on the CIP, it will be vented by this Commission, it will have to go before the FPRA Board. So this has nothing to do whatsoever with building any specific structure. This is advocating for any structure whatsoever. This is the concept.

Commissioner Coke said it was her understanding when they met almost a year ago in the upstairs of the Sunrise Theatre and they talked with members of the Hibiscus Park neighborhood, they have an awful lot of areas within the City limits that they do not have the funding to take care of roads and drainage and street lights and parks that are established already in neighborhoods. She can remember when the FPRA's entire income for a year was \$60,000 and it was that for many years. So it will take a long time for any capital to be built up to enable the FPRA to move forward with this. But is this not actually designed, isn't that the purpose of this, for bricks and mortar, to help them with roads, lights, and drainage, and park maintenance?

Mr. Brown said she is absolutely right, that is the purpose.

Commissioner Coke said that was her understanding of it. She just wanted some clarification.

Mr. Brown said it would also include helping people rehab their house or bring their houses up to code, things like that.

Mr. Ward said it is important that the public understands that the increase in the TIF (Tax Increment Financing) funds that is generated by this takes awhile to accumulate. He wants to caution their friends at Hibiscus Park who have been so patient in waiting for this and a number of other neighborhoods, that the day the Commission approves this, they are not going to see a lot of Public Works trucks pulling up in front of their houses. It will take a while to generate some funding. That is the reason for enlarging the Redevelopment Agency boundaries, as opposed to starting a second and separate one. Because they are enlarging an existing Redevelopment Agency, they already have income. They have an income stream right now, so it will allow them to address those areas that have the most crying need. So they can start spending redevelopment dollars in those areas immediately.

City Manager Recor said he would like to point out the correspondence he had distributed earlier this evening from the County regarding the expansion of the Community Redevelopment Area (Letter from Doug Anderson, County Administrator, dated November 3, 2008). The communication speaks for itself. He sees there are a number of representatives from the County here.

Mayor Benton said he just wants to back up what Commissioner Coke had said, because he had heard a rumor out there and had seen something in writing that they were using this as a mechanism to build a Taj Mahal clubhouse at Indian Hills Golf Course. He wants to make it clear that in this economy he doesn't see anybody building any clubhouse at all for many years. Let's make that clear. This is a mechanism to help rebuild some of the older neighborhoods in this community. It is something they have done in several areas and they want to continue doing that. It helps them bring in the County as a partner.

Mr. Ward said that is an excellent point. It is important that the public be aware that the County is their full partner in this, although the County's name does not appear as often as it should; and if he has done anything badly, it is probably that he hasn't acknowledged as often as he should and as publicly as he should, the role of a full partner that the County has been with all of their major projects. They just opened the Human Development & Resources Centre at 29th Street and Avenue D, a fabulous \$10 million project in which the County was their full partner. They are doing any number of things. The County is a full 50% of the funding source for these dollars. So it is important that the public recognizes that although this is the Fort Pierce Redevelopment Agency, that they do have a strong - unfortunately, more silent than they would like to be - partner in all these projects. He certainly wants to extend his thanks for that.

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

**Mr. Mark Satterlee**, Growth Management Director for St. Lucie County, said he and Doug Anderson, the County Administrator, are here on behalf of the County tonight. It is refreshing to hear this is not going to be an implementation of the actual expansion of the CRA area. They are here to ask the Commission if they might consider deferring that action tonight simply to give County staff a chance to better evaluate the impacts on the County budget of the expansion, the fiscal impacts that might have on the County budget. They are talking about tonight not having the funds to do a lot of the things that the County needs to do. Certainly that is affecting them as well. In addition, they did look at the map that was provided; and it did look like, especially the north expansion area, that fully 25% of the property up there appeared to be in the unincorporated County. So they wanted an opportunity to evaluate the fiscal impact and to sit with Mr. Ward and City Staff to make sure they have all their i's dotted and the t's crossed, have an opportunity to sit down and really evaluate it. Mr. Anderson is here to kid of talk about some of the issues the County is facing with their budget.

**Mr. Doug Anderson**, County Administrator, said first of all, he thanks Commissioner Coke for clearing up the Taj Mahal issue.

Commissioner Coke said he was not the first person to bring that up.

Mr. Anderson said they did not want to be a partner in that. First of all, they would like the Commission to consider the negative effect the expansion would have on future County revenues. They have already eliminated over 250 positions at the County or 22% of their workforce. They are actually back to their 2001 workforce now. That is because of decreased property values, decreased property taxes. The Property Appraiser has informed the County that property values for 2009 will likely to decline by at least 20% over what they have declined so far. They have already cut \$107 million dollars in the 2008-2009 budget from the 2007-2008 budget. In addition, no salary increases were given to law enforcement or other County employees; and most likely, there will be no increases next

year. They are also winding down the County's capital program until property values increase in the future. They are wrapping up their capital projects and after that they are basically done for a period of time. Prior to any further discussion on expanding the CRA boundaries, they would like a copy of the fiscal impact analysis regarding this action. So what County Staff is requesting is that the CRA expansion discussion be deferred until the economic conditions improve and they look forward to an open dialogue with the City regarding this proposed expansion. He suggests they have an open meeting between the FPRA and the County Commission to discuss this and where it is going and how the monies are going to be used.

Commissioner Sessions asked in light of the projected decrease in property values, what is the fiscal impact from the County's standpoint, what do they project this is going to have in terms of the fiscal impact on the County?

Mr. Anderson said they need the fiscal impact statement from the consultant. The property values are continuing to drop and are going to drop an estimated another 20%. At that point if their FPRA expansion is approved as of that date, then their revenues, their property values are frozen at that level. Then as the property values increase, that money goes to the Fort Pierce Redevelopment Agency, not to the County, which means that they will be frozen at that level. As of right now they are down over 250 positions, they don't have salary increases. The County is in the same situation the City is in with their operations. That is what they are concerned about. If the property values came up some and then the CRA was created for that area, then at least they could benefit from some of that revenue once values start going up again. But he doesn't have the dollar amount right now because they don't have the information from the consultant.

Commissioner Coke said she is going to have to disagree with him tonight. She is going back in a little history, 28 or 29 years ago, when their FPRA was first formulated. She happens to know the gentleman who was the Chairman of the FPRA for 26 years very well. The FPRA Board members paid their own way to conventions because they had no income. Interestingly when their sister city to the south started their FPRA, the County gave them a nice big donation to start off with. All of that is water under the bridge. But she thinks what is happening is, as the County is losing money and the City is losing money. Her concern is if they freeze the taxable value here, when it goes back up it will enable the City of Fort Pierce to do for its residents the things they have to do. Mr. Ward is right, they haven't said thank you enough for some of their partnerships. But now they have some partnerships that they would not necessarily have taken without this FPRA. Her friend County Commissioner Grande is back there, he has thanked them a number of times about how great South Causeway Park looks. They couldn't have done that without this. That was originally a partnership between both entities that they couldn't move forward with the way they wanted and the FPRA took it over. She knows the City of Fort Pierce, without the benefit of the FPRA, moved forward with the Sunrise Boulevard problem they had with landscaping and roads and drainage. Her concern is, just in the last several months they have been - luckily, in her mind, but not everybody agrees - given back a lot of parks that are within the City limits that the County used to maintain, and that is putting an extra \$1 million something a year burden on the City taxpayers. So unfortunately, although she wants to be a good partner in all this and she wants them to work together on projects, she doesn't think it is fiscally responsible for her to take \$1 million worth of parks to take care of with no revenue funding, which is what they are in essence doing, and not make the provision to enable them to have funding in the future to take care of neighborhoods like Hibiscus Park and also Paradise Park, when it is annexed in. The City's expenses are going way up, as is the County's, and the revenues are going way down. She appreciates having the parks back in the City control; but unfortunately that is a big expense and an added burden to the taxpayers. Unless they move progressively forward to do something like this, she thinks they are going to find themselves in deeper trouble than the County is in.

Mr. Anderson said he agrees with what she is saying. They are just asking that it be postponed and if they could have a dialogue between the County Commissioners and the City Commissioners. And secondly, have it postponed until the economy starts improving. The City needs money for operations, the County needs money for operations. If this goes into the FPRA, the County and the City can't use it for operations. They just need to wait for the economy to stabilize a little bit. That is all he is asking for.

Commissioner Coke said she does understand what he is saying. She just respectfully disagrees.

Mayor Benton asked does Mr. Anderson understand, this is just a step in the direction? They are not finalizing anything tonight. He meets once a month with the County Chair. One thing they said years ago is they would get together and meet regularly. They haven't done it in over a year. Maybe early January both Commissions can get together and discuss a couple of the items that are on the Agenda here tonight, or at least this one before they finalize it. But if they were to back off tonight, it would just slow the process down. He would be more than willing to sit down, and he thinks this Commission would be, to discuss the concerns the County has. But they just don't want to slow down the process.

Mr. Anderson said his office will contact his office tomorrow about setting up that meeting the first of the year.

Mayor Benton said okay. And they will get a list of things.

Mr. Anderson said absolutely.

**Ms. Cecelia DeFilippis** said she resides at 1006 Beach Court in Hibiscus Park. She learned something from Commissioner Coke. She did not know the history (of the FPRA) that went back quite a bit before her residency here. However, she does understand that what goes up must come down. She thinks all of them here have lived long enough to know that the real estate market was going to go up and it was going to come down. So they can't stop the progress of what they have been working on for years here in this City with their capital improvements. As the Chairperson of the Capital Improvements Committee for the Hibiscus Park neighborhood, she is here to speak on their behalf. They have been patiently waiting all night, so she is going to ask them all to raise their hands in support of the fact that they have been working on this for a number of years with City Staff. (Approximately 12 people raised their hands.) Ed Seissinger (City Engineering Projects Coordinator) is not here tonight, but he is getting kudos all around from everybody here in the community, and also Mr. Andrews (City Engineer). In working with the City for the past four years, they have been very patient, they have been very proud to work with everybody on the Staff, and the City has been very generous and very gracious in allowing them to come forward and talk to them about all the things they need. Another resident and her friend back here has been to a number of their meetings, so they invite her to join their Neighborhood Association. They know they need improvements. Go down Texas Court, there are a number of patches on Texas Court that are big enough to fall into. She can attest to that as she rides her bike through the neighborhood. They know they don't have proper lighting. They know they don't have proper drainage. Go past Gliddin Park after a heavy rainstorm and they will see that residents have to put up yellow tape to keep people from driving through their front yards. She noticed the Troy's actually went out after Tropical Storm Fay and built little old wooden blocks with lighting on them to keep people from driving across their grass. And the Cox's had to put the yellow tape up next to their house. The residents within Hibiscus Park had come to the Commission before saying they would consider an MSBU in order to maybe finance this. She can assure them that under these tough economic circumstances, that is probably going to be a real hard sell in the neighborhood. So they are looking out for their future and they are looking out for the fact that they are right around the corner from the new Federal Courthouse. There are going to be places for people to live. They are all part of an extension of this wonderful City they have brought up from the ashes. They do not represent everybody in the proposed

expansion, but they certainly do support any work that needs to be done. She is so glad they brought up the Indian Hills Golf Course Taj Mahal, because she really didn't see the relevance of that. She is sorry Commissioner Becht wasn't here tonight to defend himself. She understands those projects have to come before the Commission for approval. So that is just one project within all the things that need to be done. She wants to thank everyone, including Mr. Ward and Staff who have done such a wonderful job with the FPRA. They hope they can continue to work with them. The Commission has been patient listening to them and the residents are patient and waiting. They know these projects are long term, they know it is not going to happen overnight. It has been their biggest challenge to take that to the residents and explain that to them. When they first started talking about this four years ago in the Charrette, many people panicked and ran around the neighborhood saying, "Oh my God, they are going to raise taxes". They were waking her up at 7:30 on a Saturday morning. She told them to back up and slow down, it is going to be a long process. But the long term benefit to their property values, the beautification of the City as a whole, and their reputation is the best jewel on this coast. She tries not to tell too many people from Palm Beach County because she doesn't want them joining her up here. So she thanks them again for their time. If Hibiscus Park can be included in any of those discussions, let them know and they will be happy to attend.

**Ms. Cris Adams**, President of the Heathcote Botanical Gardens Board of Trustees, said on behalf of their board, their staff, and members, she wants to encourage the Commission to favorably consider the expansion of the FPRA when it does come for a vote. Heathcote is one of the attractive magnets in the expansion area. Over the last three or four years they have built a foundation for fundraising and they are highly interested in this development. They have also built a relationship with both the City of Fort Pierce and St. Lucie County. The recently obtained Florida Communities Trust Grant includes all three entities and will enable the Gardens to begin their expansion within the proposed CRA area. They have the infrastructure and the capacity to enhance these efforts. They are ready, willing, and able to be a significant part of the expanded FPRA and to make meaningful contributions to the ongoing renaissance of this wonderful City. Again, they appreciate the Commission's thoughtful consideration of this.

**Ms. Elise Rollins**, Lincoln Park Main Street, said while they are undertaking the action to expand the FPRA area, she must tell them as the representative for the Lincoln Park community through the Lincoln Park Main Street, please do not forget their needs in doing this. There are many projects that are on the table that they are not seeing coming to fruition. She understands that they are timely, but they do not see the work being done as of yet. If they want to really truly define the blighted and slighted areas and vacant properties and buildings, just ride down Avenue D. They just do not want to see these projects pushed to the side as others are being applied.

