

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 20, 2006.

Mayor Benton called the meeting to order.

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

The Pledge of Allegiance was recited.

Upon Roll Call, those present were: Mayor Robert J. Benton; Commissioners Rufus Alexander, Edward Becht, Christine Coke, and R. Duke Nelson; City Manager Dennis Beach; City Attorney Robert Schwerer; and City Clerk Cassandra Steele. Those absent: None.

The next item on the Agenda was Approve Minutes of the Regular Meeting on November 6, 2006.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, and unanimously carried, to approve the Minutes of the Regular Meeting on November 6, 2006.

The next item was ITC Youth Gospel Choir, under the direction of Jerell Anderson, to perform.

City Clerk Steele said the ITC Youth Gospel Choir is actually going to be here on the December 18th meeting, so they will skip this item.

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

Letter from Arden Peck, South Beach Association, thanking Bob Hood, Director of Public Works, and the Public Works Staff, for their hard work.

Mayor Benton said he would like to pull Agenda Item #25, in case any of the residents are here, regarding the docks at **Mariner Bay**. He did have an opportunity to get some more information this afternoon that he feels comfortable with; but up until that point, there was a question whether boats could get through that channel. At least his mind is eased on that. So he would like to pull that item.

Commissioner Becht said he had sent an email to staff the next day. He didn't feel the need to piggyback this item on the depth of the channel, but his concern was the wisdom of accepting a slip in a private condominium dock. He hasn't heard back from staff and he doesn't know if they all care to talk about it or not, but it relates to that as well.

Commissioner Nelson said as a point of clarification, he is afraid he doesn't quite follow what they are doing. What is proposed here?

Mayor Benton said he thinks that would be a separate item. Item #25, if they would like to bring that up for discussion.

Commissioner Becht said it is dead on point. Mayor Benton is trying to pull something; and he is telling him he is not in favor of pulling it because he had an issue relating to the slip that he asked staff to research.

Commissioner Nelson said it is the Mayor's item, he wants it pulled.

City Attorney Schwerer said Commissioner Becht has concerns relative to the City's liability and other issues governing the City's ownership of that slip. That can be addressed by the Commission at any time irrespective of the motion to reconsider, so Commissioner Becht's concerns are not foreclosed by the Mayor pulling that off the Agenda. However, he may wish to discuss that later. Should they not wish to accept the slip that was granted to the City, they have a process where they could do that as well if that is what their concerns are.

Commissioner Becht said that was his concern, the wisdom of the City owning a slip over there.

City Attorney Schwerer said that can be addressed at any time, including a disclaimer of ownership or interest in it if they should so decide at a later date that they don't want that slip for various reasons that staff is still looking at. They can discuss that at the end of the Agenda if they wish.

Commissioner Nelson said he is still at a loss as to what they are doing. They talked about a Public Hearing on...

Mayor Benton said before the Public Hearing he was pulling an item.

Commissioner Nelson said he pulled it before they got to that, okay. He wanted to pull that item.

Mayor Benton said there is a separate question to do with that same subject and he thinks Commissioner Becht... He doesn't know whether the City Attorney has that information ready tonight, does he?

City Attorney Schwerer said he does not due to some absences from the office. But he has tasked staff to look at the liability issues and he believes there was a conference held with the Risk Manager. If not, there was certainly a memo directed to his attention that asked for certain information about insurances and what is available and what their relationship would be as a municipal owner of a slip that is in a deed restricted condominium community. It does raise certain issues.

Commissioner Becht said the matter that is before them right now is the Mayor has requested that an item that is on the Agenda be removed from the Agenda. They established a policy that it would come to the Commission if somebody wanted to pull something at the last minute, which would be the Commission or the public, that the Commission would have to vote on it. His question of Mr. Schwerer is, it was agendaed, he is ready to discuss not only that part of it but the part of it that relates to the wisdom of accepting the dock slip. Are they going to call for a roll call vote on whether they do or do not remove this from the Agenda tonight?

City Attorney Schwerer said point well taken. If there is a concern by any member of the Commission that would suggest they would like to vote on pulling it, then it would have to wait until such time as it is called in its regular course. He believes it is item #25. If there is a concern by any member of the Commission then it should be voted upon when it reaches its normal progress in the Agenda.

Commissioner Nelson said that would be his preference. And he yields to anybody who placed an item on the Agenda to exercise his right to in fact pull it. If not, wait until it comes up in its proper place.

Mayor Benton said it appears Commissioner Becht has an item he would like to discuss with that item.

Commissioner Becht said he doesn't want to be rude to anybody who is here who thought they could leave or if the Mayor misunderstood and told somebody they could leave because he was going to pull it.

Mayor Benton said that was his intent to pull it. But if there is another item someone would like to talk about, unless there is a motion to pull it, they will talk about it when it comes up.

Commissioner Becht said he would like to talk about it.

The next item on the Agenda was Public Hearing on Application for **Temporary Use** submitted by Rev. Sharon Britcher of the **Mustard Seed** to erect tents for the 17th Annual Community Thanksgiving Feast on Thursday, November 23, 2006 at 920 Orange Avenue; said property zoned C-3, General Commercial Zone.

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

Reverend Bob Coleman said he is with Mustard Seed and he is standing in for the Reverend Sharon Britcher. This is their 17th Annual Thanksgiving Feast. They would like to thank the City for its past commitment and help enabling them to do so. For instance, last year they fed over 4,000 people walking in and for carry-outs. This year they plan to feed over 5,000. They certainly appreciate the City's cooperation in helping with this.

Mayor Benton said this Commission and the community thanks Reverend Coleman and Mustard Seed and all the organizations and all of the churches that help put that program on. It has been wonderful.

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

Motion was made by Commissioner Nelson, seconded by Commissioner Becht, to approve the Application for Temporary Use submitted for The Mustard Seed to erect tents for the 17th Annual Community Thanksgiving Feast on Thursday, November 23, 2006 at 920 Orange Avenue.

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

The next item on the Agenda was Consider Application for **Site Plan Review** submitted by Midway St. Lucie LLC for a Preliminary Development Plan for **The Meadows** (townhome units and single family lots) on the east side of Selvitz Road, north of Midway Road; said property currently zoned R-1, Single Fammily Low Density Zone. (Public Hearing held on November 6th; Motion to postpone action on Site Plan in order to allow developer and residents to discuss issues of concern.

Mayor Benton said just for the record, he has met with the residents on this one. He knows they have met with the developer. The Public Hearing is closed. So what they are going to ask for is one of the residents to come up and explain the discussions that took place and if the developer would like to have his few minutes, but the Public Hearing and most of the discussion has taken place.

Mr. Greg Boggs, Lucido & Associates, said just to clear up if there is any misunderstanding, Philippe Jeck wrote a letter to request that they not discuss this tonight. Did Mr. Buchwald not get that letter requesting that given the circumstances of them continuing to discuss, he guesses as late as Thursday afternoon? Today a letter came to City Hall requesting that they hear this on December 4th; and that is why he is here, just to be sure that if there are any issues, that could they please discontinue for two weeks so they could address issues and then be more prepared to have speakers, their team here. In fact as they speak, they are doing revisions in contemplation of some of the issues they heard, additional buffers and so forth.

Mayor Benton said his concern, given the late hour that letter was brought to staff and

usually it is brought to the City Clerk.

Mr. Peter Buchwald, Zoning Administrator, said he did receive a fax, a letter request to postpone it to the meeting scheduled for December 4th. He subsequently contacted the office of Philippe Jeck and spoke to Victoria Bertrand who indicated to him that a representative would be here to explain the request for postponement and answer any questions they may have.

Commissioner Becht said he would like to hear real quickly from one designated representative from the property owners to see if they believe there is any benefit to a two week extension, because he thinks there probably will be.

Ms. Gabriele Klaesen said she lives at 4286 Christensen Road.

Commissioner Becht said he needs to disclose that they talked on the phone.

Commissioner Alexander said he spoke in person.

Ms. Klaesen said she met with Mayor Benton with some of the residents, and Commissioner Nelson.

Commissioner Coke said she spoke with her on the phone.

Ms. Klaesen said she is here to represent all of the residents this evening, her neighbors. She would like to start by thanking the Commission for giving them the opportunity to try to come to a compromise with the developer. A key point to note is that she had to be the one to take all the initiatives to schedule the meeting, call the residents, all that stuff was her. The developer didn't put forth any effort in regards to any of the scheduling; that was all on her part or it would never have happened.

Commissioner Becht asked is it fair to say she is against the postponement?

Ms. Klaesen said yes, she is. In the November 17th issue of the Hometown News as well as the November 6th meeting Minutes, the last time they were here, Mr. Sabella is quoted as saying he doesn't believe a 400, 300, or even a 200 unit project would satisfy the people here and he also said he was unsure any compromise could be reached. On their November 16th meeting with the developer, the residents and she did try to come to a compromise with him, as Commissioner Nelson asked them to do, regarding the high density so it would be compatible or consistent with the surrounding area in today's development. Their recommendation was two units per acre, 200 homes maximum, and no townhomes per the original density designation prior to the annexation. Instead of acknowledging the key issue of density, Mr. Sabella offered minimal superficial changes. For example, he offered to remove nine individual townhome units. That is all he offered as far as removing density. By discussion with City officials, she has learned that everything north of Midway Road will one day be City limits. They understand that. But for that reason, she is asking that they protect their neighborhood by requiring the development and all the new developments that come in be compatible and consistent with the existing developments that are in their surrounding area today. (Ms. Klaesen showed photos to the Commissioners.) This is an aerial view of their area. In this aerial view they have Palm Lake Gardens and Oak Alley development just to the south of that. These two developments combined are 119.72 acres with a total of 143 single-family homes. The Meadows alone is 122.80 acres and they are proposing 500 plus or minus homes to include multi-family units. This density for The Meadows is three and a half times more density than the two of those developments of Palm Lake Gardens and Oak Alley together and not to mention it will probably quadruple their density as residents. They tried to compromise, they tried very hard regarding the high density, but the developer said he could not decrease his density. So they are requesting that the Commission provide a

decision of denial this evening and not postpone it any further because the developer has not demonstrated a desire to compromise by reducing this density. She doesn't know what else she can ask or what else she could say, but she would like to close with a quote off the City of Fort Pierce web page; and it says, "The echos of the rural past can still be felt in the peaceful quality of the lives our residents lead". If this is what their City promotes, why do they have to be stripped of their peaceful quality of life at this time? There are three facts here - it is the wrong density, the wrong location, and most important it is the wrong time for this type of development. So please save the quality of their life and deny this development. Remember this is their City, their County, their homes now and in the future. Mr. Sabella is only passing through. That is all she has. Anybody opposed to this, please stand so they can be seen and counted. (Approximately 18 people stood up.) It is not just her. She brought everybody who lives around the surrounding area. Older people couldn't make it. She has petitions signed for the older people who couldn't make it or are working. So they are all united here and they are asking the Commission to not postpone this again. He had his opportunity. They tried very hard and he only took nine townhomes away to reduce his density. They can see it does not fit with their surrounding area, whether it is City or not.

Mayor Benton said he thanks her for all her effort, because he knows she has put a lot of effort into this.

Ms. Klaesen said yes, she has never worked so hard on something that is not a paying job.

Mayor Benton said her neighbors should be proud of the effort she has put into this. Commissioner Nelson said he was somewhat disjointed there. He thought according to protocol they have staff make a recommendation in these type issues. Now they have one side to present their side of the story and they have not gotten the recommendation from the staff regarding this. They have the developer getting up saying he wants a postponement. He just wonders has staff been able to meet with either or both of these parties and do they have a recommendation at this time?

Mr. Buchwald said staff was surprised to receive that postponement today. They did meet with over 15 property owners at City Hall last Thursday per Commissioner Nelson's request and staff was present to serve as moderators. What they heard at that point was exactly what the Commission heard again today, that the residents believe that area should be kept for single-family uses with a density on the order that is currently permitted, they indicated a number around 200 units. It is not that they are against development, witness the neighbors to the east, it is just that they want the development to be of that type of consistency. So then the developer provided a revised plan that only reduced the units by a total of nine units. It did provide some additional buffers, but only reduced it by nine units. At that time the developer and the applicant indicated he was unable to reduce any more units because of financial considerations. So after two hours of discussion, it was concluded that no compromise could be reached at that point.

Commissioner Nelson said that is the report he was getting from the property owners as opposed to any input from the developer.

Mr. Buchwald said they have been in discussions with the developer on Friday.

Commissioner Nelson asked he was in contact with the developer?

Mr. Buchwald said he contacted members of staff and they indicated what his options could be. He indicated during the meeting that perhaps it is best for him to just go get a decision and then start from scratch.

City Manager Beach asked what is the current recommendation of staff? At the last meeting, staff's recommendation was denial of this project. What is their recommendation

today?

Mr. Buchwald said staff's recommendation has not changed. They are still recommending denial. He can enumerate the reasons why they are recommending denial should they so choose.

Commissioner Nelson asked the letter he got today, what did it say?

Mr. Buchwald said it indicates that due to the need to accommodate all interested parties, the developer is not able to meet with all of the neighbors until the latter part of last week. Additional time would be beneficial in order for the developer to fully respond and address the concerns of the neighbors. They will contact the neighbors prior to the meeting tonight to inform them of their request for postponement to avoid inconveniencing anyone.

Commissioner Coke said first of all she will disclose that she spoke with some of the neighbors. She also spoke with someone from Mr. Boggs office today who informed her that they thought this item was being pulled from the Agenda, at which point she informed them that it was in her Agenda, it was in the package, and she had not received a letter requesting to have it removed. She also stated - and she doesn't want to get anybody at Mr. Boggs office in trouble - but she did tell the young lady that they as a Commission have told developers that if they do not pull it prior to the Agenda being finalized, it is a great concern that it is an inconvenience to the general public. She was rather clear when she said that she wasn't sure that just a letter requesting a postponement would indeed guarantee a postponement.

Mayor Benton said meeting with the residents and knowing the intent of the development, if they were to even have any type of compromise, it would have to go back through the system to the Planning Board. The existing zoning when the City annexed it - from what he was told - was AR-1. Is this true? Which was one unit per acre in the County. So the developer got a jump to four units an acre when they came into the City to R-1, because that is the minimum zoning is four units to an acre. So the developer got a density bump there once he was annexed in. He doesn't see this compromise coming forward because the density around him is a lot less, so he doesn't see anything they could possibly do to this site plan that wouldn't be required to go through the system again. To postpone it doesn't really make sense. He was ready to vote on it at the last meeting once he saw the residents here. If they put it off long enough between the holidays, the residents can't make it to every meeting, this has been an inconvenience to them. As far as he is concerned, he is ready to vote on this.

Mr. Boggs asked if this would be denied, what is the time frame to refile?

Mayor Benton said six months.

Mr. Boggs said he thought somebody said a year or two years.

Mr. Buchwald said according to City Code it is six months because it is a rezoning request.

Mayor Benton said any big changes to this, even if the density came down 50 or 100 units, it would probably have to go back through. It would be a big enough change to the site plan that it would have to go back to the Planning Board anyway.

Commissioner Nelson asked does the applicant have the option of pulling it and revising it and reducing the density if need be, and it go back to the Planning Board?

Mayor Benton said they could have that option. But he knows in the past some of these developments they voted on. He thinks the residents are expecting a vote on this. They went through the Public Hearing. It is tough when developers wait until the last minute and things aren't going their way, they pull it.

Mr. David Recor, Deputy City Manager, said he would strongly advise the Commission against taking that approach. He thinks tonight staff is recommending moving forward with a decision. The fact is they had the Public Hearing, they have heard from the public, and right now the application is awaiting a decision. So in the event the Commission were to move in that direction, in essence they need to continue the application to a date certain expecting that it would come back for a decision at that point and there is no guarantee that the developer would be able to respond within that time frame. He thinks given what has transpired, he thinks it is probably appropriate.

Commissioner Nelson said this whole thing is consistent with his philosophy in trying to make everybody happy. The whole idea was to get the developer and the property owners together and come up with a compromise to preclude the Commission from having to make a decision that might make at least one of them unhappy. It appears that they haven't done what is necessary, i.e. reach that compromise. He knows one is possible. But if there is not a compromise made, then the Commission has to make a decision that they end up with somebody not being happy. They are perfectly capable of making those types of decisions. If it warrants denial, they will deny it. And if it goes to prolong the negotiation and they think they can come to a compromise, he is for that process.

Mayor Benton said he is ready for a motion on this. Because between the private meetings they have had with the developers and the residents coming in, they put a lot of hours in on this and he thinks people are looking for a decision. He doesn't think there is a compromise unless they come back with a completely new site plan with a lot lower density.

Mr. Boggs asked would the Mayor not accept a withdrawal?

Mayor Benton said he doesn't believe they go that far and then pull it. The residents have been here for several meetings. He thinks they are looking for a decision to be made. Sometimes they made decisions, sometimes they haven't.

Mr. Boggs said with all due respect, since they submitted and have been working very closely for so many months...

City Attorney Schwerer said if the applicant is requesting a withdrawal, he can request it. If granted, it would withdraw this from any consideration and he would have to start over again in the process with a new Site Plan, so this Site Plan would be dead. But they have a policy that says that any request for withdrawal must be voted upon by the Commission. So if he is making that request, he thinks perhaps they owe him at least a vote on that. If they deny his request for withdrawal, then they can proceed then to entertain motions on whether to approve or deny the Site Plan. But they should entertain the request, if that is a request by Mr. Boggs for withdrawal.

