

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 7:00 P.M. ON MONDAY, NOVEMBER 21, 2005.

Mayor Benton called the meeting to order.

Reverend Bill McClain, St. Lucie Presbyterian 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.

Presentation of Florida League of Cities **Florida City of Excellence Award 2005.**

City Clerk Cassandra Steele said before they get started, Commissioner Alexander has a presentation he would like to make.

Commissioner Alexander said it is an honor for him to come back to this City of Fort Pierce because it was said it couldn't be done. As he spoke a few words at the Master of Ceremonies, thousands prophesied that it couldn't be done. He just wanted to show them they did it. This is a recognition as a City of Excellence for the City of Fort Pierce from the Florida League of Cities. The City Commission has to give a hand to their staff, because without them, they could not have done this. He just presents this to the City of Fort Pierce this evening, put it in the hands of their Mayor.

Mayor Benton said as Commissioner Alexander did say, this was a team effort. This was all the City employees, all the Department Heads, the City Manager, this was a team effort. And it is pretty nice when they are recognized as the top City in the State of Florida for this award. They are very proud of it. They also thank the public for working with the City on this.

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

Letter from Barbara Conroy in appreciation of the outstanding job and professional manner by Code Enforcement Officer Shirley Kirby.

Letter from Chief of Police Eugene Savage to Faye Samuel in appreciation of the Wal-Mart Foundation support.

Letter from Lisa Allen Jones, Youth Crime Watch of Florida, congratulating Fort Pierce Police Officer Paul Pearson on being awarded a 2005 Who's Who of Prevention Leaders from the Governors Office and the Florida Office of Drug Control.

Letter from Kelly Rizzo, March of Dimes, thanking Deputy City Clerk Kia Powers for her efficiency and help.

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

Commissioner Alexander said he would like Item 6c (Repair and Replacement of Streetlights) and 6f (Cellular Telephone Service & Insurance) 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 the Minutes of the Regular Meeting on November 7, 2005.
- b. Approve **Disaster Relief Funding Agreement** between the City and the State of Florida, Department of Community Affairs, in order to receive assistance from FEMA for expenses incurred as a result of Hurricane Wilma.
- d. Approve Lease Agreement between the City and the Agricultural & Labor Program, Inc. for **Lease of Hill Haven** at 505 North 7th Street for the Head Start Program.
- e. Authorize piggyback Florida Information Technology Hardware Contract for purchase of a **Computer Network Server** for the Police Department from Hewlett-Packard in the amount of \$11,900; Funds from Law Enforcement Trust Fund. Bid No. 5579

The next item considered was Item 8c, which had previously been removed from the Consent Agenda: Approve payment in the amount of \$318,734.51 to Fort Pierce Utilities Authority for repair and replacement of **Streetlights** damaged during Hurricanes Frances and Jeanne.

Commissioner Alexander said this is not as much a question about the cost of what they are talking about reimbursing or payment. His question is concerning, since the last hurricane he looks at some of the most crime ridden areas and they still don't have street lights on in there. If he is going to be spending \$318,000 from the past hurricanes, he still wants to question about the lights in these areas that are not working. He doesn't know what the problem is, but do they have a contract with the Utilities Authority on this matter?

Mayor Benton said he thinks on this one what happened was, there was an agreement that came through many years ago from the Utilities Authority that the City was responsible for these streetlights. The City Commission never really formally approved it, he believes. Isn't that the case?

City Manager Beach said he doesn't know the complete history of it. He has seen a set of Minutes that indicated that the City did accept maintenance and ownership responsibility for all of the streetlights throughout the City and it was a negotiated issue with the Fort Pierce Utilities Authority at that time. As Commissioner Alexander indicated, the City is still struggling throughout the community getting these streetlights operational again. He is not sure how much progress they had made from last year's hurricanes to this year's hurricanes, but clearly this one put them back even a little bit further. He thinks what might be helpful is if he could get some report from the Fort Pierce Utilities Authority regarding what their time frame is for having all of the streetlights back operational again. He thinks that is what Commissioner Alexander is looking for.

Commissioner Alexander said yes. His other question is, where are these monies coming from?

City Manager Beach said it will originally come from the General Fund. They hope to have that reimbursed by the Federal Emergency Management Agency. The City does have a work write-up and an order in to FEMA for this purpose. He doesn't believe it has been approved yet.