**Ms. Sandy Krischke**, 301 North 19th Street, said she is not for or against either way on this issue tonight. But as a citizen in District I, they mentioned slum and blighted. What she would like from the Commission tonight, before they vote on proceeding with this action and moving forward, define to the citizens of Fort Pierce for the record what they consider slum and blighted. In her opinion, the majority of District I can fall under that category. Her particular neighborhood, as a full-time youth minister she purchased a modest \$32,000 home and invested \$60,000 in upgrades in electrical, plumbing, gas, roof, etc., and now her house is worth about \$50,000. Yet she is taxed at a previous rate of \$3,800 per year, so they are taxing her out of her house in a slum and blighted area, yet they want to continue the CRA. All they have to do is go to TCPalm.com and read the comments. This redevelopment agency is under fire. Next year is an election year. Last year at the previous election they were promised reform. They have yet to see it in District I. Their utility rates have continued to climb and now they want to expand the Redevelopment Agency to other areas. If they do that, what she does ask is that they do become a partner with St. Lucie County. She knows there have been issues in the past. But if they look at pictures on line, if they talk to representatives, they see the City of Port St. Lucie has a

great working relationship it seems with the County. They go to Washington and somebody from Port St. Lucie goes with them, but nobody from Fort Pierce goes.

Mayor Benton said that is not true. They have a very good working relationship with St. Lucie County. And every time he has been to Washington on the Federal Courthouse, he has had a County Commissioner with him. He and Mr. Anderson speak almost on a weekly basis several times a week, as do many of the County Commissioners. He will probably be standing on a corner with signs tomorrow. So if she believes TCPalm, she needs to look the other way.

Ms. Krischke said she is just saying that if they look at public comments and public interest, they do have to consider that.

Mayor Benton said they won't put their name to it, that is the problem there.

Ms. Krischke said that is true. What she is saying is, if they are looking at slum and blighted areas and they want to fix things up under the CRA, they will need to take care of District I. District I has a majority of property that, even though areas that do fall under the CRA, they are not being revitalized. It takes more than brick pavers and palm trees and new lights and nice paved roads and roundabouts to repair slum and blighted areas. They have to fix what is causing the degradation of those particular neighborhoods. So before they move forward with expanding areas, she thinks they do have to look at the current areas and make sure the projects are being taken care of, like Main Street, Lincoln Park, Downtown, and those areas.

Commissioner Coke said she doesn't know if Ms. Krischke is aware, but the Fort Pierce Redevelopment Agency recently funded \$5.3 million for a Community Policing program in District I. Also, they have grant programs that are available through the FPRA that they have had a lot of businesses along Avenue D come in and apply for. The FPRA assists them with facade grants, business development grants, rental assistance grants. So they have been proactive in seeking out people to help them redevelop that area. As a matter of fact, about two years ago they talked about they weren't reaching the number of people that they wanted to. So they worked a little bit with Elise Rollins and actually went and knocked on doors. If their business needed a new sign or it needed some paint or it needed some work, they asked "Can we help you with that?" Unfortunately, as with all things with government, it takes ten times longer to have it circle through from the first floor to the third floor in City Hall. But believe her, it is not because they are not looking to do throughout the entire area. They have been very proactive in trying to approach them and making sure things are being done equally, if not more so, in the District I areas where the need is. Especially the Community Policing project, she thinks that will make a big difference in the neighborhood.

Ms. Krischke said she agrees with Commissioner Coke. Don't get her wrong, she is not trying to say the FPRA is not doing in certain areas. This is laying the groundwork; and if they vote to go, that is a go. But during the process between now and when they actually do it, she thinks there has to be talks about exactly how it is going to happen and exactly what they are defining as redevelopment. It is not just pavers and palm trees, it is creating jobs and doing other things to really cure what the problem is when it comes to slum and blight. It is not the fixing the roosters running loose and that sort of thing, it is really repairing the issues.

Commissioner Coke said if they could ever corner Mr. Ward who runs at about 5,000 miles an hour and get ten minutes of his time, anybody who has any questions about how they are moving forward as an agency and how they are reaching out into the community, she doesn't think they are going to find a better ambassador to the community than Jon Ward. Mr. Ward has made a diligent effort to move forward. If anybody needs help, he is the man to call. They spend his money every chance they get.

Commissioner Alexander said he just wants to thank her for speaking up for District I, because the voices are drowned out sometimes, the elected voices.

**Mr. Marty Laven**, 2400 South Ocean Drive, said he used to be in the neighborhood business revitalization for the City of Denver. He noticed with interest this evening the part of this about affordable housing. He just wants to point out the critical importance of the words they use, affordable versus attainable housing. He has experience himself, having lived in both Broward and Palm Beach Counties, how sometimes the Community Redevelopment Agencies have well-intended imperatives, but sometimes they don't execute very well. There are some great lessons to be learned from an experience in Palm Beach County where affordable housing was referenced. It was actually a series of people who purchased those and without certain limitations were able to sell them to others. So as they do this work, he just wants to reference the other community redevelopment agencies to the south that have had some experiences - good, bad, and indifferent - where they could maybe emulate the successes and avoid some potential pitfalls.

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

City Manager Recor said he sees Mr. Ward has an award he would like to share.

Mr. Ward said he was going to wait until they finish this discussion, but since Commissioner Coke brought up their initiative for innovative community policing, he wanted to point out the 2008 Roy F. Kenzie Award that the FPRA was just awarded from the Florida Redevelopment Agency for having an outstanding program in the State. He wants to present it to them this evening. Actually Mr. Brown picked it up for them at the FRA meeting recently.

Mayor Benton said they have put a lot of effort into this Redevelopment Agency. Congratulations. They have been at this for a long time. He can remember spending a lot of time in Delray Beach seeing what is considered the model CRA in the State of Florida. There is a lot of Fort Pierce that has infrastructure at least 100 years old and the only way they can afford to replace that infrastructure is through the FPRA. To him, that is the number one object that they need to be aiming for, because when homes flood and people can't get decent water and fixing roads. Ms. Noel has been calling his office for years. He wishes he had answers other than it is on the list. It is just that there are a few worse streets out there. But hers has to be moving close to the top. Hopefully this eventually will make it possible to get in there and reconstruct. Because now they don't just pave a lot of the roads, they are reconstructing them, they have to replace that drainage pipe. This is the mechanism that helps them do that. He doesn't like to pit one side of Fort Pierce against the other side. A lot of the efforts they have done... They included the beach, but one reason they included the beach was there was a lot of revenue there to help do a lot of the things throughout the rest of the City, because of property values which now are in decline. He thinks Harbour Isle alone made it possible to do a lot of projects that they didn't have the money for for many years.

Commissioner Coke said as long as they are doing an FPRA commercial for those who are not aware, the FPRA Board has partnered with the Fort Pierce Utilities Authority Board in providing a Weatherization Program to help houses get insulation, they have an appliance rebate, they will come out and do an inspection, and all kinds of other things. The hope there is to encourage both homeowners and tenants. They have expanded it to include tenants this year. They don't have to be a homeowner to get help from the Fort Pierce Utilities Authority/FPRA partnership for a weatherization program. When they talk about housing, just so everyone is aware of it, Mr. Ward, City Staff, Mr. Recor, and a group of people who are no longer here moved forward aggressively to build an entire neighborhood and make those houses very attainable and affordable. There are restrictions about how they can sell them and how long they have to hold them and what they can sell them for. They went into an area that had nothing. It was all first-time homeowners, people who

would not have been able to afford to buy houses. She is just so very proud to be a small part of the group who brought that to fruition. They found the financing for people, they helped them with the applications, they built the homes. She was out there the day they had the ribbon cuttings and people were just in tears, people who thought they would never be able to own homes. So she knows there are a lot of things that government does wrong, because she is the first one complaining. But they have made some fine efforts in that type of thing and she is very proud of the work that the FPRA has done and she is looking forward to being able to expand that work throughout the new FPRA area.

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 08-48

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, ADOPTED PURSUANT TO s.163.360(1), FLORIDA STATUTES (2007); MAKING FINDINGS; DETERMINING CERTAIN DEFINED AREAS TO BE SLUM AREAS, BLIGHTED AREAS, AND TO POSSESS SHORTAGE OF HOUSING AFFORDABLE TO RESIDENTS OF LOW OR MODERATE INCOME, INCLUDING THE ELDERLY OR A COMBINATION THEREOF; DESIGNATING SUCH DEFINED AREA AS APPROPRIATE FOR **COMMUNITY REDEVELOPMENT**; PROVIDING AN EFFECTIVE DATE."

Motion was made by Commissioner Coke, seconded by Commissioner Sessions, that Resolution No. 08-48 be adopted.

Those voting in favor of the adoption of Resolution No. 08-48 were: Commissioners Alexander, Coke, Sessions, and Benton. Those opposed: None.

Mayor Benton said they will sit down and chat with the County before they progress further down the road on this.

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The next item on the Agenda was Public Hearing on Application for Site Plan Review submitted by Cornerstone Fort Pierce Development LLC for construction of **Newberry Fields Shopping Center** at 2721-2785 South Jenkins Road; said property zoned C-3, General Commercial Zone.

Mr. David Carlin, Interim Assistant Director of Planning, said tonight they have before them probably one of the biggest retail developments to come into the City of Fort Pierce. Staff is certainly very excited to be a part of this process. Before he gets into the specifics of that, he would like to take time to personally thank both City and County staffs who reviewed this project and all the time and effort that went into it, including folks from Kimley-Horn, the applicant's representatives, Mr. Paul D'Arelli, Mr. Ken Metcalf, and Mr. Bruce Haney, the owner. It is a collaborative effort to go through the Development Review process. He will apologize in advance if his comments are a little longer than normal because this is a larger development that requires a little bit more review and analysis. The applicant is requesting Site Plan approval to construct a 383,605 square foot retail shopping center. It will be located at the southwest corner of Jenkins Road and Okeechobee Road. The anchor tenant for the development will be Target. It will also include prospective tenants such as Dick's Sporting Goods, Marshall's, Bed Bath & Beyond, and PetSmart. The vacant 51.18-acre parcel is zoned C-3, General Commercial Zone, with a Future Land Use of CG, Commercial General. The property to the north is also zoned C-3, General Commercial, and occupied by an existing commercial establishment. The properties to the east consist of unincorporated St. Lucie County R-4, E-2, and R-2. The property to the south is C-3, General Commercial. I-95 abuts the property to the west. The project will be developed in two phases. Phase 1 will consist of constructing eight buildings that will total 313,000 square feet and Phase 2 will consist of constructing two additional buildings that will total 70,000 square feet. Six out-parcels will also be created along the front of Jenkins Road. Since it is unknown when those out-

parcels will be developed, site plan review and concurrency determinations will be done independently at the time each respective parcel is developed. The architectural plans specify the buildings will range in height from 25 to 29 feet. Buildings will incorporate facade improvements, enhancements such as mock storefronts utilizing window treatments, color banding, scupper drains, and stucco grids to accentuate the walls. The subject development does comply with the Design Review Guidelines. In addition, this subject property will also incorporate sustainable environmentally friendly products such as low mercury light bulbs, recycled building materials, high efficiency plumbing fixtures, and white reflective roof membranes, to name a few. Signage for the proposed development for this retail center will include two main ground signs along Jenkins Road which will extend to a height of 20 feet. In addition, a high-visibility ground sign will extend to 80 feet tall and will be constructed along the western property boundary near Interstate 95. This height is allowed by the code under the special sign district requirements. Both signs comply with dimensions for the zoning district and the colors for the proposed sign are architecturally compatible with the subject development building. At this point Paul Williams will go over some of the landscaping improvements that will be done as part of this development.

Mr. Paul Williams, Urban Forester, said this aerial photograph shows the existing trees on the property. The entire property historically was an agricultural area to grow fruit crops and other vegetable types, so they can see that more than 90% of the property was in agricultural use prior to this development. The landscaping plan includes 818 new trees as required by code. These trees will include a variety of species that are of xeriscape nature that when they become established will need less irrigation. These include Green Buttonwood, Silver Buttonwood, East Palatka Holly, Dahoon Holly, Live Oak, Cabbage Palm, Magnolia, and Sweetgum. The 874 inches of trees that are to be removed were basically left over from the two homesteads that were on the site and were pretty much connected to that agricultural area. Under tree mitigation there are three options in their City Code. Option 1 is a recommendation to preserve as many trees as possible. There is credit for that mitigation when trees are preserved. If the trees cannot be preserved for whatever reason, Option 2 is to plant trees additionally to the ones required by City Code. A half credit is given for those trees to offset the mitigation. The final option, Option 3, is for those areas where additional trees cannot be planted; and it allows all property to be developed by paying into the tree fund to offset tree mitigation. Staff brings that to their attention because the applicant has offered \$25,000 to be paid into the City tree fund to offset the mitigation that the 874 inches would require. City Code shows that the number would be \$174,800 at this time.

Commissioner Alexander asked is he saying that is what he has in his budget already, \$174,000?

Mr. Williams said if they utilize the code that is in the books today, that is the amount that would be required for the mitigation for the 874 inches of trees.

Commissioner Alexander asked what do they do with the tree fund?

Mr. Williams said the tree fund is set up to enhance beautification projects throughout the City of Fort Pierce and to go toward the maintenance of existing beautification projects.

Commissioner Coke asked she sees there are going to be 874 inches of trees removed? Of the 818 new trees that are being planted, how many inches of trees that represents?

Mr. Williams said that represents approximately - and that is in the mitigation plan - 1,600 inches.

Commissioner Coke said now she is confused. They are taking out 874 inches and they are planting approximately 1,600 inches. Would that 1,600 inches not count toward that 874 inches?

Mr. Williams said the way the City Code is written is that the 818 trees are required by code to meet code if it was a vacant lot without any trees. The lot, the large size it is with those two separate areas, because of the size of the trees there is 874 inches of trees to be mitigated. So the 818 trees are required by Code regardless if they are trees or not.

Commissioner Coke asked what he is saying is the 818 trees, according to the way the Code is, they are not counting those towards the 874 inches being removed?

Mr. Williams said no.

Commissioner Coke asked have they ever contemplated a project of this magnitude before? Because it seems to her that they ought to be a lot happier, rather than having 874 inches worth of trees - and she loves the trees, don't get her wrong - but they are giving them twice as many inches of trees. So in her mind that should satisfy that requirement.

Mayor Benton asked are a lot of those trees, the 874 inches, Live Oaks versus Water Oaks or Laurel Oaks?