Mr. Boggs said he is searching for a solution. He would rather withdraw the PUD application versus taking denial of the PUD denial.

City Attorney Schwerer said then he should state on the record he requests the Commission to entertain a request to withdraw and they will vote on that.

Mr. Boggs said he requests that the Commission vote on a withdrawal.

Commissioner Coke said just a point of clarification for the residents here. The withdrawal would make this plan, as it stands, go away. It could not be resubmitted with the same density or anything else. It would have to come back completely different from what they see here. So just so they understand, the only difference in her mind - and Mr. Schwerer correct her if she is wrong - between allowing him to withdraw and denying it is that he

could come back in three months with new plans rather than six months. That is the only difference. But he could not come back with these plans again.

Commissioner Nelson said he would be wise to come back with plans consistent with the discussions or the opposition that the people who have opposed them reflect it. Otherwise he is going to be in the same dilemma. It is foolish to come back with some replica of the same thing.

Mr. Recor said respectfully he would like to correct Commissioner Coke. The developer may submit these exact plans if the motion for withdrawal is granted.

Commissioner Becht said that would be ill-advised, he thinks.

Commissioner Nelson said that is what he just said in other words.

Mayor Benton said it has been done before though.

Commissioner Coke said that sheds a new light on it.

Motion was made by Commissioner Nelson, seconded by Commissioner Becht, to allow the developer to withdraw his Application for Site Plan Review for a Preliminary Development Plan for The Meadows and the Application for Rezoning to PUD, Planned Unit Development (Ordinance No. K-453).

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

Commissioner Coke said don't bring the same plans back.

Mayor Benton said keep the density down.

Ordinance No. K-454 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **4585 SELVITZ ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2007; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Property Owner: Midway Properties of St. Lucie, LLC)

Ordinance No. K-455 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTIES LOCATED IN **PARADISE PARK SUBDIVISION AND PARADISE PARK ADDITION**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2007; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Property Owners: Various)

Ordinance No. K-456 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED ON THE WEST SIDE OF OCEAN DRIVE KNOWN AS **SURFSIDE PLAZA UNIT 1, LOT 4**,

BLOCK 16; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2007; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Property Owner: Dennis Ferraro)

Ordinance No. K-457 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED ON THE WEST SIDE OF OCEAN DRIVE KNOWN AS **SURFSIDE PLAZA UNIT 1, LOT 6, BLOCK 16**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2007; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Property Owners: Michael & Barbara Yurocko)

Mayor Benton declared a Public Hearing on Ordinance Nos. K-454, K-455, K-456, and K-457 in session and asked if anyone in the audience wished to be heard.

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

Motion was made by Commissioner Coke, seconded by Commissioner Becht, that Ordinance Nos. K-454, K-455, K-456, and K-457 be passed on second and final reading.

Commissioner Nelson said he will be voting no on Ordinance No. K-455 on Paradise Park.

Mayor Benton asked would he like them to pull that one separately? Can they do that?

City Clerk Steele said he can pull it.

Commissioner Coke asked can they have discussion first?

Commissioner Nelson said if they don't pull it then it allows him to vote no on all of them.

City Clerk Steele said it could be 4 to 1 vote on all of them.

Commissioner Nelson said that is crazy, he doesn't want 4 to 1. They don't have an all or nothing rule on these various ordinances.

Commissioner Alexander said pull it.

Motion to Amend was made by Commissioner Coke, that Ordinance Nos. K-454, K-456, and K-457 be passed on second and final reading.

MOTION TO AMEND DIED FOR LACK OF A SECOND.

Commissioner Becht said he would like to hear - because he did not hear at the last meeting - Commissioner Nelson's objection to the annexation of Paradise Park.

Commissioner Nelson said this action parallels the action they have out there in Orange Blossom Estates. These people have water and are getting sewage and getting their roads

paved. And the benefit they are getting right now is in the area of accelerating that somewhat. He doubts if the City is going to take over the efforts that the County is doing in the area. The residual benefit would be for them being able to vote in the City and vote at City elections.

Commissioner Becht asked Commissioner Nelson doesn't want them to vote in City elections, is that what he is saying?

Commissioner Nelson said it is not that he doesn't want them to vote. He thinks one of the big problems is the added expenses they are going to have to pay for paying City taxes. Right now they don't have to pay City taxes.

Commissioner Becht said they have Annexation Agreements, so it is not the same as the Orange Blossom Estates. He doesn't want to get in an argument with Commissioner Nelson, but he has not articulated a reason. And he didn't understand what the difference was with Paradise Park and the rest of them. These are just Annexation Agreements that for the last three years he has been here, they have been annexing properties. He doesn't understand what is different about Paradise Park than the rest of those they voted on.

Commissioner Nelson said he answered it the best he could, except the fact it sets in motion the next step wherein once they get all these where they have Annexation Agreements signed, then they go up in those areas that do not have Annexation Agreements and those people would in fact be adversely affected. Not adversely, but they have to pay those added monies by being in the City.

Commissioner Becht asked so the reason he is articulating is that he is voting against this one because of the other people who don't have Annexation Agreements but they own property up in the Paradise Park area?

Commissioner Nelson said basically yes. That would happen. That's a lot of people. He guesses they are in the neighborhood now of about 50% people who have annexation agreements and they have a requirement for a referendum if in the event that comes to pass to get the rest of them in there.

Commissioner Becht said all he was looking for was an explanation. The explanation Commissioner Nelson has given them is the negative impact on the folks who own lots up there that don't have annexation agreements.

Commissioner Nelson said yes, and incidently that includes him.

Mayor Benton said he figured that.

Commissioner Becht said if that includes Commissioner Nelson - and he is not one to question his ethics - he doesn't know how he can vote on this matter if it affects him. He will leave that to him.

Commissioner Nelson said that is a good point. He owns property throughout the County. He votes on all issues. This is not directly benefitting him. But if there is a need for him to get a Form 1 on it, other than the fact he has repeatedly disclosed his ownership of properties in the City, please let him know and he will fill out whatever form is necessary.

City Attorney Schwerer said point of order. They had an original motion to approve four annexation ordinances, then there was a discussion about an objection to approving all of them at the same time, and one was excluded from the motion.

Commissioner Coke said the person who seconded the original motion didn't agree with that exclusion.

City Attorney Schwerer said so they have a motion technically on the floor to approve all four of them. But if Commissioner Nelson now believes he might have a potential conflict of interest on voting on one of them, he can announce that potential conflict of interest and abstain from voting.

Commissioner Coke said but he doesn't own any of the properties being annexed.

City Attorney Schwerer said that is up to Commissioner Nelson to determine if he has a conflict of interest. He heard him say he might have a conflict. If he doesn't have one, he is required by law to vote. But if he has one, he needs to announce that he has a conflict and refrain from voting.

City Clerk Steele said this would have to be to his personal gain or loss and he just said it is not to his gain or...

City Attorney Schwerer said absolutely. It has to be to his personal gain or loss as required by Florida Statute 112. He would have to in good faith report that he has a personal gain or loss as required by the Statute, that it meets the statutory test, and he is therefore abstaining from voting.

Commissioner Alexander said call the question.

Mayor Benton said for clarity it is Ordinance No. K-454, K-456, and K-457.

Commissioner Alexander said no.

City Clerk Steele said all four.

City Attorney Schwerer said all four of them.

Commissioner Nelson asked all four of them at one time?

City Attorney Schwerer said that is what the motion was.

Those voting in favor of the passage of Ordinance Nos. K-454, K-455, K-456, and K-457 were: Commissioners Alexander, Becht, Coke, and Benton. Those opposed: Commissioner Nelson.

Commissioner Nelson asked now may he discuss something? If they had a point in their democracy where they are forced to do things, he doesn't think they have a democracy.

Commissioner Alexander said he thinks the public would have the right to vote, have a say-so in the City of Fort Pierce, when they can come here and they can say things and they aren't heard. They are not heard because they live in the County and they don't have any affliction on the City of Fort Pierce. He thinks that is wrong because they have so many people in that area who do have concerns.

Commissioner Nelson said the public is going to have that confrontation very soon when they are going into addressing Charter Counties, so they will see that when it comes to pass. But that is Commissioner Alexander's philosophy and he differs on that.

Mayor Benton said they will have to debate another time.

Ordinance No. K-458 entitled, "AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING SECTION 2-221; PROVIDING FOR TWO **ALTERNATE MEMBERS OF THE CITY PLANNING BOARD**; REPEALING ORDINANCES OR PARTS THEREOF IN CONFLICT; PROVIDING FOR AN

EFFECTIVE DATE.” was placed on second and final reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-458, and asked if anyone in the audience wished to be heard.

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

Motion was made by Commissioner Coke, seconded by Commissioner Becht, that Ordinance No. K-458 be passed on second and final reading.

Commissioner Coke said it has come to her attention as they are reviewing some of these situations with boards with alternates and term limits that she believes it is the Planning Board that has the shortest term of any of the City boards. She thinks it is a two-year term.

Commissioner Nelson said they have people on the Planning Board since 1979 and 1982.

Mayor Benton said it is the term she is talking about.

Commissioner Coke said she is discussing the length of the actual term. She thinks it is a two-year term on that Board. If that is the case, they need to possibly revisit that.

Mayor Benton said maybe they should address the number of years or terms. Would they like to throw a number in there?

Commissioner Becht said he thinks that actually the only ordinance they are talking about now is putting the alternates on, if he is not mistaken.

City Attorney Schwerer said that is correct.

Those voting in favor of the passage of Ordinance No. K-458 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-459 entitled, “AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING SECTION 2-201; PROVIDING THAT PERSONS APPOINTED AS **ALTERNATE MEMBERS OF BOARDS** MAY PARTICIPATE IN BOARD DISCUSSIONS OR DELIBERATIONS BUT SHALL NOT VOTE UNLESS DESIGNATED BY BOARD CHAIR AS REPLACEMENT OF BOARD MEMBER; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.” was placed on second and final reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-459 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. K-459 be passed on second and final reading.

Commissioner Alexander asked when they say replacement, are they talking about absentee individuals or are they just talking about an individual who is being replaced on

the Board or both?

City Attorney Schwerer said it is used as a temporary replacement that would occur at that meeting and for that meeting only when a member was absent or had a conflict of voting. It would not permanently replace that member for any subsequent meetings.

Those voting in favor of the passage of Ordinance No. K-459 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-460 entitled, "AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING SECTION 5-1.1, RELATING TO ADMINISTRATIVE SECTION 5-1.110.1; PROVIDING FOR TWO **ALTERNATE MEMBERS FOR THE CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS**, AND QUALIFICATIONS FOR SUCH ALTERNATE MEMBERS; REPEALING ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR AN EFFECTIVE DATE." was placed on second and final reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-460 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 Becht, seconded by Commissioner Alexander, that Ordinance No. K-460 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-460 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-461 entitled, "AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING SECTION 2-243(b); PROVIDING FOR APPOINTMENT OF **ALTERNATE MEMBER TO THE MUNICIPAL CODE ENFORCEMENT BOARD**; REPEALING ORDINANCES OR PARTS THEREOF IN CONFLICT; PROVIDING FOR AN EFFECTIVE DATE." was placed on second and final reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-461 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 Becht, seconded by Commissioner Coke, that Ordinance No. K-461 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-461 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-462 entitled, "AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, ESTABLISHING THE **PORTOFINO LANDINGS COMMUNITY DEVELOPMENT DISTRICT** IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 190.005(2)(E) AND (1)(D) OF FLORIDA STATUTES; AND DESIGNATE THE LAND AREA SERVED BY THE DISTRICT PURSUANT TO SECTION 190.005(2), FLORIDA STATUTES; REPEALING ALL ORDINANCES OR

PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.” was placed on second and final reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-462 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 Becht, seconded by Commissioner Coke, that Ordinance No. K-462 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-462 on second and final reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

The next item on the Agenda was Mr. Lewis Moscovitch, Symphony Builders, request extension of approved Site Plan for Gator Trace, Phase I and Phase II.

Commissioner Becht said he would disclose he has met with Mr. Moscovitch on this.

Mayor Benton said so has he.

Commissioner Nelson said he doesn't think he has; but he would like to have input from staff recommending or denying this request.

Mr. Peter Buchwald, Zoning Administrator, said because of the nature of the delay, staff is recommending its approval for the extension to both Site Plans for Phase I and Phase II.

Motion was made by Commissioner Becht, seconded by Commissioner Coke, to approve extension of approved Site Plan for Gator Trace, Phase I and Phase II, to December 17, 2007.

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

The next item on the Agenda was Mr. John Donahue, LBFH, Inc. to give update on State Road A-1-A Project.

Mr. John Donahue, LBFH, Inc., said they all have a memo that he sent in their packet. He has updated that memo so he would like to hand that out to the Commission now and he can go through the bullet points that he has updated for them. Under Phase 3, Gulfstream Avenue to Blue Heron Boulevard, all comments have been received and are being addressed from FDOT. They will be responding to FDOT's electronic review comments by the November 25th cut-off date and submitting them in to FDOT; and then during the next week they are going to put all the plan packages together and get those into them by December 4th. Under the second paragraph, they received a request for additional information from the DEP (Florida Department of Environmental Protection) on the Coastal Construction Control Line permit. They resubmitted the information in response to the request for additional information on November 7th. Then on November 8th they got some good news from DEP that they wanted them to go out and survey some monuments that they have out in the field. Jack Andrews and he have been arguing with them for two or three months now, and they got information back from them that they have waived that requirement, so that is some good news. The third item under Phase 3, they did receive the dewatering permit from South Florida Water Management District on October 20th. On the next page, they received a request for information from the Army Corps of Engineers, and it is based on the South Florida Water Management District transmitting the

Environmental Resource Permit Application to the Corps. They are asking very vague questions and they are going to get back with them and just put them to bed. There are no impacts to the Corps in this Phase. They don't expect any other issues from the Army Corps of Engineers.

Commissioner Becht said the second bullet point on the second page, the City doesn't have a whole lot of influence with SFWMD or the Corps, but they do have a little bit of influence with FPUA. Are they doing everything they expect them to do? Because this says their relocation plans are only at 90%.

Mr. Donahue said yes, they are. They are moving along very well. In Phase 2B (East side of Seaway Drive Bridge to Binney Drive, excluding Harbour Isle Roundabout), the first bullet point, 100% plans were turned in on October 16th to FDOT. The comments were due from FDOT last Friday. They have not received any additional comments as of today, so they think they met their deadline and will be responding to their comments by the December 22nd deadline they have given them to address their comments. The Dewatering Permit Application has been deemed complete, so they expect to get that when they get the ERP application. Last week they received an email from South Florida Water Management District's reviewer on the ERP application requesting just a little bit more information on one outstanding issue. They have given that to them. That application should be deemed complete and they hope to have an Environmental Resource Permit for Phase 2 within the next 30 days. Then finally, Phase 1 (Binney Drive to Gulfstream Avenue, including roundabout at Seaway Drive & South Ocean Drive), they did meet with City staff on October 27th to discuss Phase 1. They have developed a time line to start designing and applying for permits for Phase 1. They are going to recommend that the City and their staff sort of get a conceptual drainage design for this phase because it is so tight and it has very limited right-of-way. They need to identify existing easements and they need to determine where additional drainage easements may be needed. So they are going to develop with Jack Andrews and his staff a conceptual design for the drainage system. During the first quarter of 2007, they developed a drainage layout for this phase. If they identify that additional drainage easements are needed, they will have to perform seagrass surveys and field surveys of these areas. So they will be doing that in the first quarter of 2007 and coordinating with utilities. They plan on submitting the revised drainage report and the ERP applications in March 2007. They also plan on submitting an application for the Coastal Construction Control Line permit which basically runs to the west side of the proposed roundabout at Seaway Drive and Ocean Drive in March 2007, and then submitting 90% plans to the City and FDOT in the first week of April 2007.

Mayor Benton said he had a meeting the other day with Dickerson and they tell him they are going to start Phase 3 in January, the physical construction is going to start.

Mr. Donahue said he doesn't know. Has Mr. Andrews let the bids on that?

Mr. Jack Andrews, Deputy City Engineer, said no. They have no contract with Dickerson at this time. They are probably going to go out for bids as soon as they get approved plans on this. They are planning on construction the end of January or the first of February in that time frame.

Mayor Benton said he guesses he was misinformed.

Commissioner Alexander said he thought they only had one contractor that would do that. When did they start going out on bids?

Mr. Andrews said they are currently requested Burkhardt Construction to give them their proposal on this section. They will evaluate that, bring that back to the Commission, and at that time they can make the decision of how they want to proceed.

Commissioner Alexander said he is still puzzled. He thought they only had one. Maybe Mr. Beach can come in on that. Did they not have only one company accept, Dickerson? When they put it out to bid, they put it all over outside this community?

City Manager Beach said they have a continuing construction contract with Burkhardt at this point in time. They have a specific contract with Dickerson relating to asphalt overlay. He thinks the only continuing contract they have for construction purposes is with Burkhardt.

Mr. Donahue asked can they give him the date of the second meeting in December so he can get it on his calendar when he is going to come back here?