Commissioner Nelson said he had a similar take on that. He notes with concern the fact that there are several streetlights up and down Avenue D, for example, he figures about 40%. Both the decorative lights and the normal lights they have down there are not operational. They need to get those back up and running as soon as possible. Another element of that concern he has is the fact that the ownership of these utility lights just might be in question. Does the City own all of these lights? And how many of them do they have? If the City owns them and has somebody else with the responsibility to repair them, he is concerned about the potential liability in the event that they have a problem with them. They need to know how many they have and who owns them.

City Manager Beach said his understanding is the City owns them; but that number is something staff would have to provide for them at a later time.

Commissioner Nelson said the amount of money, he guesses they can justify that in that they were damaged, they are going to be reimbursed some \$318,000 some time from FEMA. And he has no problem with that other than the fact that they need to know how many they have and the liability associated with it. They had a case some time ago under this GASB 34 where they were supposed to be accounting for all of their infrastructure.

City Manager Beach said they have this information, it is just a matter of pulling it out and providing it to them.

Motion was made by Commissioner Alexander, seconded by Commissioner Nelson, to approve payment in the amount of \$318,734.51 to Fort Pierce Utilities Authority for repair and replacement of streetlights damaged during Hurricanes Frances and Jeanne.

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

The next item considered was Item 8f, which had previously been removed from the Consent Agenda: Authorize piggyback State of Florida Voice Contract to obtain **Cellular Telephone Service & Insurance** through **Verizon Wireless**, for a maximum startup cost which includes new phones and equipment in the amount of \$4,342.93, for a total of \$27,356.16 annually.

Commissioner Alexander said anytime someone speaks of a cellular phone, he wants to shout. But his concern is, they are piggybacking with the State of Florida; so is the State of Florida telling them this is the best service that is out there? What is the input on this?

Chief of Police Eugene Savage said no, the State of Florida isn't telling them anything. Staff did an extensive amount of research into finding the best available cellular phone system that was out there; and based on the market and based on his staff's research, they came up with Verizon. He thinks Verizon was Number 1, Cingular was Number 2; and that is supported by a plethora of information and data that he can make available to the Commission

if they would like to look at it, including Consumer Reports findings about the cellular phone service. Nextel is absolutely almost running dead last when they compare it to other services. He needs only to remind them how their phones failed during those first two storms last year. That is the reason they are doing this. The State apparently has a contract with Verizon Wireless.

Commissioner Alexander said his last question on this matter is, aren't they in contract with some other cellular company now? What are they going to do with the contract they are in?

Chief Savage said no, they have no contract with any cellular phone service. The bulk of their cellular phones are Nextel, but they are individually leased and those contracts have all expired, so they will not be penalized. In fact they are going to keep their same cell numbers. No, there is no outstanding contract.

Commissioner Alexander asked so this contract here is entirely all the City employees and everyone else, or is this just the Police Department?

Chief Savage said it is just the Police Department. But it is a State contract, so any other City department can piggyback off that contract.

Commissioner Alexander asked what kind of figure will they have then if they were to convert everybody? If this is just a figure for the Police Department...

City Manager Beach said staff has not evaluated that.

Commissioner Alexander asked is there a reason why? Because everybody here that has Nextel... He is not going to talk about Nextel.

City Manager Beach said everybody has something different. They have just a whole slue of different phone services.

Mayor Benton said he agrees the Nextel has to go. They didn't work during this hurricane either or after it.

Commissioner Coke said hers worked, but she has Sprint.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to authorize piggyback State of Florida Voice Contract to obtain Cellular Telephone Service & Insurance through Verizon Wireless, for a maximum startup cost which includes new phones and equipment in the amount of \$4,342.93, for a total of \$27,356.16 annually.

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

The next item on the Agenda was Public Hearing on (a) Application for **Site Plan** Review submitted by VanDyke LLC for **Magnolia Park** (single family and townhome development) to be generally located on the east side of South U.S. #1 and north of South Market Avenue (3602, 3610, & 3612 South U.S. #1); and (b) Ordinance No. K-391, **Rezoning** property generally located on the east side of South U.S. #1 and north of South Market Avenue from C-3, General Commercial Zone, to PUD, Planned Unit Development Zone.

City Clerk Cassandra Steele said on this item, which was a Site Plan and Rezoning request by VanDyke LLC for Magnolia Park townhome development on South U.S. #1, the City has received a letter from Thomas Scannell of VanDyke LLC withdrawing their application.

Commissioner Becht said his recollection is that they changed the ordinance. The letter was received on the 18th and that is after advertising. So the Commission would have to make a decision on whether they are or are not going to let that be withdrawn. Also, he would like to ask if there is anybody from the public that is here to comment on this. The applicant may have withdrawn it, but it was advertised.