Mr. Williams said that is a very good observation. 75% of the trees are Laurel Oaks. Those are a one generational tree and has an approximate age of 100 years old. 25% of the trees are Live Oaks, which could live up to 1,000 years. So the majority of trees are the shorter-lived trees.

Mayor Benton said the Live Oaks are his concern. He knows the Water Oaks in 50 years are looking pretty bad and are on their way out usually. But the Live Oaks can live it seems forever.

Commissioner Coke asked is the Mayor saying if this developer wants to just wait 50 years, 75% of those trees would be dead and they wouldn't be asking for mitigation for them?

Mayor Benton said there would be a lot more little ones growing underneath them, but a lot of those trees would be on their way out versus the Live Oaks. That is why he wanted to ask, because the Live Oaks to him are very important, but the Water Oaks are a dime a dozen.

Mr. Carlin said one thing they can contemplate as they go forward with the LDR Rewrite, this may be a provision they may want to consider as part of amending or updating. That would be something they could certainly entertain if the Commission wants them to look at that issue, how to update the LDR's to maybe allow for planted trees to offset mitigation trees for these types of scenarios. He also would like to point out that the northern driveway access point, where Mr. Williams showed them the area where there are the trees, was required to be shifted further south as a result of the number of trips that were generated from this. That relocation of the driveway kind of made its way into this particular area of wooded trees. So on the original design the impact may not have been to the extent of what it is now as a result of the driveway changing.

Commissioner Coke said so they would have left the trees where they were theoretically or possibly left some of them, were it not for the fact that they were required by code to move the driveway access.

Mr. Carlin said the driveway access was the spacing from Jenkins Road and Okeechobee Road. Because of the number of trips coming out here, there is a stacking requirement. The County looks at all those variables. So the driveway entrance did shift to the degree and nature of what extent the number of trees impacted would have changed somewhat.

Commissioner Coke asked what is going to be the County's taxable value on this project when it is built and what will be the City's tax income from this? It has to be some place in this project. Does Mr. Anderson already know?

Mr. Doug Anderson, County Administrator, said that is up to the Property Appraiser.

Commissioner Alexander asked is there an existing driveway there now?

Mr. Carlin said if they take a look at the aerial photo, it shows what appears to be some type of single-family home or residence. That driveway is not to his knowledge the exact location where this connection point is. But certainly that driveway certainly is not going to be able to accommodate what is going to be happening there. So he doesn't want him to get confused.

Commissioner Alexander said he just doesn't want it to seem that they are against this project.

Mr. Carlin said absolutely not.

Commissioner Alexander asked last year they gave an okay on this same location, did they not?

Mr. Carlin said no. They were considering a property to the south. To the south of the property line is another development called Jenkins Field, it was a rezoning.

Commissioner Alexander asked last year, didn't they have a proposal for a Target to come in?

Mr. Carlin said a conceptual plan had been submitted to the City. He doesn't know if it had made it through the entire process. But it has been under review for well over a year.

Commissioner Alexander said it was a presentation. It has taken the developer over a year to bring in a project that is much needed for the City of Fort Pierce? He told his wife there was a Target coming to Fort Pierce and she was so elated. Now they are talking about two or three years later?

Mr. Carlin said the development review process is certainly one that is complex when there are issues that are substantial in nature.

Commissioner Alexander said he doesn't want to continue to be anti-business in the City of Fort Pierce. A beautiful project like this, they are trying not to cut corners, but he needs to know. He is looking at this Staff recommendation. So continue with his presentation.

Mr. Carlin said next he is going to talk about site access and this might help them better understand the different configurations involved. Based on this layout, three access points will serve the development. The primary access point will be on the north, the middle entrance, and the last entrance to the south. The northern entrance will be the primary access point which will allow unrestricted movements and has signalization. The middle entrance will also allow unrestricted movements, but it won't have signalization. The south entrance will be primarily used for truck access and deliveries, and it will be primarily right-in and right-out movements. There will be three entrances in this development.

Commissioner Alexander said he heard him say signalization. Who is that? That is on behalf of the developer?

Mr. Carlin said the signalization will be installed prior to the issuance of any Certificate of Occupancy for this development. The Developers Agreement that they will also consider tonight identifies all of those improvements required of this developer. So there will be full signalization installed at the primary entrance. Several modifications will be made to the lane configurations. The north entrance is where the signalization will be occurring. This

entrance will provide several different turning movements - a northbound left-turn lane into the development, a southbound right-turn lane into the development, a southbound through-lane, an eastbound left-hand turn movement, and an eastbound right-hand turn lane. That is just the north project entrance. The middle entrance will consist of a northbound left-hand turn movement into the development, a southbound right-hand turn, an eastbound left-hand turn, and a right-hand turn eastbound combination lane. The last entrance to the project, located at the south, is to be used primarily for truck deliveries and access deliveries to the different stores within the project. It will consist primarily of right-in and right-out turn movements or an eastbound right-turn lane. Based on these improvements and those lane configurations, the north entrance will operate at a Level of Service B, the middle entrance will operate at a Level of Service D, and the south entrance will operate at a Level of Service B. Additional road improvements will also consist of modifying the intersection of Okeechobee Road and Jenkins Road. Basically they will have a four-lane configuration from Jenkins Road down to the south project boundary. That configuration will consist of various left-hand and right-hand turning movements. The FDOT is also completing improvements to Okeechobee Road from other developments. They will be widening Okeechobee Road to six lanes from Kings Highway to Jenkins Road in order to improve the level of service. FDOT will also be making improvements to the intersection on the north side in addition to another development that will be constructing a southbound right-hand turn lane. All of these improvements that have been identified will be completed at the time a Certificate of Occupancy is granted. The Development Agreement outlines those different variables. This slide shows what the lane configuration will look like at the intersection of Okeechobee Road and Jenkins Road, the four-laning of that intersection. It lists the dual left-hand turn lanes for northbound, a right-hand turn lane, and a center through lane for traveling north. So the improvements are quite extensive to handle the amount of traffic that will be generated by this development. A traffic impact study conducted by the applicant's representative did indicate that 12,307 net new daily trips would be generated by the proposed development. Of those, 265 AM net new peak trips and 1,150 net new PM peak trips would be generated. Based on the number of trips that were generated by this development, the traffic analysis was required to encompass an area of five miles within to study the roadways in that area. Since the development will generate impacts based on that radius study, there will be a fair-share requirement for the traffic impacts onto U.S. Highway #1. The applicant has provided a proportionate fair share number for those impacts and it is identified in the Development Agreement that that fair share contribution will be provided. Additionally the applicant will also be providing a contribution for the unimproved section of Crossroads Parkway due to traffic generated by the development that will utilize from Kings Highway to approximately the La Quinta Hotel. That road is unimproved and the applicant will be providing a contribution in the effort to improve that road to bring it up to City standards. Additionally, they have impacts that occur at Kings Highway and Orange Avenue. The County indicated that traffic generated by this development will impact this intersection, which operates at a deficient level of service. Approximately 92 trips will impact this intersection. There is intersection improvements currently under consideration that total a substantial number, which is roughly \$8.7 million. That improvement to the intersection includes dual left-hand turn lanes, center through-lanes, and dedicated right-hand turn lanes. Based on the information from the applicant's traffic consultant, if they are required to pay a fair share contribution, it is going to be in the ballpark of \$156,000. The applicant has indicated that the fair share requirement is not applicable to this particular intersection of Kings Highway and Orange Avenue because it is outside of City limits. The applicant has asserted that the City and County do not have the authority to subject a development application within unincorporated areas with either the City or County level of service standards for the roadway links. But it should be noted that in their Concurrency Management ordinance, Section 22-219 of the City Code, it does require coordination with FDOT and County when it references mitigation including the transportation facilities maintained by FDOT and the County or another jurisdiction that it relied on for concurrency determinations. Additionally, they have sections within the Comprehensive Plan that also specify coordination with the County and FDOT as it governs proportionate fair share contributions and mitigation. They do have those provisions in the Concurrency Management Element and the Capital

Improvements Element of the Comprehensive Plan. It should be noted that the Concurrency Management system is really designed to insure that public facilities are available to serve the development at the time of the impacts of the development. Furthermore, Section 22-218 of the City Code specifies that no development order can be issued unless adequate public facilities are available to serve the development concurrent with the impacts of the development on such public facilities. Based on the City Code requirements and the Comprehensive Plan policies, the development is obligated to mitigate the impacts to Kings Highway and Orange Avenue by paying a proportionate fair share contribution.

Commissioner Alexander said again, this development seems like he has done a two-step to try to come here to Fort Pierce and they are asking him to do a fair share to Orange Avenue and Kings Highway. He can understand if he was speaking of Jenkins Road and Edwards Road, because that is going to become a future headache for them. And they can ask him to go all the way to Orange Avenue? He says it is in the mitigation, right?

Mr. Carlin said yes. Just to follow up on that, this was a comment generated by the County that said the traffic generated by this development will impact this intersection, it will occur. Their ordinances is crafted such that they require coordination with FDOT and the County to mitigate on transportation facilities.

Commissioner Alexander asked does he have knowledge of whether the Bent Creek or the other buildings with residents coming out there, are they doing a fair share?

Mr. Carlin said Bent Creek was originally approved in the County. The City annexed that. So he is not sure what...

Commissioner Alexander asked did they do a fair share?

Mr. Carlin said he is not aware of whether or not the County requested a fair share on that project.

Commissioner Alexander asked all the new complexes they are building out there next to Sammy Gaines and all, they did a fair share?

Mr. Carlin said any new development that has come in under the proportionate... It all depends on where their traffic goes and the radius. If they only have a radius of impact of one mile, then they are required to study the links within that intersection. Other developments have been before this Commission where the fair share requirement or the concurrency was applicable, then there would be a fair share requirement.

Commissioner Sessions asked are they talking about the contribution toward a fair share with regards to that intersection? What does that mean? Maybe he can understand where the developer is coming from in terms of dollars and cents.

Mr. Carlin said what a fair share requirement means is that if there is an improvement that is on the books to improve an intersection, whatever the cost may be, and that intersection is not functioning at an acceptable level of service, then the applicant is required to mitigate impacts to that intersection vis-a-vis constructing an improvement. Or if there is an improvement already contemplated, they can pay into the pot to help facilitate and make that improvement possible.

Commissioner Sessions asked does he have an anticipated dollar amount, a cost?

Mr. Carlin said the anticipated dollar amount that was provided by the applicant's traffic consultant was approximately \$156,000. That number was provided by the applicant and he believes the County has also concurred as a representative figure on that.

City Manager Recor said so the proportionate fair share was \$156,000 of a total cost of \$8.7 million based on the number of trips that would be effected in that intersection.

Commissioner Alexander said he can understand that. What his confusion is, why is it that they can't have this applicant be concerned about Jenkins Road and Edwards Road, than he is sending him off to Orange Avenue and Kings Highway? He doesn't see that.

City Manager Recor said it is based on the traffic study and where the traffic is anticipated to come from.

Commissioner Alexander asked does he not think the traffic is going to Jenkins Road?

City Manager Recor said it doesn't matter what Mr. Recor thinks. They had a traffic study a couple of weeks ago that told them that 30% was going to go east into the ocean on A1A. He thinks Staff does review these traffic impact studies with a good fine tooth comb and questions the judgments...

Commissioner Alexander said that is the only reason he is bringing it up is because he knows Jenkins Road, everybody uses that, and Edwards Road now.

City Manager Recor said but the traffic study identifies where the traffic is going to come from.

Mayor Benton said he had the discussion with County Commissioner Craft. Folks from Lakewood Park are going to come down Kings Highway. At first he was told they were looking at Okeechobee Road and Kings Highway. But in his opinion, they will probably get off I-95 at Orange Avenue to go to the shopping center when it is finished. But there will be people from Vero Beach, there will be people from Lakewood Park, from the north County. That is what the experts are saying.

Commissioner Alexander said that doesn't make sense.

Mayor Benton said to avoid Okeechobee Road. He thinks most people would because of the congestion already. It is the easy route.

Commissioner Alexander said he has to divulge he has met with these individuals. And he thinks they are bending over backwards. He surely doesn't hope they make them bend over forward to bring in a project here.

Commissioner Coke asked there is going to be signalization put on this road, who is paying for that?

Mr. Carlin said the applicant will be installing signalization.

Commissioner Coke asked what is his fair share of that? And did Mr. Carlin not say a couple of slides back here that they were going to four-lane a road with turns?

Mr. Carlin said yes.

Commissioner Coke asked how much is that going to cost?

Mr. Carlin said he doesn't have the exact dollar figures on what that costs. The applicant can certainly give that to them.

Commissioner Coke said \$2.65 million or something along those lines. She is remembering from back two weeks ago when she spoke to them.

Mr. Carlin said because Jenkins Road is not functioning at an acceptable level of service, those improvements are required. The County has been intimately involved from day one

on what those improvements should be. And part of it was to have the lane configuration as they see tonight including the signalization. If that signalization wasn't there...

Commissioner Coke asked the applicant is paying, what is their fair share of that, 100%?

Mr. Carlin said percentage-wise, yes. That is his understanding.

Commissioner Coke asked are they going to put up a sign that nobody, unless they are going to Newberry Fields, is allowed to drive on that road? Because if not, then it can't be 100%. She understands road improvements are necessary. She understands signalization is necessary. That is the \$2.65 million.

City Manager Recor said in all fairness, the difference between projects that are eligible for fair share contributions are those projects that are identified in their Capital Improvements Element where they have, based on the Level of Service Standard that is specified in the Comprehensive Plan, that it would have an impact on. That is the difference. Only projects that are identified in the City's CIE are eligible for fair share contributions. The traffic improvements that were required as part of the development to Jenkins Road and Okeechobee Road are impacts related to this development.

Commissioner Coke said she guesses the reason she is having a problem with this is because her credit cards are in her purse waiting to go shopping. And it seems to her for \$156,000 and \$123,000 more for trees, they are nickeling and diming the development.