City Clerk Steele said the second meeting in December is the 18th.

Commissioner Becht said he had sent an email to the City Manager that that date makes it extremely difficult for the Commission to make any appearance in Tallahassee on the Submerged Land Lease. He doesn't know if they are going to change that date or not because he obviously can't change it by himself.

City Manager Beach said that is a subject that will come up later this evening as to whether or not that is a possibility based on different advertisements and commitments that have been made by the City Clerk's Office.

Commissioner Becht said they have the choir coming now on December 18th as well. It is always a treat.

City Manager Beach said what Commissioner Becht is referring to is that several people have to be in Tallahassee at 9:00 a.m. the next morning after December 18th. If they can find a way to reschedule the December 18th meeting, he thinks that would be in everybody's best interest.

Commissioner Becht said that being said, are they confident that the Cabinet meeting on December 18th is go or will it be delayed again by the developer or the County or somebody else?

Mr. David Recor, Deputy City Manager, said if they end up in Tallahassee on December 19th, they are going to push for a decision on that date. They will not agree to any further continuances. But the decision as to whether or not they are going to be in Tallahassee will be based on the feedback that the applicant receives on December 4th at the Commission meeting.

Commissioner Nelson said on the utilities relocation and burying, he is assuming they are going to underground those. Who is defraying the cost for relocation and burying of those utilities?

Mr. Donahue said he believes the U.A. is paying to relocate their utilities as well as BellSouth and the other dry utilities that are out on the alignment. He believes they are bearing the cost of that within their individual utilities.

Mr. Andrews said as far as the relocation of existing underground utilities, the Fort Pierce Utilities Authority will bear that expense of relocating any of that line. As far as the overhead electric going underground, there was an agreement that was proposed and the FPRA would be furnishing part of the funding for that to go underground.

Commissioner Alexander said he hadn't heard that before.

City Manager Beach said that was a proposal made by the Fort Pierce Utilities Authority.

Unless he is mistaken, that is not something that the FPRA Board or the City Commission has authorized yet. This was a proposal. He is giving this off recall, if somebody can provide documentation different, but he doesn't recall the FPRA Board authorizing that.

Commissioner Nelson said obviously it is being programmed to be done and someone should be programmed to pay for it. What are they doing? Where do they stand?

City Manager Beach said the Utilities Authority has made a proposal to the FPRA Board that be a cost sharing project very much like what they are dealing with on 25th Street. All of that discussion took place prior to the City Commission taking the position that they were going to require FPUA to pay for these. He thinks it is going to be a discussion for further review.

Commissioner Nelson asked it is not something that is going to stop them from doing their thing, is that right?

City Manager Beach said it is being designed to go underground.

Mayor Benton said it has been in the U.A.'s budget now he believes for two years, a line item. He doesn't remember the specific amount.

Commissioner Nelson said he guesses Mr. Donahue's marching orders are to continue what he is doing if it is consistent with what the City wants in terms of putting it underground. They will have to ferret out how it is going to be paid for and by whom as they go along.

Commissioner Becht said as a piggyback on what Commissioner Nelson just said, he had forwarded an article to Mr. Beach on a municipal study that had been done on cost sharing of burying utilities; and if they can get their hands on that before the FPRA Board is required to vote on that issue, he thinks it would be extremely helpful. That report indicated there are cost savings to the utility on terms of not having to hedge or clear above the line that he doesn't think FPUA is telling them about and there are income benefits to FPUA in having the meters running when otherwise the lines might be down because of trees snapping the lines. So if they can get their hands on that report before the FPRA Board is asked to vote on that, it would help him a great deal.

The next item on the Agenda was Ms. Lorraine Tappen of Calvin, Giordano & Associates to give update on the rewrite of the **Comprehensive Plan**.

Mr. Travis Gibbons, Planning Administrator, said Lorraine Tappen was unable to be here today. He will give them a brief status report of where they are with the Comprehensive Plan. The good news is that the Comprehensive Plan has been finished in a draft form. It was presented on November 15th at a special Planning Board meeting and was approved 5 to 1 to move forward to the City Commission. Currently there were a few revisions to the plan that Calvin, Giordano is working on. They will be receiving that early next week on Monday or Tuesday. They plan to post this onto the Internet and also deliver a copy to the Commission by midweek next week. Staff is currently working on putting together a special City Commission workshop or transmittal hearing for December 13th at noon.

Mr. Matthew Margotta, Director of Planning, said they are establishing that special meeting for the Comp Plan, but that might fit in well if they need to readjust their days and are able to advertise certain other items. Just for mentioning sake, they might be able to load other things on that Agenda if they are able. He doesn't know about all the time frames.

Commissioner Becht asked in addition to a full discussion on the Comp Plan?

Mr. Margotta said he is just saying the opportunity is out there.

Commissioner Alexander asked are they speaking about this year?

Mr. Gibbons said yes.

Commissioner Alexander said he thinks they need to get on top of it then because this year is about over.

Commissioner Nelson said he has talked about a fair share ordinance. Is that included in there and is it ready to go to meet their December 1st deadline?

Mr. Gibbons said currently that is not planned for. That is planned for the December 18th meeting for the first reading of the ordinance. It was approved at the Planning Board on November 15th as well. They would like to have that on the December 13th meeting and then have a second reading on the December 18th meeting. That way they can have it finally formally adopted because it requires two readings. They are in the process of working on it. It was approved by the Planning Board.

Commissioner Nelson said he just returned from the Florida League of Cities Conference and this Home Rule Committee Advisory Council and the question was raised as to whether or not there was going to be any penalty if they didn't meet the December 1st. There was no definitive answer on it. Let him suggest that they touch base with those people and if appropriate get an extension if they need one and give them a date certain as to when they expect to have it there, because they do not want to be out of good grace with those people up there in Tallahassee, particularly DCA because they play a major role in a lot of their projects, them and the environmental protection people. They said there is no distinct penalties they want to impose, but he doesn't trust them unless they ask for it - trust and verify - do they know what he means?

Mr. Gibbons said on that very same line, this afternoon he sent an email to DCA confirming and letting them know where they are timewise with the adoption of the ordinance. He is hoping to receive some type of a written comment from them tomorrow.

The next item on the Agenda was Discussion on Fort Pierce Utilities Authority cost sharing proposal for the **North 25th Street Project**.

City Manager Beach said they have in front of them as part of the Agenda item a letter dated October 19th from the Director of the Utilities and in addition to that are the Minutes of the July 12th workshop that was conducted by the City Commission and the Fort Pierce Utilities Authority where this subject was discussed. During that July 12th meeting the City Commission agreed to authorize \$600,000 toward the burying of the utility lines on 25th Street. The request in front of them this evening is from the Fort Pierce Utilities Authority asking that the figure be \$655,800 and then the FPUA will be responsible for the balance of \$692,900. This is essentially an additional \$55,000 toward this project. All of the Commissioners are familiar with the issues and know what the issues are, and this is being presented for their consideration.

Mayor Benton said they need \$55,800 to add to the \$600,000 and it is a done deal.

Commissioner Nelson asked where can they get it from?

City Manager Beach said this will come from the Fort Pierce Redevelopment Agency.

Motion was made by Commissioner Nelson, seconded by Commissioner Becht, to approve the Fort Pierce Utilities Authority cost sharing proposal for the North 25th Street Project.

Commissioner Becht said the article that appeared in the newspaper stated that other communities are fighting with FP&L to get FP&L to go greater than 25% for the cost of burying underground utilities. And here they have struck a deal with their own utility company for 50% cost sharing, so he thinks it is a very fair deal.

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

The next item on the Agenda was Discussion on Capital Improvement & Property Acquisition Financing.

City Manager Beach said they have a memo in their agenda packet from him dated November 14th. Attached to that is information from their financial advisors as well as a document that talks about the Sunshine State Governmental Financing Commission and the resources available through that agency. The Fort Pierce Redevelopment Agency is in the process of acquiring property at the Port. In addition to that property, they are within a month - assuming all of the technical issues can be worked out - of closing on the property on the island, what is commonly referred to as the Rollins Property. The contracts that Mr. Ward has in hand at this point in time include approximately \$10 million in the Port area itself and then the other \$6 million on the Rollins Property. The resources they have been allocating toward this activity have been the Fort Pierce Redevelopment Agency resources. They all know that the FPRA recently issued a \$20 million bond issue. They have commitments against that \$20 million that far exceed... When he says commitments, there are plans - there are no contracts or contractual commitments - but they have plans for the use of those resources that far exceed the \$20 million that is available. What is available through the Sunshine State Loan Fund at this point in time is about \$25 million in the form of a loan. What is being suggested this evening is that the Commission authorize staff to pursue that source of financing including debt service and interest payments for a period of three to five years with the intent of turning this Port property within that time frame using the proceeds from the sale of the land that they have acquired to reimburse this note. If they are unable to do that, it would then become an obligation of the City and the method of how that would work will be provided to them in some detail by their financial advisors within the next few weeks if they in fact choose to move forward with this. Mr. Ward has a layout of property that they can look at. Mr. Ward has been involved in one on one discussions with different FPRA Board members and this has been to the FPRA Board meetings for discussion. The reason this is being presented to the Commission instead of the FPRA Board is that the debt will become City debt. The commitment to repay it has to come from the City as opposed to the FPRA because of technical financing mechanisms. (Mr. Beach displayed maps.) This is the property they are generally talking about. He doesn't know how much of this is currently under contract, but all of that they see on the screen - with the exception of the north side of Fisherman's Wharf - all of that represents what the FPRA Board is currently trying to acquire. What he is suggesting to the Commission is using this Sunshine State Loan Fund to acquire that with the intent that once they secure a developer to develop it, the sale of the property goes to retire the debt.

Commissioner Becht said first he is excited about the FPRA project. The financing that someone innovatively is talking about tonight caused him some concerns. He asked Mr. Bergalis before the meeting if they could get conventional financing for this type of property acquisition and Mr. Bergalis said he thought that they could, but that he needed more time to research both the Sunshine financing and the prospect of getting a local lender to loan the City the money at the same rate of interest which is like 4.875% is what he saw in the packet. But it has got an up-front loaded cost of 2.5% of the loan. He just felt like maybe a local bank might be more fair with the City. The other question that came to him while he was thinking about this project is they are going to take these properties off line, meaning they are not going to have any taxable revenue from them while the FPRA owns them. He hesitates to say that he didn't think about it before, but when they get into the millions of dollars of waterfront property they are talking about here, he would like to have some

estimate from staff at the FPRA meeting about what the City is going to lose in taxable revenues because they are taking this off line and their best crystal ball guess as to how long those properties are going to be off line? One of the things that was mentioned in the memo that they got from Nate Eckloff is that he thought they were going to need to fold in the FPUA budget. He has had several meetings with FPUA Board members and even Mr. Thiess; and without them wanting to sound like Chicken Little, they sounded like Chicken Little stating that the sky is falling and that if they don't raise the rates for FPUA that the bond rating for FPUA is going to slide. Now he is not in a position to ferret out the accuracy of that representation, but if they are going to follow through with the type of financing they are talking about, the Sunshine State Program, and they are going to tie their wagon to FPUA and FPUA's wagon is going to be a little slower, he is not sure the wisdom of that either.

City Manager Beach said let him address a couple of those issues before he brings up more. First, the use of Fort Pierce Utilities Authority revenue stream is a technical issue. They believe it can be done. The backup plan for this, if plans don't proceed as they anticipate - which is actually transferring title to this property within three years or less - if that doesn't work, then they have to find a source of servicing that debt. That backup source is their Fort Pierce Redevelopment Agency. They don't want to do that and they are going to try to avoid it, but if they have to that is what they will do. In addition, Commissioner Becht's other question in regards to local financing for something of this nature, their financial consultants should evaluate that as the alternative and compare that alternative to this Florida State Sunshine Fund. Those are on those three issues, and he is sorry he interrupted him, but he didn't want to forget before he addressed that.

Commissioner Becht said he lost his train of thought. He is done.

Commissioner Nelson said they keep mentioning the FPUA and their revenue sources. One of the priorities they have given the U.A. is to relocate that wastewater treatment plant out on the beach. Would this in any way jeopardize or hinder their efforts to do that? And could they use these monies to accelerate that as opposed to doing this project?

City Manager Beach said no. The reference to the Fort Pierce Utilities Authority and this issue has to do with the revenue stream that they get from the U.A. The U.A. contributes about \$5 million a year to the City of Fort Pierce. In order for the City to borrow money, they have to issue something called a budget to covenant and appropriate non-ad valorem revenues. In other words, the City can't obligate their property taxes. They can only obligate revenue that is not part of their property taxes. Unbeknown to him, in their past calculations of what their bonding capacity was, because their bonding capacity is determined by how much non-ad valorem revenue they have. Never in the past have the bond companies used the revenues the City receives from the Fort Pierce Utilities Authority in that calculation. So putting that \$5 million a year into the revenue stream of non-ad valorem revenue to the City greatly enhances their borrowing capacity. But it doesn't obligate the U.A. at all. It obligates the City of Fort Pierce.

Commissioner Nelson said since they take that \$5 million and add it to their General Fund, he guesses that is basically legal. They have been doing it for a long time.

City Manager Beach said yes.

Mayor Benton asked what happens to them continuing to lower the millage rate? That crystal ball coming into next year with the property market sort of being in stalemate, he doesn't think it is going to come down, but he thinks that rise they have been seeing might level off. His concern is, he wants to make sure they can continue the path they have been going on and he definitely does not want to even consider raising the millage rate.

City Manager Beach said let him state for the record the risk associated with doing what

they are doing. First of all, it is his understanding that the Commission is on board with this port property acquisition project that is underway. That is something that everybody sees the benefit of and they see the potential value of it. It has a tremendous potential return to the City of Fort Pierce. The risk they are taking is, that it doesn't materialize and work out the way they expect it to. The backup to that risk is not their ad valorem tax base, but the revenues generated by the Fort Pierce Redevelopment Agency. And the other risk is their inability to move forward. If they have to use the FPRA as backup, then that is going to inhibit the ability to move forward with other projects they have planned to do within the FPRA. That is the risk.

Mayor Benton asked but if they are using that \$5 million they get from the FPUA every year, where is that additional \$5 million for the General Fund coming from?

City Manager Beach said they don't use that as actual...

Mayor Benton said unless they have to.

City Manager Beach said no, they don't even use it if they have to. It is simply part of a formula that the bonding insurance companies and finance companies use to determine their borrowing capacity. Let him tell them why they can't use it for this purpose. There isn't enough of it. It wouldn't provide that purpose. They have to have a different backup plan.

Commissioner Nelson said they have two or three other enterprise funds that they might have going in the black pretty soon, i.e. the Marina, the Golf Course, the Theatre.

City Manager Beach said Solid Waste.

Commissioner Alexander said he is looking at the boundaries on this map he is showing him. Are they including the properties between Indian River Drive and 2nd Street there, the restaurant and the other business? That is not part of the initial plan, is it?

City Manager Beach said he believes those are part of the plan, yes.

Mr. Jon Ward, Director of the Fort Pierce Redevelopment Agency, said he believes when they first started talking about this, they were initially envisioning the area down here. (Mr. Ward indicated an area on the map.) This is what they have under contract right now. They have expanded this because it gives them a better footprint and the ability to go for parking facilities to service something like a resort hotel and that sort of thing, so they think it is appropriate. The other thing about it is, they will notice it has a lot of vacant land over there so it is pretty easy to develop. The vacant piece he is looking at in particular is owned by the County, it is parking for the boat dock. It is easy to acquire this. They think it will make this footprint a lot more attractive when they move it to a development agency. When they put this together, it is almost 11 acres and it is really a pretty good chunk of land.

Commissioner Alexander asked have they put any feelers out to assure the Commission that they are not going to have any opposition on this from property owners?

Mr. Ward said no. Most of the property owners have come to him wanting to know when he is going to talk to them about buying their property.

Commissioner Alexander said that is what he is asking. When are they going to talk with them?

Mr. Ward said they are already aggressively talking with everybody. They are not only talking with the property owners, but they are also talking about a number of folks on down

the pipeline who may be interested in developing this. They are trying to give themselves a good level of comfort that not only can they acquire this and put together this parcel, but also have an end use for it on a timely basis that won't negatively impact the City.

Commissioner Alexander said he just had one of those property owners ask him, when is the City going to talk with him? He just wants to know when they are going to go forth on this or are they just going to sit there and pretend that they are going to do this?

Mr. Ward said no. He has to say they are pretty aggressively talking with most of these folks. There may be one or two he has not specifically addressed. This owner of this parcel right here, he hasn't addressed these owners down here, and he hasn't talked with that parcel specifically, but he will. The first thing they want to do is get the key pieces obviously, the parcels that are on the water that make this such a valuable parcel of land are the ones they have been focused on.

Commissioner Becht said before Mr. Ward proceeds with anything west of Indian River Drive, he thinks they need to have that issue discussed at the FPRA meeting. That is beyond the scope of what he was contemplating at the time, so he would like to have a full discussion on it at FPRA.

Mayor Benton said he thinks also when it comes to the property that the County owns, including the boat ramp, they will be talking he hopes to the County and sitting down together as Commissions in January, he thinks that issue needs to come up. Because before they can consider closing a boat ramp, they need to have another one permitted. He doesn't believe they have even started any permitting process. They need to discuss that with the County.