City Attorney Schwerer said Commissioner Becht is correct. There was a rule change stating that any development order or other proceeding - including conditional use, rezoning, etc. - that had already been noticed for public hearing may not be withdrawn unless it meets with the consensus of the Commission. So they would have to vote tonight to allow this withdrawal, the applicant could not simply withdraw it, so it does require action on their part. They are to either deny the withdrawal and vote on the plan as scheduled to be presented for the Public Hearing, or grant the request and vote on it as being allowed to be withdrawn.

Commissioner Becht said one of the aspects of that was, if they advertise it and somebody shows up, the applicant should not have an opportunity to pull it just because there happens to be a crowd against it. So if it is okay, he would like to ask if there is anybody here on Agenda Item #7, which is Magnolia Park? (No one from the public responded.)

Mayor Benton said it doesn't appear that there is.

Commissioner Coke said since there is no member of the public here on this, she would move to accept the withdrawal.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to accept the request of Thomas Scannell to withdraw the Applications for Site Plan Review and Rezoning submitted by VanDyke LLC for Magnolia Park (3602, 3610, & 3612 South U.S. #1).

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

Ordinance No. K-392 entitled, "AN ORDINANCE **AMENDING THE FUTURE LAND USE** DESIGNATION OF PROPERTY LOCATED at **2901 AVENUE D** FROM RM, MEDIUM DENSITY RESIDENTIAL LAND USE, TO RH, HIGH DENSITY RESIDENTIAL LAND USE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE." and Ordinance No. K-393 entitled, "AN ORDINANCE **REZONING** PROPERTY LOCATED AT **2901 AVENUE D** FROM R-4, MEDIUM DENSITY RESIDENTIAL ZONE, TO R-5, HIGH DENSITY RESIDENTIAL ZONE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE." were placed on first reading and read by title only. (Owner: Lenders Plus, Inc.)

Mayor Benton declared a Public Hearing on Ordinance No. K-392 and Ordinance No. K-393 in session and asked if anyone in the audience wished to be heard.

Mr. Albert Moore, Bruhn & Moore, Attorneys at Law, said he is representing the applicant in this matter. This is a rather unusual request, because what they are asking the Commission to do is to approve a rezoning from medium density to high density. And they are not asking that the Commission approve this so that the applicant can build more units. The structures are already existing. There are five apartment buildings with four units each. That is 20 units total on 1.34 acres of land. The applicant has indicated a desire to have these units be designated as a condominium so that these could be sold fee simple. When they went to staff and made that request, they indicated to them that would not be able to be done because of the fact that it was non-conforming in regard to the density. So what they are asking the Commission to do is to approve a higher density. They are going to keep the same number of buildings there, but that will just allow the applicant to go ahead and sell these units as condominiums. That will allow the people who are presently residing there, they are going to give them an opportunity to transfer or to upgrade from renting a unit to actually purchasing the unit. The applicant has also expressed a willingness to fix the buildings up insofar as a paint job which is sorely needed on all the buildings and put some landscaping there as well. But that really is the gist of their request, is so the applicant is able to condominium the existing units.

Commissioner Alexander asked Mr. Moore is saying there is not going to be any changes in that area, right?

Mr. Moore asked does Commissioner Alexander mean insofar as buildings or structures?

Commissioner Alexander said the units.

Mr. Moore said yes, there would be no structural changes to the buildings they are proposing.

Commissioner Alexander asked so how would they get 15 units to an acre if they are not going to do any changes?

Mr. Moore said because what will happen is, if they rezone it from the medium density to the high density, then he will be in conformity with the buildings he has. That is why they are making the request.

Commissioner Alexander said Mr. Moore lost him. But there is nothing in that area of 2901 Avenue D - existing apartments or whatever they call it - now, right?

Mr. Moore said yes.

Commissioner Alexander asked so when he says the reason why he wants it is so they can paint it? They can have Code Enforcement take care of that.

Mr. Moore said he understands that. That was just an additional benefit of the applicant.

Commissioner Alexander said he is not being facetious. He is just trying to see how can they get 15 units. That is a congested area right there now.

Mr. Moore said but that is what is existing at this time is the 20 units on 1.34 acres. They are not asking that any additional buildings be built. All they are asking is that the zoning allow him to condominium the units that are already there. That is all they are asking. The congestion would certainly be an issue if they were proposing to build additional units on there. He just wants the ability to sell the units that are currently there. And they would have the exact same problems or lack of problems with the number of units that are currently existing.