City Manager Recor said that is precisely why it is here. Staff has worked with the applicant. Staff has worked very closely with Mr. Haney and his development team. That is why this project is here. They did not draw a line in the sand and say they are not going to bring this to the Planning Board or to the City Commission until these issues are resolved. There are some questions. The Commission has some discretion. So that is why it is here. These are the two remaining issues.

Commissioner Coke said that is wonderful. Because she wants to be sure that everybody knows that she would much prefer to do her Christmas shopping in St. Lucie County and spend her tax dollars right here and pay sales tax here, than Martin or Indian River Counties.

Mr. Carlin said Staff is recommending approval, with the condition that those two issues are contemplated by the Commission - the landscaping and the traffic. The Commissioners can contemplate whether or not certain provisions are applicable and which ones aren't. But Staff is recommending approval of this and those are the two issues that they have before them to consider tonight.

Mayor Benton said in the County, they will offer up incentives for jobs. He sees over 200-plus jobs here and they have a State College just a mile down the road. A lot of students will be looking for a job in a place like this. Couldn't they say that the inches for trees could be alleviated for jobs. At a time when the economy is the way it is, this is an incentive. They have to get creative here. Instead of cash...

City Attorney Schwerer said unfortunately, the answer to that is no. But what they can do is look to their Code provisions if they are speaking strictly of trees and they can make their own determination on whether or not the applicant has presented to them a valid argument the way the Code should be interpreted is that the mitigation requirements are met by the number of trees that they are going to be putting on to this site as new trees. That is certainly within their discretion to look at it in that light. But it would not be proper for them to make arbitrary substitutions for jobs because there is no evidence before them, there is no facts on which that could be supported. Looking strictly at the Code, they have some discretion there. Mr. Williams and Mr. Carlin would tell them that. He thinks they are both nodding their heads yes.

Mayor Benton asked when it comes to the numbers at Kings Highway and Orange Avenue, do they have any discretion there?

City Attorney Schwerer said that is a little more difficult question. The applicant has indicated that they do not believe the City has jurisdiction to impose County requirements. That is a debatable point. His staff have looked at the Code. He doesn't want to go through a dissertation. They have met with Mr. Carlin and Mr. Recor. His staff researched this. The spirit and intent of the code and the concurrency requirements and the development review process would make it reasonable to construe that they certainly could, if this Commission wants to, impose the County's concurrency requirements there for that intersection. That is an intersection that he might point out will most likely be in the City limits within the next couple of years based on what they have seen. There are a number of annexations that are going to be occurring in that corridor that City Staff is currently working on. That will be a City intersection and it is within their retail service area. So if they do not require a fair share contribution now, what will happen is... That project is in the CIE. It will cause additional projects that are permitted to pay perhaps a disproportionate share of the intersection improvements, because that is something that the County will need to build.

Mayor Benton asked because the intersection of Kings Highway and Orange Avenue is 25% developed, the other 75% undeveloped, wouldn't it be appropriate, as they are doing here on Jenkins Road, require as development occurs there to have them pay for the majority of the changes there in improvements?

Mr. Carlin said that is certainly something to take into consideration. The development climate has changed. The project that was originally contemplated for the \$8.7 million or whatever it is, those figures might be somewhat outdated with the construction costs changing with the way the economy is. So there are some variables in here that they may need to contemplate as it pertains to that particular intersection improvement.

Mayor Benton said he is just trying to use common sense. He just wants to let everyone know they are doing everything they can do to bring people here to shop. He thinks if they can make some changes to some areas that are further away that are somewhat developed, like that corner.

Commissioner Coke said it seems to her probably five or six years ago the Economic Development Council via Don Root brought a proposed project to them on South U.S. #1 that never came to fruition and asked the Commission to give a tax abatement for a certain number of dollars per year based on the number of jobs generated. She is personally looking to move forward with this. She doesn't want the County to be out their \$156,000 and she doesn't want to see Mr. Williams cry about his trees. So if they are going to be creative and think outside the box, if six years ago they were going to give a tax break based on the call center, the number of jobs they were bringing, etc. after it was built, why they can't work a similar deal here. If they are supposed to bring 200 jobs, they give x-number of dollars of tax credit that would be equal to the trees and the fair share. So that way the County is happy, Mr. Williams is happy, and the developer is not out the money.

Mayor Benton said he would agree.

Commissioner Alexander said he would agree.

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

**Mr. Paul D'Arelli** said he is an attorney with the law firm of Greenberg Traurig, their office is at 401 East Las Olas Boulevard in Fort Lauderdale. He was here over a year ago when they presented the Conceptual Plan for the Target. They did appreciate the strong voice of

support by this Commission for bringing that tax base and shopping opportunity to the City of Fort Pierce. He is joined here tonight by Mr. Bruce Haney, who is principal owner of the property, and also Ken Metcalf, who is Director of Planning from their Tallahassee office and who has been working very closely on this project. He thought it important for Mr. Metcalf to be here for some of this discussion on this concurrency issue because he spent 15 years at the Department of Community Affairs where he was in charge of comprehensive planning for the region that ran from Indian River County south, so he is very knowledgeable in how concurrency interpretations are to be read. This is going to be a substantial benefit for the City of Fort Pierce in terms of the tax dollars that are going to be generated. The value that Mr. Haney whispered in his ear as Commissioner Coke was asking what the taxable value would be, they expect the value of the property to be approximately \$70 million. The know full assessment usually doesn't happen at full value and he is not sure what their millage rate is. But at least somewhere north of \$1 million of ad valorem will be generated by the project, shared by the various taxing entities. In addition, there will be approximately \$5 million of sales tax that will be generated annually from this project; and between 500 and 1,200 jobs, depending on how many are full time and how many are part time. So it is going to be a substantial benefit for the City. They do very much want to thank City Staff for all the diligent work they have been giving to this project. It has not been easy.

Commissioner Sessions said as he can see, the consensus of this Commission is to bring him into the City of Fort Pierce. To expedite things, to make this a reality, could he tell them what it would take in order to make him happy so they can make this a reality?

Mr. D'Arelli said he will get right to the two points. One is to approve the reduction in the tree mitigation to a \$25,000 contribution, which they think is very reasonable. When they talk about the trees, there is a lot of discussion about the inches of the trees. What it doesn't really focus on is they are taking out 43 trees and they are putting in over 800 trees. So the focus on inches is a little misleading. They think they are meeting the intent of the Code with their mitigation. The second is they object to the roadway contribution requirement that the County is asking for at Kings Highway and Orange Avenue. This really, in their opinion, isn't a matter of discretion. They are doing \$2.6 million of improvements at Jenkins Road, well beyond their fair share in developing more capacity than their project will ever need, but they are building that out. They have no issue with that. But the contribution the County is requesting is not within the jurisdiction of the City to require or the County to require. They have provided a legal memorandum to the City Attorney on October 3rd. Although there are policies within the City Code and the City Comp Plan that talk about intergovernmental coordination with FDOT and County roads, those have to be read under a concept called *pari materia*, which basically means they have to read provisions harmoniously. State law under Chapter 163, which is the enabling legislation, says that a municipality shall exercise authority under this act for the total area under its jurisdiction. That is where the concurrency regulations flow from, it is the area under their jurisdiction. They then have to read those other code provisions about intergovernmental coordination to say yes, they will coordinate with the County and with FDOT, but only for those roadway segments within the City jurisdiction. So if there is a County road or the FDOT road like U.S. #1 where they are making a fair share, that is proper, it is within their jurisdiction. They can't go beyond that. They can look beyond that limit only for their traffic analysis when they take the five-mile loop, but they can't require mitigation. They are very comfortable in that legal position.

Commissioner Coke said let's back up and they won't even go into how well she likes attorneys. She really doesn't see that it is to the Developer's best interest or the City's best interest to try to get bogged down on what Mr. D'Arelli thinks is legal or what the County thinks is legal or what the City thinks is legal. Because she is telling them, she has that credit card in her purse and she is ready to shop.

Mr. D'Arelli said to cut to the chase, the reduction in the landscape fund and the elimination of the contribution to Kings Highway and Orange Avenue.

Commissioner Coke asked can they look at it in a different way? Because if they say reduction of the landscape thing, that man sitting next to him is going to cry. If they say no fair share mitigation, the man back there with the yellow tie on is going to cry. But if they say they will give them a tax break of \$306,000, which is the equivalent of what those two figures are, does that not serve the same purpose and it gets them where they can move forward tonight? Instead of this attorney talking to the City Attorney and talking to the County's Attorney, and it will be next year she will still be waiting for the same thing.

Mr. D'Arelli said he would have to defer to the client. He would imagine there is some difference in terms of having to front end the payment to the County and the payment to the tree fund as opposed to a credit in the future.

**Mr. Bruce Haney**, Managing partner of ECHO Real Estate Services, Pittsburgh, Pennsylvania, said in answer to the question, this is a strange way in which real estate deals are done. All their leases are done on what are called triple nets. So if the abatement of taxes is a real estate tax they are abating or a payroll tax, that benefit will go directly to his tenants and not to him.

Commissioner Coke asked didn't they set up an economic development thing with Mr. Beach?

Mayor Benton said they don't have any incentives similar to St. Lucie County. What the County does, the jobs have to be a certain amount; and these jobs probably wouldn't fit in those guidelines. That is why he said this would put a lot of students to work that are right down the road, they have a State College now. To him, it just makes a lot of sense in this economy.

Commissioner Coke asked what about a job creation tax?

Mr. Haney said the question is, who does that credit go to? Because he is not employing anybody. It is Target and Marshall's and Ross and PetSmart.

Commissioner Coke said but if he hadn't built the building, they couldn't employ anyone.

Mr. Haney said that is correct. But again, it is more semantics and how they structure it. Obviously they will take the credits if they can get them.

Commissioner Coke asked can they leave that to the attorneys?

City Attorney Schwerer said it is not going to work because the ad valorem real estate taxes are built into his leases, his tenants pay that, he doesn't get the credit. He is going to feel a lot more comfortable from a legal standpoint, and he thinks the attorney standing next to the developer would too, if the Commission simply exercises its jurisdiction. If they feel that the tree mitigation is met, if they feel that the road impacts do not need to be paid, simply just rule that way. He is a little more comfortable with that. They have no information before them and there is no substantial competent evidence in front of them, whether testimony from the developer or the staff, to even go into tax credits. They don't have that analysis, they don't have the ability to do that. So he is comfortable, if they want to waiver the tree mitigation funds and the waiver of the road impact... He is more comfortable with that legal position than the tax mitigation.

Mr. Haney said perhaps another way to think about it is if the City was willing to give some type of refund, that always could be given at some point later to the County to assist that share out of the ad valorem.

City Attorney Schwerer said that would be complicated to draw that up in a Development Agreement.

Commissioner Coke said Mr. Anderson will put it on his list for them to discuss at the January meeting.

Mr. Haney said his final point is another item that is not on the Agenda and it is not an item for approval tonight, but just for information. There is a desire to expand the shopping center in the future by 20,000 to 30,000 square feet, provided they are able to get a binding letter from the State Department of Community Affairs that they are not a DRI (Development of Regional Impact). In order to secure that binding letter, the State Department of Community Affairs has asked them to have the City just acknowledge in the CIE that the developer is paying for Jenkins Road. If they will put that in the CIE, then the State Department can acknowledge that.

Commissioner Alexander said give the City Manager a call on that.

Mr. Haney said that will be in the future. He just wanted to give them information as to why they will be back in the future.

**Mr. Mike Simone**, North 6th Street, said regarding trees he doesn't believe they can do an inch by inch analysis. Because a large 100 year old oak tree will probably have a 100,000 times effect as far as photosynthesis goes to 800 or 1,600 small oak trees. These small trees will not be a factor until about 10 or 15 years. So to reduce the amount of trees required would be all right. But maybe the diameter of the trees, the ones they do plant, would be a better move in his opinion. Secondly, is there any way a requirement can be made to put on this development that a greater percentage of the products being sold are American made? They could put themselves on the map as a little city trying to get the trend that they make more of the products in this country than they are buying from China and India. Just something to think about down the road.

Mayor Benton said he guesses they will know tomorrow if things work out or not. A lot of things will be opening up in the future. Some things are out of their hands.

**Ms. Arden Peck** said she has a question on the parking area. To her it looks like the same old stuff they see at K-Mart. Is it going to be cut up nice and winding and trees, or is it going to be like K-Mart?

Mayor Benton said K-Mart came along long before they had their current code.

Mr. Carlin said this is not going to be the parking lot they see like the K-Mart they see down at the intersection of U.S. #1 and Virginia Avenue. There are landscaping islands here that meet the minimum requirements and probably exceeds the requirements in terms of internal landscaping requirements. Paul Williams has worked extensively with the applicant's representatives on this. So the answer to that question is, it will look very nice. And when the out-parcels are developed, they won't even really see the parking lot.

Mayor Benton said there is a nice landscape buffer on the south where they have Briargate Lane.

Mr. Haney said one other thing, just because he thinks it is an important thing to note as it relates to their landscaping. Their budget, actually they have had bids from several contractors, but their landscaping and irrigation cost for this project would be over \$700,000. So there is a large amount of landscaping and planting well over 800 trees is a large number.

Commissioner Coke said she would assume that whenever possible they will use local St. Lucie County/Fort Pierce people to do the work?

Mr. Haney said that is correct.

Commissioner Coke said they have wonderful landscape people, asphalt people, and construction people. And they really want to keep them employed.

Mr. Haney said he understands.

Mayor Benton said for the record, he has met with the applicant many times over the last year and a half. That has always been an emphasis they have put on things, to try to use local help when they can.

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

Commissioner Coke asked when are they breaking ground if they get approval tonight? She wants it on the record loud and clear.

Mr. Haney said his understanding is their Development Agreement gets read tonight and at the next meeting, so it is the intention they will be under construction in the beginning of December.

Commissioner Coke asked can she bring her shovel out?

Mr. Haney said yes, they will have a groundbreaking.

Commissioner Alexander asked December 2008?