Commissioner Coke said first of all she would like to commend staff for aggressively pursuing this. She thinks they have all learned from the mistakes made in the past what can happen if they don't control or have some say in some of these key areas. As with Commissioner Becht, she shares some concerns on the expansion of this, probably only because she hasn't had a chance to discuss it with Mr. Ward, but she would appreciate that. It is her understanding what they are looking tonight is to have a discussion on how they are going to finance this. She has some concerns regarding the proposal here as related to the use of the FPUA revenues. Although in retrospect, reviewing the meeting at length that they had with the U.A., there was almost a huge gap of funding from what the U.A. kept telling them they needed or they were going to cut off the revenue to the City every year versus what she actually saw as expenditures. Although she tried to pin their consultant down eight or nine times during the course of that meeting, she never did get satisfactory answers to that \$101 million variance between what they said they needed and what they were actually spending. So she thinks that although there is a concern there and they need to have their revenue increased, she doesn't know how urgent it is and how much of it needs to be done as quickly as they seem to think. Also, she really doesn't think, although their slide said they could immediately stop giving money to the City of Fort Pierce. She doesn't foresee that; because what she foresees over there with the FPUA is if the funding is not available, then the plant on the island won't be moved... Not that it would never be moved. She would like to see them move forward on getting answers at least on this funding and other sources of funding. She thinks they ought to along those lines - so long as they are including the FPUA in this discussion - that they perhaps request, because she knows she requested it at that meeting and she has heard nothing about the exact dollar amount of impact fees that have been collected since they first all made a commitment to try to move the plant off the island and where exactly those impact fees have been spent. Because it was her understanding several years ago with discussions they had that those impact fees were going to be from that day forward put in a separate fund; so when it came time to move that plant, they would have the funding in place. He would like to see them move forward with exploring this avenue of funding for this as well as others. And she would also at the same time request if they can maybe light a fire and get some of those answers they requested in their joint FPUA meeting.

City Manager Beach said let him clarify what action he is needing from the Commission this evening; and that is, their authorization to move to the next step with this source. Within the next 30 to 45 days there will be information presented to the Commission that will give them the opportunity to say yes or no in terms of going forward with it. But he needs their authorization now to move it in that direction, to bring that documentation or information back to the Commission that they can act on.

Commissioner Coke asked does he need a motion or consensus?

City Manager Beach said he will take either one.

Commissioner Becht said he is in favor of exploring all of financing opportunities. And hopefully somebody in a bank is going to be watching this meeting; and if they are interested, who should they contact?

City Manager Beach said they can contact George Bergalis.

Commissioner Nelson asked are they going to identify specifically those projects they are going to be financing?

City Manager Beach said this \$25 million will involve the property they see in front of them. He understands from listening to them this evening that they want to talk more about the property west of Indian River Drive, he heard a couple of them ask questions about that. But there is also another property down here where Mr. Ward is pointing on the map, they will be having that presented to their Fort Pierce Redevelopment Agency at their next meeting for acquisition. So this money will be used for this property and that property.

Commissioner Nelson asked that does not include the Rollins Property on the Jetty?

City Manager Beach said it does not include the Rollins property. They are buying the Rollins property to keep and consequently they have to use a source of revenue that they are going to pay back.

Mayor Benton said his only concern is, he would hope that before they close on any properties in this area that they wait and see how a certain site plan goes on December 4th, because that can negatively affect any kind of development in that whole area and bring property values down.

City Manager Beach said they will have that opportunity on the 29th of November, their next Fort Pierce Redevelopment Agency meeting. They will all be discussing this in much more detail at that time.

The next item on the Agenda was Discussion on draft ordinance or resolution creating an **Advisory Board** for the **Sunrise Theatre**.

City Manager Beach said this is something that they have been bantering about for some time. This is at least the second draft of an organization that would exist to advise the City Commission and the staff of the Sunrise Theatre on issues relating to the Sunrise Theatre. This document was taken from Sarasota where they had created a similar Advisory Board. He thinks there are some differences in this one that have been made as a result of input and suggestions from the City Commission. They have Mr. Jenkins here this evening who is working on this document for them. It is being presented to them this evening for either further comments and additional discussion, or directing staff to put it in a format that it can be adopted by the Commission.

Commissioner Coke said first of all, she has some real concerns, having sat on this Board,

with 28 members.

Commissioner Alexander asked what would the quorum be?

Commissioner Becht said 15.

Commissioner Coke said because first of all, there were times it was difficult to get everyone to agree. How many people were on the last board, 15?

City Manager Beach said actually there were like 20 or 21.

Commissioner Coke said there were never 20 or 21 at a meeting.

City Manager Beach said that is true.

Commissioner Coke said so she has some concerns with the 28. She thinks that is a very high number. One thing she doesn't see in this draft - although she could just be missing it - is they as a Commission she guesses two or three years ago decided the City Commission should have a representative on there and also that they invite a representative from the County Commission and the Port St. Lucie City Council. She doesn't see that specified in this draft. She thinks it is important, especially if they are looking to get backing financially and otherwise from government agencies, that they have representation.

Commissioner Becht said he would add to that the School Board and IRCC and he thinks they have a four-year institution. The other thing he had with regard to this, it relates more to some other things that came up. They are still having a problem with quorums being met and this will come up on an agenda item later tonight. But as they are drafting these articles or bylaws or resolutions or whatever they want to call it, he has an idea that he wants to throw out to them. That any member missing a meeting where a quorum was not met gets two unexcused absences for that. His goal there is if they adopt that across the board, they establish a hard policy with unexcused absences and then they can perhaps eliminate some of the problems they are having. He throws that out for consideration.

Commissioner Coke said the only other concern she had here is that they are talking about the City Commission designating one lifetime member. She thinks that draws more into a political arena. She thinks if they were looking to give a lifetime membership to the Sunrise Theatre where they would get advanced notices or performances or something, that would be more acceptable than a lifetime membership on the Board of Directors of the Sunrise Theatre. First of all, it is a big burden for one person to take on, but it also is going to limit the change and the quorum capabilities and all kinds of other things, unless it is just a title they want to give someone.

Commissioner Alexander said he thought they took that lifetime membership out.

Commissioner Coke said she thought they did too, but obviously just because they thought they did it, didn't mean staff did it.

City Manager Beach asked do they all want it out? Because they are not married to this at all.

Commissioner Coke said yes, they want it out.

Mayor Benton said take it out.

Commissioner Nelson said he would like to hear the Director's rationale for some of these things he included in this. He wasn't privileged to go to Sarasota where he said he copied

this from nor has he sat on the Board locally. But with respect to this lifetime membership, he knows from the financials of the theater that there are people over there who made tremendous financial contribution to this and they might be worthy of a lifetime membership. He is not talking \$10,000 or \$15,000, he is talking about \$50,000 and above in some cases. What is Mr. Jenkins rationale for inclusion of these types of things?

Mr. David Jenkins, Director of Sunrise Theatre, said he was not the one who included that. He has no feelings about it, positive or negative. He would leave it to the Commission to make that decision.

Commissioner Nelson asked how about the 28 members?

Mr. Jenkins said he would like to speak to the question of his having suggested a maximum of 28 members. It seems to him critically important at this stage in the theater's progress that they create an Advisory Board that is both culturally diverse, economically diverse, and geographically diverse. By geographically diverse, he means an Advisory Board that will primarily represent the City and the County, but will also take into account the interest and the good wisdom of people in Vero Beach or the people to the south of them. They are selling tickets across a 150 mile radius. He certainly doesn't mean to include all of them, but he was hoping that they could have a little bit more geographic diversity other than just the County. If they are going to combine economic, cultural, and geographic diversity, and expect enough of them to show up on a regular basis and to have these people on this Advisory Board have hands-on relevant experience, the smaller number group they have the harder it is to do that. So he was hoping 28 would be a moderate number to go with in hopes that every time there was a bi-monthly meeting they would have at least 15 or 16 people that would show up that would evidence that diversity. His experience having been in this business in one form or another for 34 years is, that if they have a board of 18 or 20 people as Commissioner Coke suggested, it is going to be very hard to have enough people show up to have it be a really substantive worthwhile meeting. In a nutshell, he is looking for every kind of diversity and hands-on relevant experience on this Advisory Board that they can get and he feels 28 is the number that would assist them in hitting all those buttons.

Commissioner Nelson asked is he anticipating that he would get people to come and sit on the Board from afar?

Mr. Jenkins said just the next town over.

Commissioner Nelson said that is what he is talking about, from Vero Beach, Port St. Lucie, Stuart, or Okeechobee. They have difficulty getting people to come to some of their boards and meetings and committees within the confines of Fort Pierce with only 24 square miles.

Ms. Jenkins said at the risk of seeming a little too proud of the theater's success in the last year, they have sold literally thousands upon thousands of tickets to people in Vero Beach. They have people in Vero Beach wanting to be on this Advisory Board.

Commissioner Nelson said they have a first class facility. That is why they come.
Ms. Jenkins said only because of the foresight of this Commission.

Mayor Benton said his two cents is, he thinks they need to get moving on this quickly because he sees this Advisory Board would create a Foundation Board and he thinks that is very important to have that up and running as soon as possible to help offset...

Mr. Jenkins said as far as staff of the Theatre is concerned, that is the primary number one first on the runway relative to this Advisory Board, to create a Foundation so that on an annual basis as the years go by the City itself has to put less and less money into that project.

Commissioner Coke said they can amend this at some time in the future.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, that they adopt this proposal, striking the lifetime member from the Board and specify local government officials from Port St. Lucie, St. Lucie County, the City of Vero Beach, Indian River County, and the City of Fort Pierce.

Commissioner Alexander said the School Board.

Commissioner Coke said they can either be represented on the Board... If they call the County and say they would like a representative on the Board, the County can either (a) appoint a Commissioner or (b) appoint a representative. They do that at the Harbor Advisory Board. A County Commissioner doesn't necessarily sit on it, but they have an appointee go there.

Commissioner Nelson said it appears they were talking about an elected official. He thinks it should be left up to them to provide whomever they want to be their representative.

Commissioner Coke said she thinks they ought to allow the County to appoint one, the City of Port St. Lucie, whether it is one of them or a citizen.

Commissioner Nelson said a representative.

Commissioner Coke said right.

Commissioner Becht said he seconded that for discussion because he heard the Board of County Commission, he heard Port St. Lucie. How do they feel about IRCC?

Commissioner Coke said absolutely, and the School Board.

Commissioner Alexander asked what about Okeechobee? He heard one time they spoke about Okeechobee?

Mayor Benton said he knows some folks from Okeechobee who have been here.

Commissioner Becht said why doesn't Mr. Jenkins come back to the Commission with recommendations from Indian River County and Martin County and Okeechobee County. Because it is within this County that he wanted to make certain they had those entities represented. Mr. Jenkins may come back with additional ones. He thinks there are a couple of four-year universities here that they have not mentioned.
Mayor Benton said FAU.

Mr. Jenkins said Sunrise staff will be pleased to come back here in two weeks with a list.

Commissioner Becht said there are some redundancies in here that if Mr. Schwerer looks at it he is sure he will cull them out.

City Attorney Schwerer said he is going to assign a member of his staff to go through this with the legalize that is required for a resolution or ordinance.

Commissioner Becht said the next time it is brought back to the Commission, he would like to have the Sarasota documents attached to it so he can compare the two. He knows they modeled after that, but he doesn't know where they took some of the stuff and where they didn't take some of the stuff. So he would like to have that so he can compare the two.

Commissioner Coke said a point of clarification. She doesn't believe Mr. Jenkins actually

did any of this. The previous Board of the Sunrise Theatre decided to allow City staff to take... Is that Mr. Jenkins understanding also? They finally agreed to allow City staff to take the resolution from Sarasota and revise it.

Commissioner Alexander asked are they going to establish the terms or years tonight, or is that going to come back?

Commissioner Coke said it is three years.

Mayor Benton said they are just staggering it to start with.

Commissioner Becht said they are staggering on the front end, but then it is three years.

Mayor Benton said for the record, several folks have asked him about sitting on this Board and he has asked them to come in to the City Clerk's office and fill out one of their applications. So if they do have any input from interested parties, please have them fill out the information, with a resume if possible.

Commissioner Alexander asked are they going to have a critique or whatever needs to be as far as a person being a member?

Commissioner Coke said her motion was intended to have these revisions incorporated and have the City Attorney's office bring it back to them at their December 4th meeting, so they can get this Board in place by the first of the year.

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

The next item on the Agenda was Mayor Benton request reconsideration of **Conditional Use** for Shelby Homes at Hutchinson LC, to construct a private 35-slip docking facility into the Indian River from the **Mariner Bay** townhome development. (Approved by City Commission on November 6, 2006.)

Commissioner Becht said the only reason he didn't want to pull it earlier was he wanted to get into actually the discussion...

Mayor Benton said first they need a motion to reconsider. Before they can have a discussion, he is asking the City Attorney do they need to have a motion for reconsideration and a second and a vote, then they can discuss issues?

Commissioner Becht said he needs a legal question answered before he makes the motion, if he may.

Mayor Benton said that is fine with him.

Commissioner Becht said his concern is that they issued a Conditional Use for a docking facility. Incident to that they obtained a condition that the City was going to acquire a dock slip. If they change that condition, and they for instance exchange the dock slip for \$35,000, are they going to have to have a Public Hearing on that?

Commissioner Nelson said he would like to invoke a point of order. He has had this type of thing come up before when there was a possibility for a motion to reconsider and he has always been turned down. They had a unanimous vote and he thinks it is inappropriate that they discuss it in any fashion unless they have that motion for reconsideration. Any one of them can make that motion for reconsideration.

City Attorney Schwerer said he thinks what Commissioner Becht is asking is, before he would entertain making the motion or perhaps supporting a motion to reconsider, his only purpose in doing that appears to be to reconsider the boat slip issue as opposed to the granting of the permission for the Conditional Use, and to possibly change that condition of the Conditional Use.

Commissioner Becht said yes.

City Attorney Schwerer said so that is what he is asking, not to do any action at this time, but a legal question of himself as to whether he is precluded from raising that at a later date to change the condition if he does not move to reconsider tonight.

Mayor Benton said his concern is liability issues.

Commissioner Becht said yes.

Commissioner Nelson said regardless of that, it is still a discussion. If he wanted that type of legal advice, he could have gotten that from the City Attorney in private session in his office. What they have now is protocol with respect to a motion to reconsider. He thinks he is right, they should have no discussion until they have that motion to reconsider.

Commissioner Coke asked can she make a motion to reconsider not the Conditional Use of the docks but the conditions placed on the granting of the Conditional Use for these docks? She doesn't want to reconsider the whole issue. She just wants to open the floor for discussion on the conditions placed on the Conditional Use.

Mayor Benton said he thinks they have to bring the whole issue back up for reconsideration. That was the intent. They can bring up that item once they bring the whole issue up.

City Attorney Schwerer said he thinks they can, but they are getting into some uncharted areas here. Because the motion to reconsider tonight that is on the Agenda has been communicated to the applicant, who is represented by counsel here tonight, as being an issue dealing with whether the previous approval should be revoked and this application placed in a pending status pending receipt of additional information. This issue that is now being brought up is something that is different and the applicant really has not had notice of this. Even though this is a parliamentary issue and it is an issue under Robert's Rules of Order, it was also in line with what they call a motion for rehearing, when a decision was made by the Commission with either insufficient information, i.e. the location of the boat channel, misinformation - he is not saying it was intentional - but lack of documentation showing the details, and other things where they had incomplete set of facts or a mistake as to a fact they voted on. So what he is trying to say is, although they are free to make a motion to reconsider, depending upon what they do from that point forward, there may be some legal ramifications with respect to the applicant that if the applicant does not necessarily agree, it could cause complications.

Mayor Benton asked shouldn't they be dealing with this once Mr. Schwerer determines whether there is a liability issue that the City could take on legally? And then he would ask this Commission to question that and ask for that discussion at that time? If it meant that the City did not want that dock, he is sure they would not mind having it back. He doesn't see the big issue there. He thinks they are waiting for a legal answer from Mr. Schwerer on whether the City should accept it or not. Then they make that decision after they hear from Mr. Schwerer.

Commissioner Becht said he thinks he has a solution. His understanding of the procedure is, if they do not bring this up tonight that they lose the ability to bring it back up, it has to be reconsidered tonight. They have to bring it up in the meeting following the meeting it was

approved. Is that correct?

City Attorney Schwerer said that is the general rule, although that is subject to debate, but it is clear that tonight is their night to do it if they are going to do it.

Commissioner Becht said if the applicant, who is represented tonight, agrees that they have another two weeks in order to iron out the only issue he thinks is here - the wisdom of accepting the boat slip vis-a-vis accepting cash - if the applicant agrees to that extension, then they could in two weeks bring that issue back up. Then they have met fairness to the applicant, whom he called the day after the hearing and said he has a headache with the dock slip and he emailed staff the day after the last meeting and said he had a headache with the dock slip. That is the only issue he would like to preserve for discussion on the December 4th meeting. If Mr. Schwerer comes back and says it is like a minor amendment to a Site Plan, it doesn't require Commission action, then it will be just brought to the Commission for informational purposes.

City Attorney Schwerer said he would like to hear from the applicant as to the applicant's legal position with respect to them reopening this matter solely to discuss the issue of whether the City is or is not going to accept the boat slip; and in the absence of accepting the boat slip, what kind of condition or request they would have of the applicant for that. Not to discuss the total approval of this, but only that condition. In other words, the approval would stand subject to further discussion of that condition. Mayor Benton asked shouldn't they bring this up for reconsideration, then have that discussion, and then it can be postponed until the next meeting?

City Attorney Schwerer said it can be. But he would like to hear from the applicant as to their position as to whether or not procedurally they have an objection to the Commission doing this from a legal standpoint. He wants to hear that first, because his advice to the Commission then would be governed by what he hears. If they can just have that one condition reconsidered as to whether or not they would or wouldn't accept the boat slip. If they don't accept it, what other condition may be needed for that boat slip, such as contribution or otherwise. He would like to hear from the applicant. There are legal rights involved they need to consider.

Commissioner Nelson said he can't count the times that he has asked for reconsideration and he has been turned down, no discussion until they get the vote to reconsider. Why is it so different tonight? He doesn't think they all like him.

Mayor Benton said he thinks the City Attorney said there is a different set of standards tonight.

City Attorney Schwerer said no, he is not saying that, he is not saying there is a different set of standards.

Mayor Benton said he has listened to the City Attorney and he is going to hear from another attorney so they can get through this in a timely fashion.

Ms. Cynthia Angelos said she is here on the behalf of the applicant, Shelby Homes. Without waiving any objection to a reconsideration of the permit itself and limited exclusively to the fourth condition of the Conditional Use permit that was approved on November 6th, being the developer to donate dock closest to Jaycee Park to the City of Fort Pierce. For purposes of discussion of cash in lieu of donation of the boat slip, there would be no objection to the reconsideration as it relates to that issue.

City Attorney Schwerer said given that statement, he thinks it would be procedurally okay to have a motion to reconsider for purposes of discussing that one condition. If they so move and second and it is voted upon, it would reopen that issue for discussion tonight, but only

that issue.

Motion was made by Commissioner Becht, seconded by Commissioner Coke, to reconsider that specific element of the Conditional Use (granted to Mariner Bay on November 6, 2006), to wit - that the Commission is going to reconsider whether they are going to accept the boat slip or they are going to accept cash in lieu of the boat slip.

Commissioner Coke said personally she thinks she would need to get further information from the City Attorney on liability, so she has a problem with backtracking. She also thinks that maybe an easy way around it is if they could as a City not obtain ownership of this dock, but obtain a long term indefinite no charge lease. She sees it as their Police Department has or will have need for it in the future or other law enforcement agencies. She thinks the dock would be a great asset to have, especially with its proximity to Jaycee Park and the activities going on there. They have other avenues to pursue before she would like to make a decision on that.

Commissioner Alexander said along that line of the lease, they do have the Sailing Club just adjacent. He thought the City was getting that dock so the Sailing Club can place their boat in it. So if they can give them a 20 year lease with an option for \$1.00 a year, would that take the responsibility away from the City if they lease it out?

City Attorney Schwerer said what he would encourage the Commission to do right now is, if they vote to reconsider this condition and it passes, then they might wish to have some debate tonight amongst themselves about what they may or may not want; and they can always postpone a final decision on that, subject to further discussion with the applicant. They don't have to make the decision tonight if they reopen that condition.

Commissioner Alexander said he was just trying to recall the conversation they had at the last meeting about the Sailing Club having a safety boat in the area of the sailboats. Is he the only one who recalls that, a chase boat? They were talking about a chase boat in the proximity of the sailboat area.

Commissioner Coke said she thinks the original discussion of the chase boat was that they were originally looking to donate a chase boat.

Mayor Benton said right. Then they got a slip for the chase boat.

Commissioner Becht said they have another problem. There is an express condition that says the boat slips have to be owned by property owners of Mariner Bay. At the last minute they changed that and said there is one exception, the City of Fort Pierce can own a boat slip.

Commissioner Nelson said let's call the question.

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

Commissioner Becht said all he was looking for was a discussion amongst this Commission as to the wisdom of something that happened in a fairly rushed fashion about the City acquiring a boat slip over there. The goal, as Commissioner Alexander said, was that they were probably going to park a chase boat there. As Commissioner Coke said, she had ideas that maybe later on she would park a police vessel there. If they own it, how are they going to gain access to it? And they are in direct contradiction with another one of the expressed conditions of the conditional use that was granted, which said that it has to be owned by a property owner of Mariner Bay. So one or the other of the conditions needs to be changed. They can't have one condition that says it has to be owned by property owners of Mariner's Bay and another one that says the City owns it. So he is going to throw it out there and either Ms. Angelos can settle that or Mr. Schwerer can settle that.

Mayor Benton asked can Ms. Angelos come up to the podium? Then maybe they can get through this, because they have too many attorneys in the room. That has to be simple because Ms. Angelos was the one who made the suggestion. His concern is, can't they just have a lease like Commissioner Coke said? And wouldn't it be okay with the Property Owners Association?

Ms. Angelos asked they want to open this discussion up? She understood that to be an issue and she had communicated that with her client. She also understands the Property Owners Association having difficulty with them donating that to the City inasmuch as access to that would be through the development and she thinks that is a primary concern.

So with that having been said, they started this out with the chase boat which the Sailing School indicated they needed and would also help with the safety aspect. So in lieu of the dock, the monetary donation could go to the purchase of the chase boat; and then they would be more than happy to divide that how the Commission sees fit for donation to the park as well.

Commissioner Becht asked is the Property Owners Association in favor of that, they eliminate the public access to one of their boat slips and there is a donation of cash instead?

Mr. Chris Dzadoovsky, President of Mariner Bay Association, said yes, they would be in favor of that.

Commissioner Coke asked what are those boat slips selling for?

Mr. Dzadoovsky said \$75,000 for a 35 foot and \$100,000 for a 40 foot.

Commissioner Coke said she has two concerns. Not with the POA. She has a concern that they are looking to specifically give a donation for the Sailing Club, which is a great thing and she thinks they all showed their support by giving them property at Jaycee Park and everything else, but there is a very limited number of people that it is going to assist. She thinks if they are looking for a specific donation, maybe it should be a specific donation to something else at Jaycee Park that can be utilized by the entire community rather than 15 or 20 children out of the community.

Mayor Benton asked what Commissioner Coke is looking for is a monetary donation equivalent to that dock slip?

Commissioner Coke said yes.

Mayor Benton asked would that be acceptable?

Ms. Angelos said bear in mind that a fair monetary amount would really in essence be the amount of money the developer would make on the sale. And at this juncture and all the time that has gone by, there is a lot that has been invested. So she doesn't have authority to tell them it would be the \$75,000. She does have authority to indicate that with the cost of the chase boat and improvements to the park was approximately \$35,000 without getting into what the developer anticipates to make with regards to the sale. If there is a specific request as far as an amount, if they could please tell her what that is, perhaps she can respond.

Mayor Benton asked does Commissioner Coke have a number that she would like to...?

Commissioner Coke said she wishes Arden Peck was here, because she knows about where they are going with this. But she thinks a \$35,000 donation to the Park Fund over

there, because she understands at the next meeting they are going to have a presentation on some of the improvements being made there.

Commissioner Becht asked are there any restrictions contemplated on the City's ability to take title to the boat slip and then sell it?

Ms. Angelos said it would be in violation of the conditions as imposed by the City currently.

Commissioner Coke said unless they sold it to a homeowner there.

Ms. Angelos said correct.

Commissioner Becht said that is his point. They take the boat slip. If this Commission decides they want to sell it, they sell it to an owner of Mariner Bay.

Ms. Angelos said that certainly is an option.

Commissioner Coke said that is an excellent point.

Commissioner Becht asked is that agreeable to everybody?

Commissioner Nelson said he is in favor of staying pat as they originally voted. He recognizes and respects the fact that they want the slips to be owned by people living in the condos over there. But if they have the option to sell it to some other source, he is okay with it. But he doesn't think \$35,000 is adequate. He feels when they are talking about \$75,000 or \$100,000 today, in the future with the boating industry moving this way from the south, it is going to increase in value big time. His preference is they leave it like it is currently situated. And if they can sell it to some other source, that is the way to go.

Commissioner Becht said the developer has stated that there will not be a restriction on the City selling that slip to an owner of Mariner Bay. Staff has said they are not prepared to fully discuss the liability issue tonight nor the complications of the City going through the Property Owner Association. So his position is, let's let it stand like it is. They will get a report back from staff on the liability issue, the pragmatic issues; and if the City doesn't like owning it, they can sell it. So it is a win/win. Do they need a motion?

City Attorney Schwerer said not necessarily because the condition that the Commission imposed is going to stay, so therefore there is no change.

The next item on the Agenda was Mayor Benton to discuss replacement of **Planning Board Members**.

Mayor Benton said he put this on the Agenda because for the second time in he believes four months they didn't have a quorum at the last Planning Board meeting. And thank God, for the Comprehensive Plan Special Workshop they did just manage a quorum. That means four people or five people haven't attended these meetings. They have a copy of the attendance. He wanted to find out if this Board is looking to replace people tonight who have missed too many meetings and put a couple of new members on to start with. Or else, they have seen the memorandum from the City Attorney dated November 16th where this Commission, as ex officio Board Members of the Planning Board, has voting rights. So they have a choice. Either they can put responsible Board members on there to show up at meetings; or when they don't have a quorum, the Commissioners are going to get a phone call that afternoon or that night to see which ones of them can show up. But something has to be done because they need to be dealing with and taking care of business. It is sort of an embarrassment to this Board and to the City when they have people showing up for a meeting and they can't get a quorum, especially when there are ten members.

Commissioner Coke said she is very concerned. She is looking here and they have one person has missed five out of twelve meetings. Many people have missed four meetings or three meetings. They are looking at people missing almost 50% and the least anyone has missed is 25%.

Mayor Benton said that is why he felt it was time to take appropriate action. They did have one resignation from the Planning Board this week, Chuck Enns. He is doing a lot of work out of town and knows he can't make those meetings and understands the importance of being there. But they do have a couple of other members who have missed four or more meetings this year. If that is acceptable to everyone, fine; but he has his concerns with it. They have the ability to remove people and appoint new people in their place tonight.

City Attorney Schwerer said the Commission has the ability, yes. But they probably should get the applications before them for further consideration before they appoint their substitutes.

City Clerk Steele said the applications were included in their package.

City Attorney Schwerer said okay. If they have all available applications then yes, they can take both actions tonight.

Commissioner Becht said he shares the Mayor's concerns and frustrations. The Mayor served on the Planning Board many years ago. He himself served on the Planning Board and was motivated to serve on the Planning Board because he appeared before it as an attorney and they didn't make a quorum. So it was embarrassing to him as a local attorney to bring a client before them and they didn't have a quorum. That being said, he is uncomfortable because the party the Mayor is talking about with five absences has served on there for many years. He just feels a little bit uncomfortable with discharging him without much ceremony tonight without maybe giving him an opportunity to come before the Commission and explain what is happening. If they look at it, it is not just this past year, but it is also 2005 where the attendance is that poor. Also, he appreciates what Mayor Benton brought to their attention, but he seriously thinks that if they can't make a quorum, he thinks they might want to look at changing the rules. If they don't make a meeting where a quorum wasn't met that they do get tagged with two unexcused absences. If they have a policy where if they have more than two or three or four unexcused absences in a year, then they are off.

Mayor Benton said but they have a policy of unexcused. The point is, they call in at the last minute, and in some cases they are waiting until the last minute to call in. This is important business. When they put a developer or if they put a business off 30 to 60 days, it could cost that business a lot of money.

Commissioner Becht said they put the City off with not showing up at the November 14th meeting.

Mayor Benton said he sat on that Board for seven years and they always had a quorum in seven years. This is twice in four months.

Commissioner Alexander asked they don't have a person in place that would find out before the 12:00 o'clock hour that there will not be a quorum? He serves on boards and surely they call him and let him know when there is not going to be a quorum. Is there something they can do in that?

Mayor Benton said he would ask Mr. Recor. They have had some people who haven't been able to make a decision. They had people at the last minute were called, they could get them on the phone, they just couldn't get them here.

Mr. David Recor, Deputy City Manager, said that is correct. As Mayor Benton has accurately pointed out, at a scheduled workshop for transmittal of the Comprehensive Plan, there were only five members present.

Commissioner Alexander asked so each one of these members were contacted?

Mr. Recor said absolutely. It was a schedule that the Planning Board asked for. As they ponder how to proceed in this matter, he would simply advise them that the Planning Department has actually been discussing having the Planning Board meet twice a month to try to address some of these development issues and having public workshops on development code changes before Public Hearings are held. The task is becoming more involved, certainly not less involved.

Mayor Benton said all of these members know how important the Comprehensive Plan workshop was. And up until the last hour and a half of that meeting, they didn't have a quorum. How much money did they spend with consultants at that meeting?

Mr. Recor said with the lack of a quorum on that matter had the potential to derail 18 months of hard work in getting the Comprehensive Plan before the Commission for their consideration.

Commissioner Becht said they have six applications - Bob Burdge, Eloise Cumings, Walter Fauth, Charles Hayek, Clayton Yates, and Colin Lloyd - all begging them. He knows Mr. Burdge's application has popped up three or four times begging to be allowed for public service. And they have other folks who can't seem to make it to the meetings.

Commissioner Alexander said his concern would be with this board and how it is made up. He is looking at six individuals, regardless of who they are going to replace. Are they going to have a diversity on that board? He is a stickler about that. He won't let that just go by because someone may have missed a meeting and they don't know what would be the problem. When he hears five people missing a meeting, he doesn't see anybody on here - maybe it is just his blurry eyes - who missed five meetings. Okay, he sees it now.

Mayor Benton said he thinks if they were to add the one the meeting that is not on there, the workshop, they would have four members that were absent. That was something that hadn't been added to the list yet. He agrees with Commissioner Alexander, they need people throughout this town on that Board and that is up to the Commissioners to find these people. But right now somehow they have to send a message to this Board and these folks that this is that important. They volunteered on these Boards, they need to be there, because it is embarrassing the Commission and he doesn't like being embarrassed.

Commissioner Alexander said neither does he.

Commissioner Nelson said first of all, some of those people who have missed perhaps had justifiable reasons for missing and didn't get a chance to call in to get an excused absence. The last couple of years as they all know have been really tiring times for a lot of their people. But maybe they might want to consider - he doesn't know whether or not this is being done in other areas - an increased compensation for these people. They are spending an inordinate amount of time doing the work. And the work that they do is extremely important to the Commission, they do rely on their recommendations. He knows they would be treading on some treacherous grounds - if they do it with one Board, they would probably have to do it for the others. He thinks in making this decision they need to look at as many of the angles as they possibly can so they can do the right thing as much as they can.

Mayor Benton said when he looked at that attendance he only saw two folks who had missed four or more meetings. Four meetings in a year if there are twelve? Sorry, but that

is a quarter of the meetings.

Commissioner Coke said first of all she thinks maybe they need to across the board for their Boards redefine unexcused absence as something that if they have not given notice 24 hours prior, because they need 24 hours prior to in order to be able to even contact an alternate and get them there. She doesn't see where in this Section 2-221 it tells them their policy on absences.

Mayor Benton said he just remembers that if missed three meetings and they were unexcused, but as long as they call in it is excused. So most everybody calls in or the secretary calls them at home trying to get in touch with them and if they can't make it.

Mr. Recor said the Board itself makes the determination as to whether or not an absence is excused.

Mayor Benton said he doesn't think he has ever heard an unexcused absence unless they didn't call in. But also alternates who sit on these Boards normally show up for the meeting, it is on their calendar. Even if they don't vote, they still understand how the Board works. The alternates should be there and it should be on their schedule. In that decision that came out of the City Attorney's office, he knows now that if there isn't a quorum, they are going to call the Commissioners. Because as far as he is concerned, if they can't put responsible people on that Board, then they have to be responsible to be there in their place.

Commissioner Coke said she certainly shares the Mayor's concerns, but she also shares Commissioner Becht's concern that they are coming up and doing this as an immediate thing without discussion background with these people. She is wondering if it wouldn't behoove them to appoint a member of staff that it is their responsibility to record whether or not someone called in 24 hours in advance - barring hospitalization or a death in the family type of thing. They should call in 24 hours in advance in order to receive an excused absence. And that any more than two consecutive unexcused absences or three absences during a twelve month period would be automatically considered their resignation from the Board.

Mayor Benton said because of their concerns for a lack of a quorum and some of the discussion at the Planning Board meetings, about five or six months ago he initiated appointments with every Planning Board Member and sat down with almost every one, except for the ones who cancelled, with Mr. Recor, Mr. Beach, and some of them with the City Attorney to explain their concerns and the need for them to be at these meetings. He doesn't know what more they can do other than... And these people are friends of his too.

Commissioner Becht said he has an idea. His concern and he thinks Commissioner Coke's concern and probably the Mayor's concern is doing something without these folks having a chance to speak for themselves. Why don't they ask everybody on the Planning Board who has four or more absences, whether excused or unexcused, to appear at the first December meeting or the second December meeting and talk to them about it. Because it is a problem. They have talked about it probably cumulatively for four hours while he has been on this Commission in the last three years. They are talking about a problem they are creating. Let's bring them in and ask them for solutions.