Mr. Haney said December of 2008. The shopping center would open March of 2010, that is the intention. Obviously with the state of the economy, there is always the risk that something could come up that could cause issues. But as of today they are anticipating, as long as they get the approvals and permits they need from the County and from the FPUA, that in the beginning of December. They have their financing in place. The equity is already there because they own the property.

Commissioner Sessions said he will make a motion to approve the Development Agreement to include the \$25,000 contribution toward the tree mitigation and to exclude the contribution for the intersection at Kings Highway and Orange Avenue.

Mr. Carlin said he just wanted to make sure Commissioner Sessions understands this is the Site Plan. The Development Agreement will be the next item. So tonight they are approving the Site Plan. They can still have that condition in there, but it is not for the Development Agreement, this particular hearing.

Motion was made by Commissioner Sessions, seconded by Commissioner Coke, to approve the Site Plan submitted by Cornerstone Fort Pierce Development LLC for construction of Newberry Fields Shopping Center at 2721-2785 South Jenkins Road.

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

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The next item on the Agenda was Public Hearing on the **Development Agreement** with Cornerstone Fort Pierce Development LLC for **Newberry Fields Shopping Center at 2721-2785 South Jenkins Road.** (A second Public Hearing will be held on November 17, 2008.)

Mr. David Carlin, Interim Assistant Director of Planning, said this is part of the application and consideration this evening (Site Plan for Newberry Fields). In accordance with Section 22-218(d) of the City Code, the applicant is proposing to enter into a Development Agreement that identifies the necessary improvements needed to satisfy concurrency requirements. Florida Statute 163.3220 requires two public hearings for a Development

Agreement. Tonight is the first one. The second one will come back for final approval on November 17th, which has already been scheduled for the next Commission meeting. Basically the Development Agreement has outlined the road improvements that will be completed by this particular developer. And what the Development Agreement does is it ties in when those improvements will be done. Specifically in this particular development, prior to the issuance of the first Certificate of Occupancy, they will see the road improvements. They will also see the signalization requirement included in there, as well as the fair share contributions. The Code requires all fair share contributions to be provided prior to the final issuance of the Development Order. Additionally, the Development Agreement outlines the square footage requirements for this particular development. Lastly, the Florida Statute specifies that any Development Agreement that is considered by the Commission must be consistent with the LDR in the Comprehensive Plan. Based on the consideration of this application tonight, the only change that will be made in Staff's position on this particular Development Agreement is that, as the Commission has just ruled, the fair share requirement will not be applicable for Kings Highway and Orange Avenue. So the Development Agreement as they have it tonight will be the final agreement in its final form. Staff is recommending approval.

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 Coke, seconded by Commissioner Alexander, to approve the Development Agreement with Cornerstone Fort Pierce Development LLC for Newberry Fields at 2721-2785 South Jenkins Road, with the condition to include a \$25,000 contribution toward the tree mitigation and to exclude a fair share contribution for the intersection of Kings Highway and Orange Avenue.

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

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Ordinance No. L-53 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **8400 PICOS ROAD, PARCEL LOCATED ON THE SOUTHEAST CORNER OF PICOS ROAD AND FLORIDA TURNPIKE, PARCEL LOCATED ON THE NORTHEAST CORNER OF PICOS ROAD AND FLORIDA TURNPIKE, AND 10000 PICOS 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 first reading and read by title only. (Owned by: State of Florida Board of Trustees of the Internal Improvement Trust Fund)

Ordinance No. L-54 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **933 SOUTH ROCK 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 first reading and read by title only. (Owned by: Patsy Nelson-York)

Ordinance No. L-55 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **900 NORTH ROCK 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 first reading and read by title only. (Owned by: St. Lucie County)

Ordinance No. L-56 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **350 NORTH ROCK ROAD, 400 NORTH ROCK ROAD, 450 NORTH ROCK ROAD AND 500 NORTH ROCK 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 first reading and read by title only. (Owned by: Robert Snowe, Nichols Harbor Properties LLC, JJMP Inc., & Gibney Leasing Corp.)

Ordinance No. L-57 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **650 NORTH ROCK ROAD AND PARCEL LOCATED ON THE NORTH SIDE OF COLBOURN ROAD, EAST OF 650 NORTH ROCK ROAD, AND SOUTH OF INTERSTATE I-95**; 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 first reading and read by title only. (Owned by: Scott Groves, Inc.)

Ordinance No. L-58 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **1102 NORTH ROCK ROAD AND 1143 NORTH ROCK 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 first reading and read by title only. (Owned by: Angle Road Investment Company LLC)

Ordinance No. L-59 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED ON THE **WEST SIDE OF KINGS HIGHWAY (TURNPIKE FEEDER ROAD) AND NORTH OF INTERSTATE-95**; 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 first reading and read by title only. (Owned by: Kelly Tractor Co.)

Ordinance No. L-60 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED ON THE **WEST SIDE OF NORTH KINGS HIGHWAY, NORTH OF INTERSTATE I-95**; 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 first reading and read by title only. (Owned by: Incom Properties KCCP Inc.)

Ms. Erica Ehly, Comprehensive Planner, said this is a group of parcels located on Rock Road totaling 856 acres.

Mayor Benton declared a Public Hearing on Ordinance Nos. L-53 through L-60 in session and asked if anyone in the audience wished to be heard.

**Mr. Mark Satterlee**, St. Lucie County Growth Management Director, he is here respectfully requesting that the Commission defer this item. He would like to enter into the record a letter to Mr. Recor (dated October 31, 2008) that he sent over to the City last Friday outlining several concerns that the County has in reference to these proposed annexations. Some of them have to do with the manner of the annexation and the other is some practical implications of the annexations. Primarily that practical implication is the Research and Education Park. The County recently adopted and approved the Master Plan for the Research and Education Park which is for the Phase I of the Park, which covers that portion of the Park approximately 120 acres north of Pruitt Road, west of Kings Highway, south of Picos Road, and includes a portion of the land of the Internal Improvement Trust Fund on the tract that is east of U.S.D.A. The County approved that Master Plan and they are now in the process of implementing what was adopted in 2005, an Overlay District zoning ordinance for that property. They are going through the planned non-residential development PUD process for implementing the Master Plan. The concern they have is that they will create two jurisdictions having regulatory authority over that land, as the far eastern part of that will remain in the County and the western part will be in the City. What that does in terms of trying to attract tenants and implement the Master Plan and implement the requirements of the Master Plan is create some oversight, additional involvement of another bureaucracy, and it will just make it more difficult for them to have an effective research park and attract tenants.

Commissioner Coke asked can Mr. Satterlee point out on the map what part of the Research Park he is saying will be in the City and then which part would be in the County?

Mr. Satterlee said this is Kings Highway, this is Pruitt Road and Picos Road. Phase I approximately includes this piece of land the City is proposing to annex and it comes down and includes this parcel here and this parcel there.

Commissioner Coke said she guesses she misheard him. She thought he said part of Phase I was going to be in the City and part would be in the County.

Mr. Satterlee said it is.

Commissioner Coke asked can he point to her which part? First of all, he is aware that the City will be happy to take both parts?

Mr. Satterlee said he will let Mr. Anderson address that. This is the County parcel here. This will be the City as well as this piece there. It is about a 120-acre parcel that he is kind of outlining here. They acknowledge this is within the City's service territory box as it was defined several years ago. The other concern they have is this piece here is outside of that box, it is outside of their service territory. They are inquiring why the City is annexing that piece? But in terms of the specifics of the Research Park, Mr. Anderson will address that. But they are requesting that this particular annexation be deferred for them to sit and work with the City and determine what would be the best way to move forward.

**Mr. Doug Anderson**, St. Lucie County Administrator, said they would like this postponed to their joint meeting in January. The County has invested over \$10 million in the Research Park. They just completed the Master Plan. He is now working with Indian River State College to develop a scope of services to do the business plan, which is going to work with the Master Plan. They have a lot of things going on. They are competing nationally to bring business into that Park. They are competing with states all over the country right now. To be bringing a company in, not knowing if they have to pay City taxes in the near future or not, is going to cause problems for them. If they could just postpone this and put together some more information for them and give them an update in January, it would be much appreciated.

Commissioner Coke said it was her understanding from years back when they started talking about this, everybody said at every meeting they understand this research park will be part of the City of Fort Pierce, everybody always said that. So that is her number one concern, she thought they all always knew it was going to be part of the City of Fort Pierce. Her second concern becomes, since she got a call Friday afternoon late from a County Commissioner asking if she would support deferring this for two weeks, and the reason she was told is they should defer it for two weeks so they could have a tax deferment agreement worked out. She doesn't actually have a problem, because the way it was explained to her was that when people come in and they start building they are going to tax the buildings and then they will be paying City taxes. Her response to that was, between first and second reading, they have plenty of time for Staff to sit down and say the City will defer 50% of their tax and the County will defer 50% of their tax on the buildings, or the County is going to defer 100% of the tax on the buildings for five years, so the City will defer 100% of the tax on the buildings for five years. She doesn't mind partnering with the County, but she thinks it needs to be an equal partnership. She doesn't understand... It really just wouldn't be fair for the County to ask the City to defer all of their taxes, but the County to charge taxes on the buildings that are going up.

Mr. Anderson said he is not asking for that. He is just asking at this point if they could defer this action until they have their joint meeting.

Commissioner Coke said she has a hard time for deferring it for two weeks, but she might have even bought into that. Does he understand that by deferring this until January it takes all of these annexations off their tax rolls for another 12-month time frame.

Mr. Anderson asked what is their revenue loss for that?

Ms. Ehly said it is an estimated \$94,342.

Mr. Anderson said it is \$94,000 they are asking them to defer.

Commissioner Coke said but that is from here. And who knows where these annexations will bring them? The simple thing would have been a couple of years ago they could have just done annexation by legislation if their friends at the County didn't object. That is all the

County had to do, not object. They didn't even have to agree. They had everybody in the Legislature agreeing to do that. Now she thinks they need to pursue this as rapidly as they can.

Mayor Benton said this is an economic development tool, because when they do meet with folks who would like to relocate out there, their water and sewer is 25% cheaper if they are within the City limits. That is a tool working in the City's and County's favor. Is there any way they can have an Interlocal Agreement put together between the first reading and the second reading?

Mr. Anderson asked when is their second reading?

City Manager Recor said November 17th.

Mr. Anderson said the County Commission does not meet again until November 25th. They are changing right now, they have the elections tomorrow, so there is no meeting. Then they have the reorganization, which simply is swear in the new Commissioner and go through the reorganization of all their committees. But the next actual meeting is not until November 25th.

Commissioner Coke asked couldn't they technically have the second reading December 1st?

Mayor Benton said they could condition it on an Interlocal Agreement with the County, he would imagine.

Commissioner Coke said they can enter into an Interlocal at any point in time.

Mayor Benton said he would think so; but at least if it was conditioned that way, as soon as the County can get together...

Commissioner Coke said the only reason she hesitates conditioning it is sometimes government works really slow.

Mayor Benton said it might work slow, but at least they know it is going to get done and they know it is a priority.

Commissioner Alexander asked these are not volunteer annexations?

Mayor Benton said they signed an annexation agreement, it is voluntary. He was out a couple of months ago addressing the Board (Treasure Coast Education, Research, & Development Authority) at its meeting. They knew this day was coming. He didn't hear any objections at that point from the Board. They seemed to be willing to be part of Fort Pierce. He still thinks it is a tool working in their favor to draw business in there, because they are always concerned about the cost of water and sewer and everything else; and this makes it cheaper.

Mr. Anderson asked are they talking about a two-week delay and then conditioned upon an Interlocal Agreement?

Mayor Benton said what they would do is approve the first reading tonight and the second reading would be at their meeting on November 17th. And if they don't have an agreement then, they can probably condition the second reading, which would make it annexed into the City, they could put a condition on there that they would have an Interlocal Agreement with the County. They want to work together with them on that Park, he knows they can.

City Manager Recor said he would suggest that it is highly unlikely that they will have even a draft Interlocal Agreement by November 17th.

Mayor Benton said it could be a condition that they have something in 60 days. He is trying to avoid the City Clerk having to advertise this again because it does cost money.

City Manager Recor said absolutely. They can make the commitment to revisit the issue.

Commissioner Coke asked if they move forward with this, let's say they have the first reading tonight, second reading two weeks from now, that does not preclude them from making a commitment to the County, without conditioning anything, that they are going to work together on whatever tax abatements they need to make this Research Park happen. Just because the City annexes the property doesn't preclude them from entering into an Interlocal Agreement on January 1st.

Mr. Anderson said that is true. He believes on the landfill that they had an Interlocal Agreement. When they are talking of an Interlocal Agreement, he is thinking of something similar to that.

Mr. Satterlee said there was an Interlocal Agreement on the landfill back in 1995 which allowed the annexation of the landfill into the City; but the County remained in control over the regulation of that - land use, zoning, etc. - for 15 years. That comes up in 2010. In addition to looking at the taxes, they would also in their effort create the zoning district that is going to be consistent with the Master Plan. That would be something they would ask to look at in the Interlocal Agreement as well, the land use.

Commissioner Coke said she thinks all those things do need to be looked at. They worked with the Nelson Family Farms to get the zoning correct, they are working with Southern Eagle to get the zoning correct.

Mayor Benton said they all know the effort the County has put into creating this. They don't want to be an obstacle, they want to be a partner.

City Manager Recor said but make no mistake, they would like a seat at the table. If he understands correctly, they are looking at zoning changes and various amendments. The City wants to be a part of that discussion. He thinks they have demonstrated - and he says this with all sincerity, particularly to Mr. Anderson - that they can work together, the City and the County. They have an interest. They have a cooperative working relationship. But they truly want to be a partner in every sense of the word if they are talking about establishing future land use categories, establishing zoning districts that are intended to recruit and target specific industry.

Mayor Benton said Mr. Anderson is going to be retired by the time they get done talking about this.

Mr. Anderson said once they are through talking about the Research Park, there is one other issue he wants to discuss. Is it true they are annexing the jail? He has the keys to give to Chief Baldwin.