Commissioner Nelson said he bets one of the things they talk about is the time and the fact that they are not being compensated for it.

Commissioner Coke said let's hear that from them.

Commissioner Becht said if they do, then they can address that.

Mayor Benton said several of them have been on that Board that long, he doesn't think that is an issue. But if that is the route they want to go...

Commissioner Becht said the arbitrary point he was pulling from was four or more absences, whether excused or unexcused, in 2006. By his calculations, that is four of the ten Planning Board Members.

Commissioner Coke said they don't have the figures from last week's meeting.

Mayor Benton said that was a quorum because he walked the sixth member in. He understands he has a business to run, but he was here after he closed his business.

Commissioner Becht said so the Commissioners want to bring them in. They can choose whether they appear. Do they want to have them all come in at one meeting?

Mayor Benton said that is up to this Commission. He has had his dealing with it. He would be more than happy to hear their excuses. They can send them a letter and ask them to come in.

Commissioner Alexander said he would go along with that idea.

Commissioner Nelson asked should they have them come before the Commission in a public forum or could they ask the City Manager to get input from them individually?

Commissioner Becht said he wants them here.

Mayor Benton said the Commission appoints them, not the City Manager. They need to answer to the Commission. Also several of them are up for reappointment in February, so maybe they will get their answer and they can make a decision in February.

Commissioner Alexander said they have a resignation. Are they going to deal with that one tonight?

Mayor Benton said he thinks they can't until the next meeting. They haven't formally received it.

City Clerk Steele asked would the Commission consider the applications they received tonight appropriate so she could put a blank resolution on the next agenda? That way they could fill that vacancy.

Mayor Benton said please, if that is okay with the Commission. They have seen the applications tonight.

City Clerk Steele said that is their policy is to receive the applications.

Mayor Benton said they have seen the applications tonight, so they can make that appointment.

City Clerk Steele said to replace Mr. Enns.

Mayor Benton said if they do not have a quorum for the next Planning Board meeting, Mr. Margotta will start calling the Commissioners.

Commissioner Becht said that would be in reverse alphabetical order.

Mr. Recor said Planning Board Members with four or more absences over the last year to appear before the Commission on December 4th.

City Clerk Steele introduced the following Resolutions by title only:

RESOLUTION NO. 06-52

“A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, PROVIDING THAT **NO CITIZEN OF THE CITY MAY BE APPOINTED TO MORE THAN ONE BOARD, COMMISSION OR COMMITTEE** OF THE CITY; PROVIDING FOR AN EFFECTIVE DATE.”

RESOLUTION NO. 06-53

“A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; IMPOSING A POLICY FOR LIMITING **TERMS OF SERVICE** FOR VOLUNTEER BOARD MEMBERS; PROVIDING FOR AN EFFECTIVE DATE.”

City Attorney Schwerer said there has been some technical difficulty with actually two of the Boards. They have a late memorandum before them by their Building Official, Mr. Meyers, wanting to address the Commission on an issue dealing with the prohibition of appointing any member of the public to more than one Board. They have two Boards that require very detailed qualifications to be members of. One is the Board of Examiners of Contractors and the other is the Construction Board of Adjustment & Appeals. One hears complaints of contractors in the performance of their duties as a General Certified Contractor, they also handle disciplinary issues dealing with that. And the Construction Board of Adjustment & Appeals primarily handles appeals of the Building Code which are extremely complicated and detailed. The membership of those Boards he believes is almost identical in many respects. He thinks they have that in front of them. It would be their recommendation that, because of the nature of the work of these two Boards in that they are really working in harmony and synonymous with each other dealing with very detailed Building Code issues, that they could exempt these two Boards from that general rule that no public member can serve on more than one Board, and they would still be legally correct in doing that. That would be their recommendation solely to allow these two Boards to continue with their normal functions. They would have a hard time he thinks filling the membership with the type and diversity that they need. They need engineers, general contractors, licensed contractors to serve on these with State Certifications, and that is very difficult to get.

Mayor Benton asked so would this be specifically for the Contractor's Licensing Board and the Construction Board of Adjustment & Appeals?

City Attorney Schwerer said they would be excluded from that general prohibition.

Commissioner Alexander said they are saying there are eight positions that are going to expire in February 2007. How are they going to be able to deal with that? Are they going to make sure they accept the reappointments?

City Attorney Schwerer said they would have to hear from Mr. Meyers. He thinks he has the details on that.

Commissioner Becht said before Mr. Meyers speaks, he is going to tell them he is against the prohibition against dual Board appointments. He served on two Boards at the same time, the Fort Pierce Housing Authority and the Fort Pierce Planning Board. He doesn't understand what the problem is with that.

Mayor Benton said he is sure this came out of their workshop. So before they go any further, are there three people who are already opposed to this? If not, they won't go any further with it. This came from the workshop, that is why it is here.

Commissioner Coke said she thinks the discussion at the workshop was, when they had members of the general public going in front of the Code Board and getting in trouble and they were being found guilty and fined and whatever, and then if they were looking to appeal something to go to another board that had virtually the same members sitting on it; or if they had a problem with the Contractor to go from one Board to the other and have the same people making a decision on an appeal as they did on the original decision. She thinks that is where that initiated.

Commissioner Becht said that is his recollection and it is a whole lot broader than that.

Commissioner Coke said she would like to see that clarified. She would like to see these two Boards exempted. And when she is reading the ordinance about the Planning Board, it is a two-year term; and she thinks they should change that to a three-year term. That is the only Board they have that has two-year terms.

Commissioner Becht asked is it possible to task staff with finding out what the County is paying their Planning Board members, if anything, and other municipalities locally, what they are paying?

Mr. David Recor, Deputy City Manager, said their Human Resources Director has done that research already. They are not prepared to discuss it tonight, but he knows they have done the research.

Commissioner Becht said he suspects this will be brought back, so maybe they could have that information.

Mayor Benton asked as far as the first resolution, are there three people who are willing to exclude those two Boards and include the other City Boards? He doesn't want to sit here and waste time if nobody wants to...

City Clerk Steele said it could be rewritten.

City Attorney Schwerer said it can be, yes. It should be rewritten as a resolution, so they should bring it back to the Commission with that exclusion, but that is an easy drafting task.

Commissioner Coke said she thinks the intent from the workshop is not covered in this resolution. The intent was to not have any one person sitting on one Board that had appeals right over another Board.

Commissioner Becht said he would support that. He would support Mr. Meyers memo and what Mr. Schwerer said. But he does not support a blanket prohibition against someone serving in two different Boards which are totally unrelated and would never vote on the same topic twice.

Commissioner Coke said she doesn't think that was their intention.

Mayor Benton asked does everyone agree?

Commissioner Alexander said yes.

Commissioner Nelson said yes.

City Clerk Steele said Resolution No. 06-53 has already been introduced. They all can discuss that one next.

Mayor Benton asked term limits?

Commissioner Coke said she would like to see a little bit of leeway here. She thinks the preference would be to impose a term limit whenever possible. However, if there was no one else qualified to serve on it, they would need to be able to make that exception.

Mayor Benton said they can make that decision when the reappointment comes up.

Commissioner Coke asked can they make exceptions to the rule, if they approve this? City Attorney Schwerer asked what exception are they trying to make?

Commissioner Coke said should they have a limit of two terms for a specific Board and a person's term is expiring, there are either no other applicants and they are willing to serve again, or there are no other qualified applicants in the case where they have very specific qualifications, and that person is willing to serve again, can they at that juncture on an individual basis make exceptions to the rule and appoint them for a third term?

City Attorney Schwerer said it would be extremely difficult to do.

Commissioner Coke asked can they amend the resolution to say that?

Mayor Benton said maybe that is why they haven't had term limits in the past.

City Attorney Schwerer said he could. But the Commission has the flexibility in making any appointment to these Boards to almost set the rules that evening. If they feel that they need a different makeup of the Board or they felt someone has served on another Board for a longer period of time and now wants to be appointed to another Board, they have all of that flexibility as a body to do that already. If he drafts a resolution...

Commissioner Becht said Mr. Schwerer is not going to need to do that, because he is not in favor of this. He has been contacted by several Board members who said it took at least one term to figure out what their job was. They are going to lose some talent if they arbitrarily cut this off at two terms. If the Commissioners are not happy with somebody who is serving on a Board, they just need to have the guts to say, you are out of here, and that is what it amounts to. They don't need to play games with drafting resolutions like this. If they don't like somebody, let's just get rid of them if they are not doing their job.

Commissioner Alexander said that is fine.

Mayor Benton said his only thing is, when it comes to make-up, he knows the way the County does it is when they have a board of eight or ten members, each County Commissioner appoints their appointee and then there are so many at large. He thinks the only thing they need to be addressing is that, because that way that person, their appointee, is responsible; and if they don't like the job they are doing, they move them off. These resolutions are here because this was brought up at the workshop. So they will go to the next item.

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 06-54

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, CERTIFYING THE APPOINTMENT OF MEMBERS TO THE **COMMUNITYWIDE COUNCIL**; PROVIDING FOR AN EFFECTIVE DATE."

City Clerk Steele said those members would be Marcia Baker, Fannie Henderson, and Eddie Whitfield.

Motion was made by Commissioner Becht, seconded by Commissioner Coke, that

Resolution No. 06-54 be adopted.

Those voting in favor of the adoption of Resolution No. 06-54 were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

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

Mayor Benton asked is it time for a change?

Commissioner Becht said he is happy to go down, he is happy not to go down, whatever the pleasure of the Commission is.

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

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

The next item on the Agenda was Report by City Attorney on Public Funds Policy.

City Manager Beach said this is a subject that the Commission has brought forward on a number of occasions. What is attached to their Agenda packet is the existing policy regarding the use of public funds. There has been discussion at the Commission level on limiting the use of general fund resources toward non-profit funding and that is the purpose of this discussion this evening. The City Attorney's office did some preliminary research on policies in other communities that he may want to share with them this evening. And then the Commission can have whatever level of discussion they feel comfortable with and provide either additional policies, new policies, or revised policies to staff for preparation.

City Attorney Schwerer said he tasked his staff to consult with the city attorneys and the county attorneys in neighboring communities to find out what written policies they had. The results of that telephone survey, they found that Fort Pierce may be the only city actually fielding open funding requests on an agenda of the type that they do. They found that Indian River County makes their funds only available through their Children's Services Council Assessment and they have some separate grant program but it is of limited nature, and no other requests are taken. Vero Beach never has had these sort of requests on their Agenda. The City of Stuart doesn't receive any requests, so they weren't able to give them any kind of a policy, at least their legal office wasn't. They essentially also talked with St. Lucie County and he thinks they all know what their policy is with respect to this type of funding - they don't do it, except they sometimes do in-kind services for certain groups or events, but no contributions unless the law or an ordinance mandates them to do it. Port St. Lucie has an unwritten policy; but they reported that when these items did somehow make the Agenda, which was rare, they uniformly turned every request down; but that the Commissioners would go out individually and lobby the business community on behalf of the groups. No money, but phone calls were made. There weren't any exceptions. So he wasn't able to find any policy that he could report to the Commission that has any legal substance to it whatsoever. That was in essence what they found. So as the City Manager has indicated, this public funding policy is clearly at the discretion of the Commission. Earlier in 2005 they did set down some basic policy considerations. They only consider requests of up to \$1,000 from non-profit groups and up to \$10,000 for a qualified 501(c)(3).

They have no policy governing when those requests can be submitted to them, whether at budget time or during the year. They have entertained a number of requests during the year. So it is up to the Commission and perfectly legal for them to establish whatever policy they wish as a Commission and make any changes to what they had previously.

Commissioner Alexander said he has just one question of concern that he has asked time

and time again. He has only been a Commissioner for five years and he sees that Mr. Schwerer went back to 2005. He wants to know when was this implemented to start giving these funds? Was it in 1928 or 2000? When did they start doing as they say no other organization or municipality is doing the same as they are? When did they initiate this type of funds?

City Attorney Schwerer said he talked with the attorneys concerning policy; and he is dealing with what they do currently, he doesn't know what they did in the past. As far as what the City of Fort Pierce did in the past, he would really have to ask the City Clerk. She has been here the same number of years as he has almost and he doesn't know how frequent these funding requests came before prior Commissions before Commissioner Alexander served to know the answer to that. Just his memory, and he could stand corrected by records, he believes during the last perhaps five to eight years they have seen an extreme increase in the requests made to the Commission. He thinks Commissions of previous were less inclined to entertain those types of requests. But that is just based on his memory, not necessarily a review of the records.

Mayor Benton said in the 11 years he has sat on this Commission with Commissioner Nelson, he thinks they have seen more in recent years. And a lot of the time it used to just be for budget time and they were included in budget and they would hash it out in here and certain organizations received money. That is where he would like to see it go, is that they decide whatever funding, they put so much up at budget time. That way their staff has the ability to go through all these organizations and make sure they have the right paperwork, the 501(c)(3) if that is what it is, and know these organizations inside and out, that they are just not giving money to the wrong folks, which they can't say that they have done that.

City Manager Beach said his recall, as they know he has been here with them for 11 years. The process was that all of the non-profits or whoever was trying to get resources from the City would submit applications to the Community Development Block Grant Program. They didn't have a mechanism and they did not entertain requests to the City except once a year. He thinks the first one that started was the Restoration House. That was a hotly debated subject each year for several years. And then when their Community Redevelopment Agency started to generate resources, that is when they really saw this influx of requests for different funding. That has been the last three years, he thinks.

Commissioner Becht said he hates to sound so cold-hearted around Christmas time, but the information Mr. Schwerer provided them shows this Commission gave away \$68,000 of taxpayer's money to non-profits. He voted for most of these, maybe all of them, and he felt good about it at the time he did it in terms of helping a non-profit. He felt bad about it in terms of taking some of these tax dollars and giving it to a charity that he and at least two other Commissioners felt good about giving the money away to. He for one would like to stop it. He would like to establish a procedure that they just do it at budget time and that is the only time they would do it. There are several reasons for that. They only deal with it one time a year. It doesn't tie up Commission time. The other surrounding communities aren't doing it. They are not burning fifteen minutes or a half hour once a meeting to deal with the issue. And fundamentally and philosophically, he is bothered by taking taxpayer money and giving it away to a charity that he happens to like.

Commissioner Coke said she has to agree. She has sat on this Commission for five years and for five years she has proclaimed that she has always felt they should limit the dollar amount they give to any one non-profit, or limit the number of times that they can come to the City for funding. She thinks in the last few years they have established with the FPRA a very good avenue for 90% of these organizations - they set up guidelines, they have a good application process, and they are insured that the funding is being used as it is intended. So she thinks that takes care of the majority of what they used to handle or it should, going through an FPRA grant. She too has a problem giving money to a select group. If they are giving \$10,000 to this group to help 100 people, there are 40,000 citizens in their City, and why aren't they dividing up the money equally, just because some of them

don't know to come here? She would rather see it go back at the end of a couple of years as another notch off the millage rate they have. The other big concern she has with addressing these on an individual basis throughout the year is they don't have a budget figure. So unless they get to the point where they say to staff, can they have a report on how much money they have given away? It is kind of like going out shopping with a credit card - it is a lot easier to spend that money than if you are taking green dollar bills out of your wallet.

Commissioner Becht said it is not their credit card. It is the taxpayer's credit card.

Commissioner Coke said absolutely. But it is easier to spend it if they are not running out. Where if they have x-number of dollars in their wallet and they pull it out, when it is gone it is gone. She thinks that since they don't have a budgeted amount... With the advertising they budget every year \$15,000 and they give away \$1,500 grants and that is a good way to do it. So she would echo Commissioner Becht, she thinks that if they are going to hear these applications at all it should be once a year at budget time.

Commissioner Alexander said his concern is, what is the City's share for the animal control, the dog pound, or whatever they call it?

Mayor Benton asked does he mean the Humane Society? They are going to be discussing that in the near future. It started at \$85,000 when he was first a Commissioner and this year they are looking at \$265,000.

Commissioner Alexander asked so they are telling him they would rather give \$265,000 to control animals and nothing to children? That is where his question comes in because he thinks it was just on the last Agenda that they were talking about paying for each dog they collect. Something came up. He knows he remembers asking. But if they can budget \$265,000 for animals, surely he won't be part of this Commission if they can't budget some money for the children. He doesn't think any of these here are out of the way with any requests. He is looking at Paint the Town and those kinds of things. He frowns when someone objects to him helping the children of this community, because they are not taking care of their children. And they have nothing to do. They sit there and print it in the newspaper, they have nothing to do. But yet they euthanize the dogs. But he just thinks they are going in the wrong direction. If they want to do this, let's put it in the budget every year. If they can give close to \$300,000 to dogs, surely they can do something for the children in the community. They say because they have 501(c)(3) that means they can readily go out there and get money from each and every person or business. No, it is not that easy. Everybody is not into a giving mood every time. Again, he won't debate this because he is not going to change his mentality about it. He just doesn't see children versus dogs and animals. No time have they denied the Humane Society. They don't put a value on police officer equipment and so forth because it is budgeted elsewhere. Enough said about it.

Mayor Benton said all he is saying is, in his opinion put it in the budget. Children do get a little bit in this community because they do have the Children's Services Council. That is one Board he has never sat on. But their job is to recognize the problems for the youth in this community and help take care of them. But they do help out. He just thinks it should be done during the budget time. The Humane Society was budgeted. There are some details they need to talk about with the Humane Society and that hasn't come up yet.