City Manager Recor said just the property, not the facility.

Commissioner Alexander asked the County's Administration building is in the City, right?

Mr. Anderson said yes. And the new Havert L. Fenn Center is in the City.

**Mr. Dennis Murphy**, Culpepper & Terpening, Inc., said he has a letter (dated November 3, 2008) for the Commission for clarification, referencing specifically Ordinance No. L-59. There are three parcels along North King's Highway just north of I-95 owned by Kelley Tractor Company. They are not objecting to the annexation - they signed agreements, they knew it was coming. But the problem they found when they reviewed Ordinance No. L-59

is that the references in Section 4 and Section 5 were incorrect in terms of what the existing zoning is. In the letter he gave them tonight, they copied Sections 4 and 5 with underlines and strikeouts, basically fixing the zoning. The references are just some dimensional issues that need to be cleared up, they wanted to make sure it is straightened out.

Mayor Benton asked there is not a land use change?

Mr. Murphy said no, the land use is not changing. The industrial land use is fine. It is just the way the ordinance read, it was referring to Parcel 1 as being all agriculture. Only the west 250 feet of the parcel are currently zoned agriculture in the County. The east 1,100 more or less is zoned industrial in the County. That is the point they would like to have clarified in the final ordinance. It is just clarification in general.

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

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, that Ordinance Nos. L-53 through L-60 be passed on first reading.

City Clerk Steele asked will the motion include amending Ordinance No. L-59?

City Attorney Schwerer asked does Staff agree those zoning changes need to be amended?

Ms. Ehly said she doesn't have the information here to verify that there is a split zoning on the parcel. It didn't show up on their zoning map on their GIS System.

Mayor Benton asked can they finalize that at the second reading?

City Manager Recor said they will verify what Mr. Murphy has brought to their attention.

City Attorney Schwerer said adopt the ordinance as it is written now with the provision that, if it needs to be corrected, it will be corrected prior to second reading, if there has been an error in the reporting of the zoning.

Those voting in favor of the passage of Ordinance Nos. L-53 through L-60 on first reading were: Commissioners Alexander, Coke, Sessions, and Benton. Those opposed: None.

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Ordinance No. L-61 entitled, "AN ORDINANCE OF THE CITY OF FORT PIERCE, FLORIDA, AMENDING CHAPTER 22 OF THE CITY CODE OF ORDINANCES; ADOPTING **IMPACT FEES** RELATED TO PARKS AND RECREATION FACILITIES, GOVERNMENT BUILDING FACILITIES, SOLID WASTE FACILITIES, STORMWATER FACILITIES, AND TRANSPORTATION FACILITIES; PROVIDING FOR ADOPTION OF A METHODOLOGY REPORT, SHORT TITLE, POLICY AND PURPOSE, FINDINGS, INTERPRETATION, EFFECT ON OTHER REGULATIONS, DEFINITIONS, APPLICABILITY, COLLECTION OF IMPACT FEES, INDIVIDUAL ASSESSMENTS, OFFSETS, USE OF FEES, IMPACT FEE ACCOUNTS, REFUNDS, UPDATES AND INFLATIONARY ADJUSTMENTS, APPEALS, AND FEE SCHEDULES; AND PROVIDING FOR CONFLICT; SEVERABILITY; INCLUSION IN THE CITY CODE; AND AN EFFECTIVE DATE." was placed on first reading and read by title only.

Ms. Erica Ehly, Comprehensive Planner, said they have before them an Impact Fee Ordinance that they have brought before them before to discuss and they have also had a presentation on it. It has been about a year and a half process. The ordinance has been prepared by Tindale-Oliver & Associates, Inc. in coordination with City Staff to address the impacts of new growth on public facilities provided by the City. The purpose of this ordinance is to provide a funding source for capital projects that are required to maintain the adopted level of service standards for public facilities as the result of impacts of new

development and to insure that new development bear a proportionate cost for the public improvements rather than placing the burden upon existing property owners. Impact fees are payments required by local government of new development for the purpose of providing new or expanded public facilities required to serve that development. The impact fee schedules for these five public facilities were developed as a result of an Impact Fee Study completed in June of 2007 by Tindale-Oliver & Associates. In essence, impact fees charge each unit of new growth for the net cost of infrastructure needed to serve that unit of growth. As the rate of development increases, so does the cost of the capital projects required to maintain public facilities at the adopted Level of Service. The City has traditionally relied on other funding mechanisms, primarily ad valorem taxes and revenue from the FPRA, to support the impacts of development to date. Depending on the level of growth, these sources may no longer be sufficient at the current rate to maintain the adopted Level of Service Standards. The capital projects listed in the Capital Improvements Element are required to maintain the adopted Level of Service standards. Additionally, the CIE must be financially feasible. Financial feasibility applies to the five year planning period of the CIE and is defined in Chapter 163 of the Florida Statutes as having committed funding sources for the first three years of the planning period and either committed or planned funding sources for years four and five of the planning period. Impact fees provide a valuable committed revenue source that the City does not currently have. It is important to note that impact fees apply only to the impacts of new growth. Impact fees cannot exceed a proportionate share of the cost of expanding facilities required to serve new growth. New development cannot be charged impact fees designed to correct an existing deficiency. They must satisfy the relationship between the need for facility improvements and the new development. And local governments are required to show that the development paying impact fees will receive benefit from the expenditure of those fees; for example, residential development with parks and recreation fees. The premise to the amount of an impact fee is that new growth consumes some identifiable quantity of public infrastructure capacity. The fee is based on the cost of providing that identified quantity. The fees in this ordinance are standard spaced fees, which means these are calculated fees based upon the value of public infrastructure consumed per unit of land use, except for stormwater fees which are based on square footage of impervious surface. For example, one fire station per 1,000 people or so many acres of parkland per 1,000 people or so much square footage per 1,000 people. This slide identifies examples of possible exemptions to impact fees. It is important to note that exemptions result in an increased reliance on the traditional revenue sources of the FPRA and tax revenue to pay for the impacts of development. In response to concerns expressed by the Commission and the business community, this ordinance was created incorporating a phased three year schedule for the implementation of fees, in addition to an exemption for the collection of fees related to development within the Enterprise Zone. As the amendment furthers the goals, objectives, and policies of the Comprehensive Plan and meets the requirements of Chapter 22 amendment standards, Staff recommends approval of the amendment of Chapter 22 of the City Code to include the Impact Fee Ordinance.

Commissioner Sessions asked could she sum up what the Planning Board decision was? He sees they voted against it.

Ms. Ehly said the Planning Board had some issues with some specific language. They had an issue with a single-family home, if it was going to expand beyond the same size and use but would have the same family living there, they would be required to pay impact fees. The Planning Board didn't agree with that, they had an issue with that. They had an issue with the definition of additional impacts on public facilities, that it wasn't clear enough. They also had an issue with not just stating a college, but specify that it be in a accredited college. It was language-based issues the Planning Board had with the ordinance. Then they made a motion to recommend approval with those conditions; but it wasn't successful, it was three for and six against.

Commissioner Sessions asked so these impact fees will impact individual residents themselves?

Ms. Ehly said only if it is adopted in its current form, that is based on a tiered scheduled for single family homes. The Commission has the option, they could just use single-family homes as a category; and if they expand into the next level of square footage, they wouldn't have to pay the additional impact fee.

Commissioner Sessions said it appears to be on its face just a form of a tax when they look at it as a single residence and the impact fee. He can understand coming from a developer there is an impact. But from an individual residence, it just looks like it is a disguised form of a tax for new residents and it might discourage residents.

Ms. Ehly said there are all kinds of ways they can deal with that. They can also have, if it is a development of four or more single-family homes or if it is a development of six or more, however they would want to address that issue so that the individual who is expanding their home doesn't have to pay impact fees.

Commissioner Sessions said on that same issue, let's say a major development comes in and they are talking about employing 300 or 400 people. What discretion would this Commission have in terms of making that particular development perhaps an exemption to try to encourage developers to come into the area?

Ms. Ehly said the Commission has the complete discretion as to what exemptions they would want to put into this ordinance; however, any exemptions they put in, the costs are still going to be there. So if the developer doesn't pay or if the impact fees don't cover the cost of the impact, that burden falls on existing property owners or the FPRA revenue.

Commissioner Sessions asked that is the way it is presently?

Ms. Ehly said right. It is 100% on ad valorem. That is just something to take into consideration. But certainly any exemptions they would...

City Manager Recor said can Ms. Ehly clarify, he doesn't think she is suggesting that the Commission would have the ability to grant exemptions on a case by case basis, as opposed to specifying in the text of the ordinance what would be exempt and what would not be.

Ms. Ehly said yes, exactly. That is what she meant.

City Manager Recor said if he understood Commissioner Sessions correctly, he was more interested in the ability - for example, tonight with the Target development - to have had a discussion about...

Commissioner Sessions said whether or not they would be exempt.

City Manager Recor said exactly.

Mr. David Carlin, Interim Assistant Director of Planning, said if he could elaborate a little bit. The concurrency ordinance as it stands now does allow for the proportionate fair share contributions that would be obligated by development to be impact fee credits. They do have a provision within their ordinance as it stands now to offset a fair share contribution, like Kings Highway and Orange Avenue for \$156,000, that money can be offset with impact credits. The City Code does contemplate those types of scenarios, so there is a mechanism in place.

City Manager Recor said they wouldn't hit them twice, in other words. Is that what he is saying?

Mr. Carlin said essentially, yes. So there is a provision in there that does account for fair share contributions and impact fee credits now in their ordinance.

Ms. Ehly said like these other exemptions, donations of land in lieu of impact fees and things like that. There are ways they can negotiate something other than the fee.

Commissioner Sessions said they are in competition with the surrounding cities in terms of attracting developers and development. Be that as it may, they are not anti-development. At least, he is not. They sometimes send that message out. But he does not feel personally that they are. At any rate, where are they in terms of competing, with regards to these impact fees, with the other surrounding municipalities - Indian River County, Port St. Lucie?

Ms. Ehly said this slide shows Vero Beach, Port St. Lucie, Stuart, and Fort Pierce. They can see by the comparison that Fort Pierce is right in the mid-range primarily, Stuart being the highest. There is one thing to take into consideration when they are comparing fees. Fees are based on the land value and are based upon the adopted Level of Service and are based upon the public facilities that this City provides people who come to the City. It is not necessarily the same that other cities provide. Fort Pierce might have a higher Level of Service or might offer more parks than another city would, so they may have a higher value attributed to the fee.

Commissioner Coke said she thought she was going to be very happy with what she saw because she really does think they need to move forward with this. She is glad they have a phased three year implementation of it. She is glad they have an exemption for development in the Enterprise Zone. She has concerns though, because it seems to her that the last time they talked the one thing they said they wanted was to insure that their impact fees were not higher than Port St. Lucie or Vero Beach. She walked in here ready to support this. And she is looking at it, there is no way she can support it. Two minutes ago she told Mr. Recor she was in full support of it, now she can't. They cannot move forward as a city and grow and encourage development with impact fees that are higher than Vero Beach and Port St. Lucie.

Ms. Ehly said these are at 100%, so they won't be... And also this is before Stuart just added its new doubling of the single-family home fee.

City Manager Recor said it just dawned on him as they were responding to Commissioner Sessions that this issue pre-dates his election. They have been talking about this for a long time. This study was conducted two years ago. So they did have discussion. They spent a lot of time evaluating and comparing Fort Pierce to what the local other jurisdictions were. What he recalls from that discussion was a very resounding response from Staff that the way to do that is not to necessarily compare themselves, because it is not an apples to apples comparison; but what they need to do is go back and change the Levels of Service they have identified that the fees are based on. Because that is how they reduce the fees, by changing the Levels of Service that they have identified in the Comp Plan.

Commissioner Sessions said so he is justifying the increase in comparison with the other municipalities based on the increase in services.

City Manager Recor said the impact fee itself is a product of the Level of Service they have identified in their Comprehensive Plan and the other tools that were used as part of the Impact Fee Study. It wasn't just an arbitrary number that was developed to say in the City of Fort Pierce they are going to charge x-dollars for residential construction or for parks or for other categories. It is a product of the Level of Service they identified that the background data was used to compute.

Commissioner Alexander asked he remembers Ms. Ehly speaking about fire stations for every 1,000 people?

Ms. Ehly said that was just an example of a standard based impact fee.

Commissioner Alexander said the Fire District has their own impact fees.

Ms. Ehly said exactly. It is an example of a standard base fee - one fire station per 1,000. So if they have 3,000, that is three fire stations. But they can relate that to another public facility, that they would have four trash trucks per 500 people. So if they have 1,000 people, they have eight trash trucks, that type of thing. And that directly relates to the capital cost of providing that service to that population which is based upon whether it is a residential development. A residential development comes in and it has 1,000 people, that is how it relates.

Commissioner Alexander said he was trying to remember what Commissioner Coke was speaking about, that he thought for sure they did not want to come in... He is looking at the scales. When they say in Vero Beach and Port St. Lucie, they are towering them in multi-family. They don't want to...

Ms. Ehly said another thing to consider is that impact fees are higher where development is expected. So in areas where development isn't expected, they are going to have lower fees. So it is all related to what is going on in the community, what is the value of the land, what type of Level of Service they have adopted, what kind of public facilities do they have to offer. So the fees are higher because there is more benefit, they can look at it that way.

Commissioner Coke said she is a firm believer in this because she doesn't believe their existing residents should be paying for the needs of future businesses or future residents. But she thinks in some respects Fort Pierce being an older city should have some lower impact fees, in that this money can't go to redo their sewers and lights and electrical, it has to go for new. They have a big advantage here. They have streets that are laid out properly in a grid format and they already have a lot of infrastructure in place within the City boundaries. She doesn't know how much room they have for construction of a lot of the things that the impact fees are for. Her biggest concern - and she doesn't know how they got here - is she really believed that they were dead set against having their impact fees higher than Port St. Lucie or Stuart, whether it meant discounting them, or saying they are going to adopt the chart that was recommended but only charge 50% or something. She just can't in good conscience support something that is going to put them higher than their neighboring cities.

Ms. Ehly said the Commission does have the option of implementing 10%, 20%, 50%, 80% of the fee. That is up to the Commission as to how much of the fee. This is at 100% of the fee, if they were to charge 100% of the fee. They have the option to decide what structure they would want to implement as far as the schedule of fee they would charge.

Commissioner Coke asked do they have a percentage on each of these? Do they have a little graph that gives a percentage of where they are over and above Port St. Lucie and Vero Beach?

Ms. Ehly said unfortunately she doesn't.

Commissioner Coke asked then how can she tell them what percentage she wants to adopt?

Ms. Ehly said she could certainly get that for them.

**Mr. Steven Tindale**, Tindale-Oliver & Associates, Inc., said there are two things going on. One is, some of the fees that have been adopted are incorrect, the relationships. In other words, somebody is undercharging retail in some of the cities and communities, their data shows they are undercharging. That is the reason they see under large retail, the reason

Fort Pierce is higher is somebody just decided however they wanted to do it, not to charge maybe the correct fee. They don't get involved in that. They didn't do Stuart or Port St. Lucie or Vero Beach. But they see documents where these entities just randomly go do things that are somewhat illegal. He doesn't want to get caught in that. But that is one reason for the variation. But just looking at it, 60% looks to him if they took the worst case, which is the multi-family, and reduced their fee by 60%, they would probably be higher than no one. He thinks they had a fee schedule of 60%, 80%, 100%. So if they adopted the 60% that is in front of them, he doesn't think any of their fees would be higher than anybody else at that time. Then they could make a policy decision each year to move to the 80% or to 70% or they could phase from 60% to 100%, however they wanted to. If they move forward with the 60% with a caveat that they won't change those without revisiting things next year and rechecking things, then they would move up in terms of phasing it in. He thinks if they took 60% of the \$1.3 million, it is about \$900,000. That would put them down with everybody else with a multi-family and all the rest of them except for retail, and there it looks like they are maybe 20% above some cities in retail, but they would be down in there with the group at 60%. They could run those numbers for them and make sure they feel comfortable. If they could give some guidance to Staff and come up with a percentage that takes multi-family and large retail and makes sure where is the average of the group.

Mayor Benton said he likes the way they have done it in other cities - when it comes to retail, they have lowered it, and when it comes to multi-family... That has been his argument for some time, that creating jobs is better than bringing hundreds or thousands of families. At least the jobs are putting people to work. The families that are coming here require parks and everything else. Was it three years ago they updated their Comp Plan?

City Manager Recor said it was 2005.

Mayor Benton said he went to at least five public hearings throughout the City and on he fringes of the City limits and all over. That was the biggest cry he heard from the public. At that point the development was coming and they were looking at 10,000 homes or units on Jenkins Road, and the public was saying they are going to be using city parks. This is the only way they are going to create those ballfields and parks. The seniors want them too. That is why he likes the residential up where it is. But the retail, he doesn't want to scare them away to somewhere else that is cheaper.

Mr. Tindale said the difference between a fee and a tax, with a tax they can pick and choose their tax rates, but the fees have to be based on proportional impacts. So if they want the fee to come down in retail, just take the tax they generate from retail and start taking some of their ad valorem tax in paying down the retail impact fees. They can legally pay down impact fees with taxes. But don't do it through the fee, take the additional tax money. And then their transportation program or their parks program is whole and they don't have a Level of Service adopted they can't achieve because they have done that. They can reduce the effect of these fees on different uses through taking that tax and moving it into that program area and paying the fees. They are much better off doing that than they are cherry-picking these fees and getting out of proportionality and not having a fee and having a tax. A fee is not a tax. It has to be proportional and that is how this is calculated. He thinks between the discount rate and some things they would want to do as far as unique exemptions carefully. And then if they wanted to pay down some of the fees, there is no issue with that.

Mayor Benton declared a Public Hearing on Ordinance No. L-61 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.

Commissioner Coke asked if they pass this this evening with that phased three year schedule, was that an automatic? Or could they pass this this evening and say that they

are going to implement 60% of these fees, but it will come back to this Commission this time next year to either proceed with the next step or perhaps lower it if they have to?

Ms. Ehly said it is her understanding that they can do exactly what she just stated.

Motion was made by Commissioner Coke, seconded by Commissioner Sessions, that Ordinance No. L-61 be passed on first reading; that they implement 60% of these impact fees with a review after one year and exempt any development within the Enterprise Zone.

Commissioner Sessions asked will that include single family residences too?

Commissioner Coke asked what would the single-family home be on 60%?

Ms. Ehly said on 60% for a single-family home less than 1,500 square feet would be \$436.81, and the next level would be \$492.00, and then over 2,500 square feet would be \$535.00.

Those voting in favor of the passage of Ordinance No. L-61 on first reading were: Commissioners Alexander, Coke, Sessions, and Benton. Those opposed: None.

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Ordinance No. L-62 entitled, "AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, **ABANDONING** A PORTION OF THE RIGHT-OF-WAY FOR **ATLANTIC AVENUE** WHICH RUNS EAST/WEST BETWEEN U.S. HIGHWAY #1 AND SOUTH 5TH STREET; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE." was placed on first reading and read by title only. (Applicant: U.S. General Services Administration)

Mr. David Carlin, Interim Assistant Director of Planning, said this is an exciting development going on. The applicant is requesting that the City of Fort Pierce abandon a portion of right-of-way that extends between U.S. #1 and South 5th Street in order to construct the new Federal Courthouse. The Site Plan specifies that the new building will be located in the area where this particular abandonment needs to occur. Atlantic Avenue is currently a two-way street. The requested area to be abandoned is approximately .35 acres. The properties surrounding, including the subject property, are all zoned C-3, General Commercial Zone. The applicant recently provided plans for a courtesy review of the proposed Federal Courthouse to all Departments. In addition, the preliminary development schedule provided by the applicant indicates that the construction will likely occur before the end of this year. All affected departments have reviewed the proposed abandonment and approved the request. At the October 14th Planning Board meeting, the Planning Board voted unanimously to recommend approval of the abandonment. Based on no objections received from any Departments, Staff recommends approval of the abandonment.

Mayor Benton declared a Public Hearing on Ordinance No. L-62 in session and asked if anyone in the audience wished to be heard.

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

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, that Ordinance No. L-62 be passed on first reading.

Those voting in favor of the passage of Ordinance No. L-62 on first reading were: Commissioners Alexander, Coke, Sessions, and Benton. Those opposed: None.

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The next item on the Agenda was Application for **Site Plan Review** submitted by Jerald Wuhrman, Hillcrest Development & Building Corp. for construction of a 50 room motel to be known as **Deeken Plaza Motel at 400 Seaway Drive**: said property zoned C-5, Tourist Commercial Zone. (Public Hearing held on October 6th. Motion to postpone action to November 3rd City Commission meeting.)

Mr. David Carlin, Interim Assistant Director of Planning, said at their last meeting the Commission asked the applicant to incorporate some changes to the Site Plan and consider those changes to include some suggested retail components. The applicant was able to follow through with the direction of the Commission and incorporate a retail component. The subject development would be located in the corner of Seaway Drive and Ocean Drive. The retail component is approximately 4,200 square feet of retail floor space that will be located within the first floor of the development. The revised plans specify that the retail elements will be located up front along the property lines along Seaway Drive and Ocean Drive within the setback requirements for the zoning district; so to substantiate this location, the applicant will need to have variance approval from the Board of Adjustment to substantiate the location for the retail component. The Site Plan has been modified by incorporating a second additional parking level to facilitate the additional retail space. Access to these covered parking spaces will be provided by an internal access ramp located toward the middle of the property. A total of 29 parking spaces will be provided in this covered parking area. The vehicles will be able to park on second floor and will actually traverse up a ramp. Additional modifications include placing a rooftop garden area on top of the second floor parking area that will include landscaping and trees. Because the building was shifted forward to the property line to accommodate the retail component, the proposed rainwater or cistern collection system that would be located up toward the front is now going to be moved on top of the second floor of the parking garage, which will enhance some of the outdoor type amenities for this development. In addition, there will also be a sundeck and trellis with a gazebo and a spa/jacuzzi area that will be located on another level that overlooks the second story parking area. These improvements will substantially enhance the overall perspective for this particular development. In order to accommodate the additional parking, second floor parking will be provided. Because of the configuration changes that occurred for retail, the number of units for this particular motel increased from 50 to 57. The overall square footage remains relatively the same. One of the configuration changes was some of the floor plans eliminated the sleeping alcove. If they recall, some of the units had designated sleeping areas and an additional sleeping room. For this particular modification, the B-units were revised to eliminate that sleeping alcove. Basically, there will be 57 parking spaces for each of the rooms and then an additional 17 parking spaces required for the retail component. The applicant is required to provide 74 and the plan actually has 76, so it does meet the parking requirements. The applicant also provided a revised traffic study to account for the additional retail elements and no additional impacts were noted based on that study. It should be noted there was not enough time to get an updated landscaping plan or color architectural rendering. So if the applicant goes before the Board of Adjustment, Staff will be recommending that they have those updated plans to have everything all wrapped up in a package. Staff is recommending approval of this Site Plan with the condition that a revised landscape plan is provided, revised color architectural renderings, and that a variance is granted from the Board of Adjustment. But the applicant did comply with the Commission's directive to incorporate retail.

Mayor Benton asked does this plan meet Code and the South Beach Overlay?

Mr. Carlin said yes, it does. Also, the Building Official provided some additional information as well. Because of the flood hazard provisions, Mr. Wuhrman is going to have to make sure his plans meet the flood hazard criteria for first floor habitable areas. So that is a design element that he will have to factor into account when he is going through his floor plans.

Motion was made by Commissioner Sessions, seconded by Commissioner Alexander, to approve the Site Plan submitted by Jerald Wuhrman, Hillcrest Development & Building Corp., for construction of a 57-unit motel to be known as Deeken Plaza Motel at 400 Seaway Drive, with the following conditions: (a) Revised landscape plans and color architectural drawings are provided; and (b) Obtain a variance from the Board of Adjustment to substantiate the building placement.

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

Mayor Benton said they appreciate Mr. Wuhrman working with Staff. It has been a long time. He thinks they have a good product here.

**Mr. Jerald Wuhrman** said he appreciates the effort that was put in by Staff and the Commission, and the suggestions that were made. It is a good project.

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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."

City Manager Recor said their Deputy Finance Director prepared a financial analysis. She will present the information tonight.

Ms. Melissa Moore, Deputy Finance Director, said the St. Lucie County Property Appraiser provided a list of 28 properties that were deemed to be impacted with the passing of Amendment 6. The spreadsheet they have shows the countywide taxes that are affected at this time; that is, the income of \$2.1 million on a countywide level. The City's portion of that tax is actually just under \$510,000. Based on the information, if Amendment 6 were to go into effect, if the property was to be decreased by 30%, the City's portion of a loss would be about \$152,000 in taxes. If the assessed value was to decrease by about 40%, they are looking at \$203,000. And if the assessed value was to decrease by 50%, the City's portion of the tax loss would be \$255,000.

Mayor Benton asked how do they come up with the different scenarios - the 30%, 40%, 50%?

Ms. Moore said what she did initially is she tried to go out and find pieces of property that were in comparison. Because of the property size and the value of the property, it is difficult to get a scenario based on that. The range was just arbitrarily done from 30% to 50%. They can see just from the scenario of the five she selected, it ranged anywhere from 83% to 2% in variance based on the size of the properties that were not bordering water but were similar in nature.

Mayor Benton said these numbers with what the County receives, because some of this is improved property, is money that would go into their FPRA. So there is probably more of an adjustment or reduction coming into the City and the FPRA.

Ms. Moore said correct. As they can see from the spreadsheet there was one area that the property was assessed at \$8 million, but yet only a small portion of that is actually water-based, a marina that would have been marina revenues. But if the property collectively was bordering water, it would fall under that Amendment 6 for that break.

Commissioner Coke said she is not going to be able to support this at a Commission level. She has a couple of different concerns. They need every dime they can get these days just to provide the services they can. Also, she thinks they will open a can of worms. She has had people call her and say they have this duplex, it has been in their family for 50 years, it is over on the beach, and now they have raised the taxes to the maximum amount every single year, and they had planned on living there until they died. In the meantime, they are raising it. Granted they can only raise it to the cap because it is homestead, but they are raising it the maximum they can because of the highest and best use. She thinks if they do this, then they are going to get other people who are living in their homes saying their house could be better used for something, but they want to pay the lower tax rate. Finally, it genuinely concerns her that if they give a tax break to people... She wants to see their waterfront serve as a working waterfront. But she doesn't think giving a tax break is the way to insure that. She thinks what will happen is, it will insure the people pay lower taxes, but when the economic boom comes again, there is nothing in this amendment to guarantee that these people can't sell their property for the higher rate. So they will have gotten full advantage of lower taxes and the working waterfront; and when the money comes back and somebody offers them \$18 million for a piece of property that they paid \$100,000 for 20 years ago, they are going to take the money and to heck with the working waterfront or the fishermen or anything else. She has major concerns that they are just using it to enable some people to make a better profit, so she can't support it.

Mayor Benton said in his opinion, he believes they meant well. But he thinks it is similar to one of those that blew up in their face. Because when he looks at these numbers, he would agree it looks like they are giving somebody something similar to an agricultural exemption.

They put cows on the property until the roads are in and a development is ready to go. If it is a working business, if they are defining just that working business or that boat yard... But they are not doing that. They are taking every piece of property and not even referring to zoning. This is information that has come from the Property Appraiser's office.

Commissioner Coke said she thinks if it is locked in the zoning for what they are so they can't sell it to a hotel in three years, perhaps she would have felt differently.

Mayor Benton said it is just not what he thought it was. He thought they were working for a working waterfront, but he thinks it is helping potential developers out. Is there any interest from any Commissioner to support this Resolution?