Commissioner Nelson said he doesn't know why he gets involved in these things. First of all, he is a dog owner. And he knows he speaks for a lot of other dog owners. Some of those people cherish their dogs as well as some people cherish their kids. He doesn't serve currently on the Children's Services Council. He sat on there for about four or six years out of two different Governor's appointments. And he knows for a fact that they have taxing authority to get monies to service their kids. They get around \$3 million or \$4 million

a year in their budget for that purpose, coming off the taxpayer's roll. He thinks they as a City really do their fair share with respect to the kids. Of course, certainly they can do more and perhaps they should. But they have to look at the total posture of their give-away program and determine whether or not they are prudently using those taxpayers monies to help as many people as they possibly can in conjunction with those people who are in fact chartered or obligated to provide those types of services, i.e. the Children's Services Council, and other civic organizations that also help along those lines, the Boys & Girls Club, etc. So the kids are not being left out. He doesn't think anybody's intent is to do that. But they are charged with the expenditure of public funds and they must do it as judiciously as they possibly can to help as many people as they possibly can across the board; and let those people who in fact are specifically charged to do their thing and the City does their thing in running the City to include to some extent the kids.

Mayor Benton said so the consensus they have is, these requests should come at budget time. He has heard everyone agree to that.

Commissioner Coke said she thinks that maybe what they need to do is, if they could formulate some kind of letter to send all the organizations that have applied to the City throughout the last few years on a meeting by meeting basis, and inform them that in the future all these requests will be at budget time. Set a cut off day. Please be sure they get a letter out so they don't feel they are being cut off, but they are just changing the way they are going to do this.

Mayor Benton said a lot of these organizations that have come to him that have come in here are unfamiliar with the Communitywide Council. That is a group that they need to come in front of with their requests. That Council makes a decision at the end of the year for close to \$900,000 worth of funding. He thinks it is very important that they know their avenues. But let's do this at budget time. In the case with the Communitywide Council, that goes on year round; so he would suggest they get in touch with those folks now.

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

Commissioner Alexander said he would like Item 32h (Interlocal Agreement for a Museum in the old Orange Avenue Post Office) removed for discussion.

Commissioner Nelson said he would like Item 32j (Code enforcement lien/fine against 124 North 12th Street) removed for discussion.

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

a. Approve Application for **Alcohol Beverage Permit** submitted by Michele Thompson, representing **Thies Distributing**, for Holiday Picnic in Jaycee Park on December 9, 2006.

b. Approve Application for **Alcohol Beverage Permit** submitted by Lisa Antoon and Linda Cox, representing St. Lucie County **Chamber of Commerce**, for Christmas Boat Parade & Festival at South Causeway Park on December 9, 2006.

c. Set date for Public Hearing on Application for Certificate of Public Convenience & Necessity submitted for **St. Clair Limo Service** for the City Commission meeting on December 18, 2006.

d. Approve purchase of the Sprung Structure for use as a temporary cart barn by the **Indian Hills Golf Course** from Sprung Instant Structures, Inc. in the amount of \$28,414.00.

e. Approve purchase of a Toro Pro Core 648 Aerator for **Indian Hills Golf Course** from

Wesco Turf Supply, Inc. in the amount of \$19,393.34.

f. Approve Change Order No. 1 to Contract with Lucas Marine Construction LLC for **Fairway Drive Stormwater Pipe Replacement Project** (Grandview Boulevard to Trinidad Avenue) in the amount of \$440,094.57 (Funds from SMU Bond No. 2 & FPUA)

g. Approve Change Order No. 1 to Contract with Johnson-Davis, Inc. for **Culvert Crossing for Mayflower Canal** at Ixoria Avenue in the amount of \$97,680.00. (Funds from SMU Bond No. 2 & FPUA)

i. Approve Amendment to Lease Agreement between the City and James & Patricia Herndon, d/b/a **Best Car Wash**, to allow installation of a vacuum island on the leased premises at 3104 Okeechobee Road.

k. Reduce Code Enforcement lien/fine of \$69,800 against **1602 Zephyr Avenue**, owned by Tyler James, to the sum of \$2,000 plus administrative costs of \$1,077.74 (for a total of \$3,077.74) contingent upon payment within 30 days.

l. Approve 14 month extension to allow Chandrowti Sahadeo to pay \$9,304.33 in lot clearing and demolition liens against **120 North 12th Street**.

The next item considered was Item 32h, which had previously been removed from the Consent Agenda: Approve **Interlocal Agreement** between the City and St. Lucie County and the Fort Pierce Redevelopment Agency to develop and operate a museum in the old **Orange Avenue Post Office** at 500 Orange Avenue.

Commissioner Alexander said just for his information concerning the old Post Office, they say to develop and operate as a museum. Are they putting a time period on that, because did he not understand that PAL was housed in that at the time being temporarily?

Mr. Jon Ward, Director of Fort Pierce Redevelopment Agency, said the Police Athletic League is currently occupying that space on a temporary basis for 30 days to 60 days until they settle on a contractor for this project with the County. The County will be taking the lead role on construction of it; and as soon as they get focused on who is going to physically build the building, PAL will have to move out. They are already discussing where they can move them going forward. It is strictly on a temporary basis.

Commissioner Alexander asked they don't have any site plans or any kind of conceptual drawings or anything on that building, right?

Mr. Ward said the plans are all finished. The site plan and the parking layout and all of the plans have just been finished, so they should have something before them on a final plan within 30 days.

Commissioner Alexander said so they aren't going to just boot PAL out.

Mr. Ward said they are going to move PAL out. He is already looking at where to move them. Some of the parcels of land they are looking at purchasing have buildings on them and make good possibilities, in fact better spaces than the post office. He is only doing this to get them off the street.

Commissioner Alexander said that is what his concern was.

Commissioner Nelson asked what building are they going to purchase?

Mr. Ward said some of the property the FPRA is looking at acquiring have buildings on them. The best example would be some of the stuff over on Fisherman's Wharf. There is

a marine store there that would be perfect for them actually.

Commissioner Nelson asked to be used by PAL?

Mr. Ward said yes, temporarily until they find a permanent space.

Commissioner Nelson said he thought Mr. Ward was talking about buying some more over by the post office.

Motion was made by Commissioner Alexander, seconded by Commissioner Becht, to approve the Interlocal Agreement between the City and St. Lucie County and the Fort Pierce Redevelopment Agency to develop and operate a museum in the old Orange Avenue Post Office at 500 Orange Avenue.

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

The next item considered was Item 32j, which had previously been removed from the Consent Agenda: Reduce Code Enforcement lien/fine of \$167,436.56 against **124 North 12th Street**, owned by Eileen Mark, to \$5,000.00 upon payment of the fine plus the administrative costs of \$686.56 (\$5,686.56 total) within 30 days; and that Eileen Mark be released from the lien and the remainder of the lien stay with Robert F. & Carolyn F. Bell (previous owners).

Commissioner Nelson said he might be somewhat confused about this piece of property. He went by and he looked and he is not sure it is the same piece of property he saw. They are talking about a single lot here, 50 feet by 150 feet, with liens totaling \$167,000 thereon. How many houses are there on this property?

Mr. Jeffrey Glotzer, Law Offices of Carter & Thomas, said he is here on behalf of Ms. Mark. The violation emanates back from the 1990's with the previous owners of the property, Robert and Carolyn Bell. He thinks it is fair to say they were a constant problem for the City. Basically there was a structure on the property, a home. And there was a plumbing issue, there was no potable water in the home. Apparently there were squatters living in the home and there was also suspicion of drug activity going on. So this case emanates back to 1995. Apparently the property came into compliance in 1997 and it had been deeded a couple of times before.

Commissioner Nelson said he is basically satisfied with that. Somehow or other he got the impression... He went by there and took the City Manager by and maybe he didn't check the house number. He saw this and he was wondering about it, because what he saw was one lot with five or six houses on it. Isn't that the same property?

City Manager Beach said no, that is not the same property.

Commissioner Nelson said more power to them and hope it works out fine, if Ms. Mark is amenable to coughing up the monies they have cited for them.

Mr. Glotzer said he would respectfully on behalf of Ms. Mark ask that the Commission follow the recommendation of the Code Enforcement Board and reduce the fine to \$5,000 plus administrative costs of \$686.56.

Commissioner Nelson asked is she ready to pay that within the 30 days?

Mr. Glotzer said within 30 days. He would just need to know who to contact to make arrangements for payment.

Mayor Benton said Mr. Recor, the Deputy City Manager.

Mr. David Recor, Deputy City Manager, said he doesn't know that their new Code Enforcement Manager has ever been formally introduced to the Commission, but she is sitting in front of them tonight. He would like to introduce the Commission to Margaret (Peggy) Arraiz. She looks like she is prepared to respond to their questions this evening.

Mayor Benton said hopefully all they need to know is where to pay the bill.

Ms. Peggy Arraiz, Code Enforcement Manager, said that is what she hasn't learned yet. But they do recommend the \$5,686 payment. They have already paid the demolition lien and the lot clearing lien. This is a lien that was found later down the road.

Mayor Benton said mail it to the City Manager and they will get it to Mr. Bergalis.

Motion was made by Commissioner Becht, seconded by Commissioner Coke, to reduce the Code Enforcement lien/fine of \$167,436.56 against 124 North 12th Street, owned by Eileen Mark, to \$5,000.00 upon payment of the fine plus the administrative costs of \$686.56 (\$5,686.56 total) within 30 days; and that Eileen Mark be released from the lien and the remainder of the lien stay with Robert F. & Carolyn F. Bell (previous owners).

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

Mr. Jack Cahill, 801 South Ocean Drive, said a few months ago he authored an article that appeared in the newspaper listing the merits and disadvantages of **televising Commission meetings** as follows. He has long thought now that they have a number of local governmental functions on T.V., it would be a great opportunity to educate fifth to eighth graders on meetings in observing City and County Commission meetings. It should give the students the opportunity to observe their governments in operation. Teachers could have their students observe at least one Commission meeting per month, whether it be County or City, and then submit a report and these observations could be shared in the classroom. However, when residents get up to speak at these meetings, they should be careful and not show these youngsters an ugly side. At a recent Fort Pierce Commission meeting a gentleman falsely accused the Assistant City Manager of lying and then completely ignored the 5 minute time allowed for speaking and continued to drone on well after the Mayor advised him politely that his time was up. Now this so-called gentleman got up and verbally maligned a Commissioner and the City Manager. The sad thing is, these are long time City residents who had run for public office just a short time ago. These two men he believes never gave a thought as to how their behavior might affect children watching on T.V. They can't expect civility from their young people unless they practice it themselves. That was back in August of 2006. At the last Commission meeting on November 6th the same rudeness was displayed against the Mayor while requesting a rejection of 20 additional boat slips at the Harbour Isle complex, at the same time completely ignoring the four Commissioners who were seated in attendance who must vote on something like this. He would hope in the future when addressing their City Commission, they are able to first of all stick to the facts, use common sense, good manners, and above all civility to their elected officials and City staff. He would advise all speakers from this podium to please be aware of the example they are sending out to their children as well as the entire community in their behavior.

Reverend Herman Felton said he wants to speak in behalf of the community. There was a write-up in the paper about this monkey incident. He sits back and listens to the Mayor saying he hates embarrassment. He thinks that this community is very much embarrassed. They are very angry, they are very upset. They even went to the extent to do petitions to get rid of the **City Manager**. They don't think that he is conducting himself as a City Manager because of the things that are going on around him. He thinks that he should be aware of what is going on around him to be a City Manager. If he is the Manager of

Walmart, trust him, he would know exactly what is going on at Walmart. It is a shame. An older lady came to him about 79 years old. She asked, "Reverend, did you hear about the circus?" He wondered, what circus? He was thinking a circus came to town. She said, "No, about what is going on down at City Hall. It is a disgrace." So he started to start digging into things and finding out more about what is going on. They have children in this City, they have elderly people in this City. Some of them don't have places to stay. Some of them are living out in their cars. It is a joke. He thinks that type of joke to this community is not funny. If they want to be a comedian, they are in the wrong business. He thinks they should go to Hollywood or go to New York and be on Broadway, because this City is tired of the jokes. This City is very angry and they are frustrated and they want something done.

Commissioner Alexander said he has to express his concerns on actions and activities that are going on in this community. A couple of months ago, maybe two or three meetings ago, there were some allegations turned into this Commissioner about Mr. Beach. They said then to the public that they would come back with those issues. They haven't been addressed. Tonight he is putting this Commission on notice that they are going to have to address the concerns of this community. He was brought a petition with a list of names of people. He was brought an additional list. And he just can't make the call on his own. Again, there are some allegations made. No one responded to this community on what happened - whether they are true, false, or indifferent - and that is what he wants to know. Maybe they won't answer them, but he wants to know. If no one feels that he needs to be answered, that is fine with him.

Mayor Benton said he knows there are allegations that EOC is looking into. Those allegations have not been... There is no conclusion to those yet. As far as the action that was taken by that Code Enforcement person, he guesses at a going away party... It is very hard - he will try to address it - but he knows it is very difficult to keep an eye on some 300 or 400 people who work for the City in different places, especially on their lunch. Yes, he agrees that it was not the right thing to do, it was bad taste. But it is very difficult to know what is in somebody's mind and what they are going to do. The supervisor - he thinks appropriate action was taken because of the sensitivity - he knew about it. That shouldn't have happened. But he doesn't think Mr. Beach knew about it. He doesn't think the Deputy City Manager knew about it. They can't be expected to watch every employee. Their job is to act when they find out the exact situation that happened.

Commissioner Alexander said the Mayor is answering him. He is speaking about the allegations that were brought before this Commissioner about something that went on. He doesn't even recall what was in there because it was supposed to have come back before the Commission.

Mayor Benton said he is not sure what that might be then.

Commissioner Alexander asked does Mr. Beach remember?

City Manager Beach said he doesn't recall specifically what Commissioner Alexander is referring to.

Commissioner Alexander said there were some allegations passed out that Mr. Beach had done something wrong and didn't do something right. Commissioner Coke made a statement that she didn't think it should be called up front at that particular time, that they should have given the time to go forth and find out what they were speaking about.

Commissioner Becht asked is he talking about George Porter?

Commissioner Coke said the best of her recollection, she doesn't recall any specific allegations against Mr. Beach other than Mr. Porter felt he was unhappy with Mr. Beach and wanted the Commission to vote to remove him from office. And she stated at that time

that although there may have been 30 or 40 people here with that sentiment, there are 40,000 citizens in the City. And she didn't feel comfortable acting on it.

Commissioner Alexander said there was some particular specific allegation made about Mr. Beach that was spoken about Chuck's Seafood, that he had written a memo to John Alcorn to find out something.

Commissioner Coke said she doesn't recall it. Maybe she could check back in the minutes.

Commissioner Alexander asked was it turned into the records?

City Clerk Steele said she doesn't recall anything.

Commissioner Becht said he remembers Mr. Porter showing up. And he suspected Mr. Porter's motives because Mr. Porter is the owner of the property at the corner of Avenue D and Angle Road, which the Commission asked the City Manager to contact the County on and say make sure the County cleans up his property, and they did. And the paper said, if it is accurate - they can't always believe what they read in the paper - the paper said Mr. Porter was arrested. So the same fellow who is having problems with the County because they asked their City Manager to ask the County... Mr. Porter comes in here and says he wants the Commission to fire that man. He doesn't recall anything about a Chuck's Seafood memo. He doesn't recall anything specific. But if Commissioner Alexander has something specific, and that is what he said then, where Commissioner Alexander thinks Mr. Beach is not measuring up, then agenda it and they will discuss it.

Commissioner Alexander said he is going to bring it up, because each and every one of these Commissioners got a copy of that petition.

Commissioner Coke said she has no copy of any petition.

Commissioner Alexander said he refused to accept the copy he got because it was delivered to him. He refused to accept it until each and every one of these Commissioners and the Mayor on this City Commission got copies of that.

Commissioner Coke said she didn't.

Commissioner Alexander said he apologizes.

City Clerk Steele said she will shed some light on that. The gentleman who turned the petitions in requested that they be given only to Commissioner Alexander and Commissioner Nelson.

Commissioner Alexander said again, he refuses to accept that until a copy was given to Mr. Beach. He would not accept that coming just to his office about Mr. Beach without everyone being aware of it. Is Mr. Schwerer telling him that he didn't see that petition?

City Attorney Schwerer said he thinks Commissioner Nelson was trying to talk with him about an issue and dropped a piece of paper off for him to look at, but he was out of the office on family matters and wasn't able to talk to him. No, he hasn't seen that in his office.

Commissioner Alexander said they will just put it on the Agenda for discussion. Is that okay?

Commissioner Becht said that is fine with him. What he would ask is that if Commissioner Alexander has a specific complaint about Mr. Beach...

Commissioner Alexander said he just told him that was a public issue, not Alexander.

When Alexander has an issue, he will put it in front of them. But his concern is that they came to this City Hall and gave them a stack of papers saying that they had documents and memos from Mr. Beach to certain people. He doesn't know where they are, but believe him if they are out there...

Mr. David Recor, Deputy City Manager, said he believes what Commissioner Alexander is referring to is an anonymous package that mysteriously appeared in their mailboxes.