RESOLUTION NO. 08-47 WAS NOT ADOPTED.

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

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to reappoint Commissioner Becht to the Treasure Coast Regional Planning Council, and to reappoint Commissioner Sessions as alternate.

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

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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 (COPS Universal Hiring Program Grant) removed for discussion.

Commissioner Coke said she would like to pull Items 25b (Future Generations of St. Lucie County - Public Funds), 25c (Lincoln Park Main Street - Public Funds), 25i (Aquatic Weed Control), 25l (Irrigation Meters & Maintenance), 25m (Sungard HTE upgrade), and 25o (Wage Increase for Police Sergeants & Lieutenants).

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

- a. Set date for Public Hearing on Application for **Certificate of Public Convenience & Necessity** submitted by **Vitalcare Connection, Inc.** for November 17, 2008.
- d. Authorize submittal of application to Florida Department of Transportation FY 2009 Keep America Beautiful Grant Systems for \$13,714.28 for the **Keep Fort Pierce Beautiful Program**.
- e. Authorize submittal of letter from City Manager to the Treasure Coast Regional Planning Council requesting participation in a joint application to the U.S. Environmental Protection Agency for 2009 **Brownfield Coalition Assessment Grants**.
- g. Approve ranking of proposals and award contract for **Lightning Protection** for the Police Department Main Station to Bonded Lightning Protection Systems, Inc. in an amount not to exceed \$18,120.00. RFP #5823
- h. Award bid for **CDBG Housing Rehabilitation Project** for 1219 South 10th Street to Terramar Construction in the amount of \$27,900.00. Bid #5862
- j. Accept construction proposal submitted by Johnson-Davis Inc. for **Emergency Drainage Repairs at South 13th Street & Havana Avenue** in the amount of \$21,000.00. (SMU Bond No. 2) Ref. Bid #5595
- k. Approve Change Order No. 1 to Contract with Johnson-Davis Inc. for **Emergency Drainage Repairs** at Super Video Store (U.S. #1 & Savannah Road) in the amount of \$14,912.00. (SMU Bond No. 2) Ref. Bid #5595, Purchase Order No. 08-2121.
- n. Approve ranking of vendors for **Debris Management & Removal Services**; and authorize negotiation of a contract with the top two ranked firms, Crower Disaster Recovery and Ashbritt Environmental. RFP #5849

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The next item considered was Item 25b, which had previously been removed from the Consent Agenda: Approve request by Joseph Richardson, Future Generations of St. Lucie County, Inc., for \$1,000 in **Public Funds** for band uniforms, advertising, and instrument repairs for community youth performance.

Commissioner Coke said it is not that she doesn't want to support this type of thing, she is just questioning if this is the venue. She knows they have advertizing grants that they approve under the City. She just needs clarification from Staff, what kind of grant do they have? She didn't know they had this grant under the City umbrella.

Commissioner Alexander said they placed it under advertisement. He does want to speak on behalf of this young group. They were before them before a couple of years ago. If they just place it under advertisement...

Commissioner Coke asked just change the verbiage to advertising?

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve request by Joseph Richardson, Future Generations of St. Lucie County, Inc., for \$1,000 for advertising community youth musical performances throughout the year.

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

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The next item considered was Item 25c, which had previously been removed from the Consent Agenda: Approve request by Elise Rollins, Lincoln Park Main Street for \$5,000 in Public Funds for advertising Thanksgiving and Holiday Activities.

Commissioner Coke said first of all, she thought they were giving this out in \$1,000 increments, so she thinks they should have done \$1,000 for Thanksgiving advertising and \$1,000 for Holiday advertising. They only have \$10,000 in that fund. She also thought they had agreed they were going to do \$1,000 at a time. Secondly, she also thought that every time they had one of these requests they were supposed to get a balance on it and they do not have that.

Ms. Gloria Johnson, Director of Finance, said they have only given out \$1,000 this year thus far and that amount was for the classic car and Halloween event.

Commissioner Coke said she will move approval of \$2,000 and they can apply for the other \$3,000 for specific items.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve \$2,000 in Public Funds to Lincoln Park Main Street for advertising Thanksgiving and Holiday activities.

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

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The next item considered was Item 25f, which had previously been removed from the Consent Agenda: Accept the U.S. Department of Justice 2008 Office of Community Oriented Policing Services (COPS) Universal Hiring Program Grant (UHP) in the amount of \$225,000 to increase Police Department community policing and violent crime prevention efforts through hiring additional three officers.

Commissioner Alexander asked are these additional three officers just going to be assigned to the policing unit, or are these some more School Resource Officers?

Chief of Police Sean Baldwin said this grant is specifically to enhance or improve community policing services. Their initial plan is to move these three officers into community policing that will serve areas other than the Fort Pierce Redevelopment Agency area, so they can spread their community policing program into the other parts of the City.

Commissioner Alexander asked when they speak of community policing, he thinks that is a good idea. But is there any type of matching fund on this or is this just a straight grant?

Chief Baldwin said there is a match to this grant. The City's contribution is about \$100,000 per year over the next three years.

Commissioner Alexander asked where would that be coming from?

Chief Baldwin said they have that budgeted in their General Fund Budget under their Grants Account.

Commissioner Alexander asked is it an annual grant?

Chief Baldwin said yes, it is a recurring grant for three years.

Commissioner Sessions asked after three years how are they going to pay for it? It is a three-year grant. These officers, he is not going to get rid of them after three years, is he?

Chief Baldwin said he hopes that they don't get rid of them. They will be obligated to continue to maintain those positions for an additional year after the grant period expires;

and then obviously it is up to the Police Department, depending on their staffing needs. With the annexations they are undertaking, he would expect in three years they will need to retain these three additional officers.

Motion was made by Commissioner Alexander, seconded by Commissioner Coke, to approve the U.S. Department of Justice 2008 Office of Community Oriented Policing Services (COPS) Universal Hiring Program Grant in the amount of \$225,000.

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

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The next item considered was Item 25i, which had previously been removed from the Consent Agenda: Award contract for **Aquatic Weed Control** to Aquatic Weed Management in an amount not to exceed \$25,798.92. RFP #5858

Commissioner Coke said she guesses she will have to go ahead and move for approval here, but she is going to express her dissatisfaction in that once again there is no column here where they are giving out points for local. She has said it over and over again, and she knows Commissioner Alexander and she have been saying it for seven years, so she would hope at some point in time somebody will start listening to them.

Commissioner Alexander said this is a three-year contract too.

Commissioner Coke said yes and there are no points for local. They don't know who is local and who is not.

Motion was made by Commissioner Coke, seconded by Commissioner Sessions, to award contract for Aquatic Weed Control to Aquatic Weed Management in an amount not to exceed \$25,798.92.

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

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The next item considered was Item 25l, which had previously been removed from the Consent Agenda: Approve installation of **Irrigation Meters** by Fort Pierce Utilities Authority for Center Median Landscaping for **U.S. #1 Resurfacing Project** (Edwards Road to Taylor Creek) per Landscape & Irrigation Maintenance Agreement with Florida Department of Transportation dated July 2007 in the amount of \$22,605.00.

Commissioner Coke said she thinks these median things are the worst thing she has ever seen in this City and she doesn't know how they got put there. If there was a way to remove them, she would be happy. But it was her understanding when they entered into this fiscal year, that any time they had a cost that had not been budgeted, when they were given a debit to an expense account, they were going to be given specific credit to an account and that these things were not all going to come from the General Fund. If they start taking everything from the General Fund, if it was not budgeted, where do they end up at the end of the year?

City Manager Recor said let's ask their Finance Department and City Engineer to identify the funding source. When this agenda item was prepared, they have different levels of review. The Finance Department has signed off on it, so obviously there is a funding source.

Ms. Gloria Johnson, Director of Finance, said it is going to be paid out of Department 6000, Administrative, from the General Fund.

City Manager Recor asked out of what line item?

Ms. Johnson said it is going to be out of the Capital line item, even though there is nothing. They are just going to transfer the funding to cover it from the Contingency line item.

Mr. Jack Andrews, City Engineer, said that is a Capital Improvement cost and the only place that can come out of is out of is the FPRA area. It is not part of Stormwater, so the only place remaining is to come out of the Fund Balance.

Commissioner Coke said that is exactly where her concern becomes. They have x-number of dollars they are supposed to have in the Fund Balance. This is probably already done, contracted, and moving forward, and here is that much less money they are going to have in their Fund Balance. They didn't make a conscious decision to do this. If they are going to end up being short in the Fund Balance, she would rather they end up being short in the Fund Balance - not that she has a preference for it - but because they had to pay health insurance or salaries or something that was important, rather than watering the median on U.S. #1 for FDOT.

Mr. Andrews said this was brought before the City Commission when this project was first entered into for a Maintenance Agreement for the landscaping.

Commissioner Coke asked then why was it not budgeted for this fiscal year? Her objection is not necessarily that they are paying for it. Her objection is that this was a budgeted item this year from line item such and such. So if they entered into a contract to do this two years ago, it should have been budgeted for this year.

Mr. Andrews said as far as any of the Capital Improvement projects, there is not a line item specific for that. It is part of their Capital Improvement Projects, but there is not a line item in the budget that specifies each particular project.

Commissioner Coke asked so this was budgeted?

Mr. Andrews said this was part of their Capital Improvement Projects, yes.

Commissioner Coke said so it was budgeted under Capital Improvements. Can they then make a notation that it was budgeted under Capital Improvements? Had she known it was a budgeted item, she wouldn't have pulled it.

Ms. Johnson said it may have been under the Capital Improvement Program, but they didn't budget for it. So if they are going to pay for it, it has to be paid out of the Contingency Fund.

City Manager Recor said when she says Contingency Fund, she is not talking about Fund Balance. There is a line item in the 6000 Account for contingency.

Ms. Johnson said they have about \$219,000 in the Contingency Fund.

City Manager Recor said that is not the same thing as Fund Balance.

Commissioner Coke said then let her request this. As they start taking money - the same as if they have \$10,000 for advertising, and they take \$1,000 and \$1,000 and \$1,000 away, they have a balance - if they start out with \$600,000 in Contingency and now they have taken away \$22,600, if they could have the balance that is left when they have the remainder of these things. Because otherwise what happens is they all end up getting very frustrated at the end of the year when Ms. Johnson is telling them they have a negative General Fund balance or they have run out of money, and nobody tells them as they go along.

City Manager Recor said he understands, it will be helpful.

Ms. Johnson said they will do that in the future. If there is nothing budgeted under a line item and it has to be paid for, they will just have to earmark it as to where it is coming from and what is the remaining balance after they take it out.

Commissioner Alexander asked who is going to maintain these isles for the next 20 or 30 years?

Mr. Andrews said as far as the landscaping in the island, it is the City's responsibility. They entered into a Maintenance Agreement with FDOT. There is an agreement for the maintenance of the landscaping and also the street lighting.

Mayor Benton said just make sure this is xeriscape, so once it is established, they can turn the water off. There is nothing worse than watering the roads every morning.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve installation of Irrigation Meters by Fort Pierce Utilities Authority for Center Median Landscaping for U.S. #1 Resurfacing Project (Edwards Road to Taylor Creek) per Landscape and Irrigation Maintenance Agreement with Florida Department of Transportation dated July 2007 in the amount of \$22,605.00.

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

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The next item considered was Item 25m, which had previously been removed from the Consent Agenda: Approve SunGard HTE upgrade to LG GeoBlade Viewer (Enterprise) and LG Address (License) for the MIS Department in the amount of \$35,990.00 to complete the GIS Citywide Enterprise Solutions.

Commissioner Coke said she pulled this for the exact same reason she pulled the previous item. They have expenditures here with no clue of where the money is coming from. So they have a debit to an expense and no credit to a cash account, and they don't actually know what the balance is going to be.

City Manager Recor said this is a budgeted expenditure in this fiscal year included in the MIS budget.

Commissioner Coke said however, under Fiscal Impact it does not say this is a budgeted item under the MIS budget. If it is a budgeted item, then she doesn't have a problem. City Manager Recor said generally when it is a non-budgeted item, that is what is pointed out, is that it is not a budgeted item. He didn't realize that was her expectation.

Commissioner Coke said generally when it is a budgeted item under Fiscal Impact, it says: This item was budgeted for fiscal year such and such, with a line item designation. So she guesses they are just doing it a little backwards. Anyway, if these were budgeted items and they have a funding source, she doesn't have a problem.

City Clerk Steele said there is an Account Number line item on Page 2 of the memo.

Commissioner Alexander said it says this is a budgeted item.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve Sungard HTE upgrade to LG GeoBlade Viewer (Enterprise) and LG Address (License) for the MIS Department in the amount of \$35,990.00 to complete the GIS Citywide Enterprise solutions.

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

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The next item considered was Item 25o, which had previously been removed from the Consent Agenda: Approve 3% wage increase for **Police Sergeants & Lieutenants** retroactive from October 1, 2007 to September 30, 2008.

Commissioner Coke said she just wants to be sure they have the source of funding identified for these things. She gets phone calls when they start approving these things asking, where are they going to get the money from when they are going back?

Ms. Gloria Johnson, Director of Finance, said they will have to go to Fund Balance for this one. There is no funding to cover this.

City Manager Recor said that was anticipated. They discussed this in executive session.

Commissioner Coke said but they need to have transparency on what is going on here.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve 3% wage increase for Police Sergeants & Lieutenants retroactive from October 1, 2007 to September 30, 2008.

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

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Tuesday, November 11, 2008, is Veterans Day Holiday in the City of Fort Pierce. All City Administrative Offices - with the exception of the Police Department Public Safety Services, the City Marina, and the Indian Hills Golf Course - will be closed. There will be no residential curbside garbage and/or trash collection on that day.

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There being no further business, Mayor Benton declared the meeting adjourned at 11:10 p.m.

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Adjournment.

ATTEST:

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CITY CLERK

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MAYOR COMMISSIONER