Commissioner Alexander said yes.

Commissioner Becht said it didn't appear in his mailbox.

Mr. Recor said with a number of documents and employment applications and memorandums and so forth. They have that.

Mayor Benton said he doesn't recall seeing it.

Commissioner Alexander asked Mr. Recor does have that?

Mr. Recor said they have that.

Commissioner Alexander said so he wants that as an agenda item where they discuss that.

Mayor Benton said when he gets something with no one's name on it, if they can't put their name on it, he doesn't want to see it.

Commissioner Alexander said he doesn't want to be the one who seems to be pulling some things out of the back of his head because it is not there. He knows he read it. It is in black and white. And it has not come back before this Commission. So Mr. Recor has a copy of it. He will see to it that each and every one of them gets a copy of that.

Mr. Recor said if they will recall, it was the same night where they discovered that Commissioner Alexander's Social Security numbers had been shared with the public.

Commissioner Alexander said he guesses he is the only individual here, that is his only concern when he hears the public being angry and has an outcry. Why they don't address what the concerns are of the public? He will.

Commissioner Nelson said he wanted to weigh in on Commissioner Alexander's comments. There were some documents provided as Mr. Recor indicated. And those were in fact provided to them in their individual boxes downstairs. Commissioner Becht said he didn't get a copy of it.

Commissioner Becht said he didn't get a copy of it. A copy was made for him here and then Mr. Nelson or somebody took it away from him.

Commissioner Nelson said he thinks one was in his box. Of course, Mr. Recor got a copy of it.

Commissioner Becht said he wants to be real clear. There was nothing in his box. That being said, if somebody put something in his box and will not sign it, his policy is if they will not sign it, he will not read it.

Commissioner Nelson said he thinks some of these documents were signed and somebody from the audience spoke about it. He pointed out that there were certain allegations in the documents that did not shed favorable light on the City as he recalls the verbiage they used at that time. Currently he is at a loss now because they have a petition out there which was given to him by his secretary on Wednesday prior to his leaving town and it was signed by

several hundred people. Of course, he doesn't see any of them here tonight. He guesses the reverend representing them is demanding a resignation or a vote of no confidence in the City Manager. First of all he has to recognize that the citizens have a right to petition this government. He applauds them for making their voices heard. The Commission has a responsibility to respond in some fashion to their petitions. He thinks in certain fashions they are in fact doing that. But he thinks it is very important that they formalize this effort as opposed to not addressing it forthwith. They don't solve problems of this magnitude by trying to skirt around it. He did in fact give a copy of that document to the City Attorney's office and hopefully he would talk with the City Manager, and he did he thinks talk to the City Manager about it. They have the right or authority to render a vote of no confidence on the City Manager or ask for his resignation. But there is a process they have to go through that should be religiously adhered to. And he guesses it is just appropriate that they formalize it and get it over with, because as long as they continue to linger on and on, and if they don't do anything about it, they just might be in a position like their national administration was. They can't ignore their bosses. And the citizens are their bosses on both sides of the dividing line, on the north and the south and the beach and the western areas. So this issue should be addressed one way or the other and move forward. All of them have their faults and all of them have some positive things about themselves. He won't express his personal feelings about Mr. Beach. He thinks they need to look at the total record of what he has done in this City. Look at some of his weaknesses, look at his strengths, and make a judgement. The judgement has to be based on the totality of what is going on. And of course if there are flaws that they can correct, and he thinks any flaw can be corrected, then they ought to try to correct them. At least his voters are telling him, the people who put him in office are saying to him, address this issue, do something about it, or there is a potential that they are going to do something about him come election time, just as they did in the national election. He thinks it is important that they do in fact address it. Do it sensibly, do it sanely, do it in a calm fashion that is fair and equitable to everybody on board. But they can't continue to kind of skirt around it.

Mayor Benton said so let's put it on the agenda. If somebody would like to make it an agenda item and they will have that discussion. It won't be a public debate. It will be a debate between the Commissioners, because they are his boss.

Commissioner Nelson said the data is available to all of them. They have discussed it, they have deal with it one way or other in some fashion or another. He doesn't think it is just indicative that one of them put it on. There are many items put on this Agenda that are put on here by management. Let's put it on and discuss it.

Mayor Benton said somebody has to put it on. He hasn't seen a petition. He is comfortable with things. But anybody who would like to put it on there and feels there is a foundation.

Commissioner Coke said she hasn't seen a petition. Ms. Steele just said they were specifically to be only given to Commissioners Nelson and Alexander.

Commissioner Alexander said again, when they speak of calling Alexander's name, he explicitly said when he got ready to leave here Wednesday, it was presented to him. He told the secretary of the Mayor and the Commissioners to make sure that everyone got a copy. He didn't even take the copy with him. He is saying this again because the Mayor and the Commissioners don't get that, it is not because he took this and want to run. He gave some instructions to staff that Mr. Beach and every one else look at this because he has some concerns about it. He didn't take it any further then.

Commissioner Nelson said he didn't get notification that it was to be given only to Commissioner Nelson and Commissioner Alexander. He got notification that there were an additional 400 signatures that were forthcoming. And frankly he expected this evening to see the audience filled with people.

Mayor Benton said he thinks maybe the decision is made and the news article that came out that action was taken against employees, at least what he saw of a petition. He thinks they must feel comfortable with it or this room would be full.

Commissioner Becht asked so the Mayor, Commissioner Nelson, and Commissioner Alexander have seen the petition?

Mayor Benton said he hasn't seen it. He has heard of several petitions tonight since he has been here. But he hasn't seen it.

Commissioner Nelson said as a matter of fact, he has a copy in his car.

Commissioner Becht said if somebody has a petition, because he doesn't have it. If either Commissioner Nelson or Commissioner Alexander have it, and if they think it is worthy of being agendaed, then agenda it and they will have a discussion on it. But he doesn't have anything in front of him really to talk about. And it is Commissioner Comments right now.

Commissioner Nelson said he has a copy and he will make sure everybody gets one tomorrow.

Commissioner Becht said tonight as he arrived, he found his second **Agenda** packet on the dias here. It was like a half inch thick of papers here. It seems that it gets progressively worse as they move along. He thought they had a policy that they were not going to accept anything here at the last minute. Maybe he was mistaken on that.

Commissioner Nelson asked what second package did he get?

Commissioner Coke said a whole pile of letters that said Item #25, #26, #27, and #28.

Commissioner Nelson said he didn't see anything but some added stuff.

Commissioner Coke said that is the point. They always get added things.

Commissioner Becht said that is his point. They are not supposed to get added things.

Commissioner Becht said he attended a **Treasure Coast Regional Planning Council** last week and Port St. Lucie had before that Council a very important item. It was the item involving what is known as Kennedy Groves and Southern Groves. That may not mean anything to them, but those two projects are part of a massive annexation by the City of Port St. Lucie that ultimately will enable **Torrey Pines** to come to this community. There was wide ranging discussion at the Regional Planning Council against these two projects. The articulated reasons by Palm Beach County, Martin County, and Indian River County against these projects was affordable housing. He happened to say at the meeting that St. Lucie County had plenty of affordable housing as compared to their communities. There was another reason that seemed a little bit shallow considering Palm Beach County was making it and Martin County was making it. So he expressed on behalf of this Commission support for that project. The project is moving forward to the DCA. And the staff of the Regional Planning Council at the direction of Palm Beach County, Martin County, and Indian River County has created conditions on the transmittal of that project from the Regional Planning Council to DCA which may make it not come to fruition. He has been advised by the City Attorney for Port St. Lucie and by the attorney for the developer that it really is a problem for Torrey Pines coming to fruition. What he told them he would do was he would bring it to this Commission and see if this Commission wants to get involved in the fray. It really is something they should discuss or consider with great gravity that it may cause the City; because if they were to send a letter in support of the project, they are

immediately at odds with Martin County and Indian River County. They would be supporting their sister city. And recently their sister city - to his knowledge, unsolicited - sent a letter to Tallahassee in opposition to the Destin Beach Submerged Land Lease. So he felt it appropriate at the time to volunteer that he would bring it to this Commission. He doesn't know if they are interested in it. It is a very complicated project and he gave a packet to Mr. Recor tonight. If they are interested in having staff report back on whether they think they should or should not support the project, then he would like to follow through with that. He felt very uncomfortable with doing anything more than what he had done without the Commission supporting the move. But is there a consensus to do anything or not do anything in regard to the Port St. Lucie DRI's?

Commissioner Coke said she would love to see a report back from staff or an opinion at least.

Mayor Benton said he was discussing that with Mayor Minsky the other day and he guesses it does threaten the financing for Torrey Pines, so he thinks it is very important for this community that it move forward. He thinks they should look at it.

Commissioner Alexander asked didn't it come up at the Fire District too?

Commissioner Becht said yes, it did.

Commissioner Alexander said so they supported it on that end.

Commissioner Becht said it was the same project that came before the Fire District. And the attorney, Mr. Klein, said at the Fire District that he didn't want to represent that if he didn't get approval that it would kill Torrey Pines, but he is on a fast track. He appeared Wednesday at the Fire Board and Friday at the Regional Planning Council.

Commissioner Becht said the December 18th meeting. They talked about it earlier tonight, December 19th is the day currently scheduled for the (Destin Beach) **Submerged Land Lease**. If they don't move December 18th meeting, they may be missing Mr. Schwerer, Mr. Recor, and probably one or two Commissioners who will be in transit to Tallahassee to appear at that Cabinet meeting. So he just wants to put them on notice for that. How much lead time does Ms. Steele need in order to change the date of a meeting?

Mayor Benton said he thinks what they would have to do is have a very brief meeting or explain to the folks in Tallahassee that maybe they might have to change the date. It is one of those where they have changed the date several times since June. And now, did they do this on purpose?

Commissioner Becht said they can get a feedback on that later.

City Clerk Steele said to answer Commissioner Becht's question about changing the City Commission meeting date, the City Attorney is looking it up now. But she believes a majority of the Commission can reschedule a meeting.

Commissioner Becht said he hesitates to reschedule the meeting.

City Attorney Schwerer said she has an excellent memory. That is exactly what it says.

City Clerk Steele said the problem is not so much the lead time. It is up to the Commission and they can probably do it on December 4th. The problem is, they already have certain major items that have already been advertised. South Beach Overlay is one, the Townhouse Ordinance is another. There are just certain things that have already been put out to the public.

Commissioner Coke said she thought South Beach Overlay was coming on December 4th.

City Clerk Steele said she means the second reading.

Commissioner Becht said they have the choir group that is coming which is always a fun thing as opposed to a lot of other things.

Mr. David Recor, Deputy City Manager, said there is a 6:00 a.m. flight from Orlando.

Mayor Benton said let's see how things play out.

Commissioner Coke said they can just leave when they get out of here at 2:00 a.m. and drive right to the airport and they are in good shape.

City Clerk Steele said they could also keep the agenda... Not put anything else on it, put it on the next meeting in January. They could keep it low.

Mayor Benton said a simple one. He thinks it all determines on what happens on December 4th and the week before. Each time, two or three meetings now, have all been postponed. He would hate to postpone the City Commission meeting or change the date, and then things fall apart in Tallahassee.

Commissioner Coke said she did want to thank staff because she drove down **A-1-A** two weeks ago and it was 2:00 a.m. in the morning when they got out of here so she didn't mention it, but she appreciates the fact that they are finally doing something to clean up their little jewel at South Beach there, putting some sod down, cleaning up the walkways a little bit so people can finally enjoy the beach again. Happy Thanksgiving everyone.

Commissioner Nelson said he attended the **Florida League of Cities Conference** last week. At the banquet there where they honor the Excellence Award winners, they had Detective Christopher Newman as one of the finalists. He did not get the big trophy, but certainly he should be commended for the fine showing he made by a presentation of him to that selection body. Of course, they selected the finest clerk in the State, the finest finance person, the longest serving public employee, and the best councilman. They didn't even mention his name, so he guesses he will have to wait until his time comes.

Commissioner Nelson said one of the things he wanted to bring back from the Florida League of Cities Conference which was in one of the committee sessions they had - and this is probably near and dear to the Mayor's heart because they talk in terms of Treasure Coast League of Cities. He was invited to a special meeting by Vero Beach Delegation which was there. He went on the City's behalf. They got a presentation relative to how **annexation** is affecting the various Counties. This idea of Charter Counties came up and they warned them to be on the lookout for it. Because as they annex, they take people away from the county and that affects the county adversely. So they are going in with efforts to try and get Charter Counties put on their authorization, which is going to adversely affect the city. So they asked them to form non-profits to work with other cities, take a look at what Pinellas County and Volusia County has done. Be cognizant of the fact that Vero Beach up the road here is being subjected to the possibility of a Charter County effort. Tom White, the former City Manager there, and Rex Taylor was there and all. They asked them to make sure that they look at what other people are doing, be prepared to address this issue as quickly as possible and as succinctly as possible, leave open the option of their mediation via Florida Statute 164 he thinks it is. Because it appears it is coming on the horizon and they must be ready.

Commissioner Nelson said there is a concern that the Human Development Resource Center and the City Parking Garage effort is slipping somewhat. Is that in fact the case? Where do they stand and how do they stand on those two things?

Mayor Benton said that should be discussed at the FPRA meeting this week.

Commissioner Nelson said but they as a Commission needs to know about that too.

Mayor Benton said make a phone call to Mr. Ward. This is comments from the Commission, not questions from the Commission. Let's try to keep on track here.

Commissioner Nelson said very well. There is always a different tack when he asks about his things.

Commissioner Nelson said he was confronted with an issue wherein they had a young fellow representing the City in the \$70 million ground breaking at one of their high schools. He is wondering whether or not that was appropriate in that the Mayor Pro Tem and other Commissioners were not involved in that and it caused a stir on people's eyebrows. He would think that in the future in the event that they had those type of official ceremonies, that they do in fact utilize the chain they have set up. He certainly would love to be at these functions on the City's behalf in his official capacity. It might not be appropriate for youngsters to do this because it opens them up to the possibility of criticism and all that. They try to keep their kids and wives and things out of these public ventures because he really doesn't want them attacked otherwise, they protect them. He thinks that is a historical thing.

Mayor Benton said maybe they should send an invitation then. Did he get an invitation? What school?

Commissioner Nelson said he is confident he did, but his schedule might have prevented... In the event there is an official function, his point is if the Mayor can't be there, the first choice is the Mayor Pro Tem.

Mayor Benton said but first he has to get an invitation. First of all, he doesn't know what school Commissioner Nelson is talking about and he doesn't know when it was. If he verified he got an invitation...

Commissioner Nelson said the groundbreaking for the new **Central High School** out on 25th Street, it is reported that his son gave the official proclamation.

Mayor Benton said no, that was for Mr. Gaines retirement. Let's get it right. He had to leave town abruptly and he asked his son if he could give that proclamation, and he couldn't call Commissioner Becht an hour before to ask him to do it.

Commissioner Becht said he thanks him for not calling him an hour before.

Mayor Benton said it was just one of those where he made appropriate arrangements for it. He is sorry if it offended Commissioner Nelson, but his son was there with the proclamation.

Commissioner Nelson said it didn't offend him. The thing is, he had somebody talk to him about it today.

Mayor Benton said now he has an answer for them.

Commissioner Nelson said he doesn't mean to be confrontational on it.

Mayor Benton said then he shouldn't have brought it up.

Commissioner Nelson said they try to be civil in their actions and their complaints about each other. It wasn't meant as a slap at anybody. Just that they ought to be respect of their official functions and protocol when it comes to something like that.

Mayor Benton said maybe everybody ought to think about what **Thanksgiving** really is. They have a lot to be thankful for in this community. They didn't have any hurricanes this year. They have had three in the last two years. They have a lot of people back on track. This Commission for many years was dealing with crime issues. They still have crime issues, but the major crime of homicides is at the lowest rate it has been in probably 30 years. So there is a lot to be thankful for. In the past businesses were leaving this community and there was vacant land and they were bulldozed. They have a lot of them coming back including possibly a mall. The truck business up here on U.S. #1 just moved in six months after the last one moved out. So they have a lot to be proud of in this community. They have come a long way. He would suggest everybody at Thanksgiving take time and say hello to their neighbor and somebody else in Fort Pierce and thank them. And think about how good they have it because the last few years it hadn't been that way. Let's think of the positive things they are doing in Fort Pierce and what this Commission has done and what the City Manager has done. If they look at the eleven years of what has been done in this community, look who has spearheaded those efforts. Then also they have a job, when people make allegations in the community, it is the Commission's job to get the facts out. They have to get the facts out. That is the Commission's job. It is not the newspaper's job, because they can't believe everything the newspaper says. It is their job to spearhead some of these problems and get them cleared up before they go out of control.

Thursday, November 23rd, and Friday, November 24th, is Thanksgiving Holiday in the City of Fort Pierce. All City administrative offices, with the exception of the Police Department, Public Safety Services and Indian Hills Golf course, will be closed. There is no garbage and/or trash pick-up on Thanksgiving Day (November 23rd). There will be a regularly scheduled garbage and/or trash collection on Friday, November 24th.

There being no further business, Mayor Benton declared the meeting adjourned at 10:05 p.m.

Adjournment.

ATTEST:

CITY CLERK

MAYOR COMMISSIONER