Commissioner Alexander said he is just asking for advice from the rest of the Commission.

Mayor Benton asked what is the difference? These are already there, they were allowed, whether it was conditional use or... Why would they have to change the zoning to go from rental to ownership?

Mr. Fernando Leiva, Director of Planning, said what is before the Commission is basically a request to change the zoning on a non-conforming property. And as such, any action that will have to be taken upon by this body will have to be considered in terms of complying with applicable codes and regulations of the City. In this particular case, this non-conforming property will have to get a rezoning in order to pursue any future action. And for that reason, every time they have a non-conforming property, it will have to be brought up to standards if they need to pursue any other action in the future.

Mayor Benton asked there is no way they can meet the new codes with the property they do have, under the circumstances?

Mr. Leiva said unless they get an approval on the rezoning request, yes.

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

Mayor Benton asked what were Staff and Planning Board recommendations?

Mr. Leiva said the Planning Board and Staff request denial on this subject application. And the main point surrounding that recommendation is because this subject property is surrounded by non-compatible zoning and land use, and basically they will be looking at a spot zoning which is not allowed by the current code as it stands.

Mayor Benton asked with the letters that went out to surrounding property owners, it would takes a 4/5ths vote from the Commission to approve this? Is that true, especially with the denial of the Planning Board?

City Attorney Schwerer said it is a 4/5ths vote because they have an actual recommendation for denial from the Planning Board.

Commissioner Alexander said his question comes back to, if they are going to better what they have now, why wouldn't they allow them to do that, if this is the only way they can get that, and why not?

City Manager Beach said one of the discussions that occurred is that what they are being told is that this is the plan for that

property. There are two issues with rezoning it. One is, it constitutes spot zoning and they are not supposed to do it. He doesn't know if they are legally prohibited, but they are not supposed to do it. The other thing is, if someone wanted to tear those units down, then they could go back and build the density that is requested in this rezoning. And that is not something, at least in their experience with the Commission and what the positions they have taken previously, they want to see occur.

Commissioner Alexander asked his concern is now, if it is not supposed to be zoned like that, then why is it in front of the Commission? Why didn't they turn them away before they came here tonight to say this can't happen because...?

Mayor Benton said they always have the ability to apply if they are willing to spend money. They can come in front of the Commission and make a request.

Commissioner Alexander said he sees nothing in the minutes that said anything to the contrary, that they spoke about this, that it is not allowed in this area, or this is not a good thing.

Commissioner Becht said the applicant requested the R-5 zoning. Couldn't they tie them up with a PUR if they wanted to come in with that?

City Manager Beach said his understanding in talking with staff is that they have a number of options to achieve what they are trying to achieve without going through a rezoning.

Commissioner Becht said with the PUR, the Commission would be able to put some restrictions on them about the painting, about the landscaping, the parking spots, and maybe some improvement to the exterior of the structure. So they could still get there, but the Commission would have more control over what the owner is going to do, if he understands the PUR zoning category correctly. He is fairly comfortable with what he just said, that they do have options which Commissioner Alexander was asking about, which will allow them... If his client's true goal is to condominiumize it, he thinks they can get there through a PUR and the Commission still has the control over it so they are not afraid the owner is going to get rezoned and is not going to do the big paint job they are talking about.

Mr. Moore said he guesses what he really wanted to address was that he thinks this spot zoning issue would be a lot more important for the Commission to consider if they didn't have a structure that was already there. If they approved it without the PUR, somebody else would be able to come in and build what is going to be no greater density than what is already existing as non-conforming. Certainly, if they wanted them to come in with a PUR, he guesses it would just be a site plan of the existing building. That is the only thing, is the options that were given to them by staff on this one...

Commissioner Becht said if he could interrupt him, he doesn't think it is going to pass this Commission with a site plan of the existing buildings, and that is his point. His client is going to have to do some serious upgrades in order to get the PUR through this Commission. And not all the Commissioners have spoken yet. But that would be his point, instead of giving them carte blanche to leave that structure the way it is, if his client truly wants to

condominiumize it, then he for one would be willing to consider it, depending on the amount of upgrades he is doing, which the Commission would see and have control over through the PUR process. That is his point. He is just trying to give him options.

Mr. Moore said he understands. If they wouldn't mind, while the rest of the Commission has a chance to speak, he could talk to his client who is in the back, and explain to him exactly what Commissioner Becht is telling him.

Commissioner Becht said he doesn't know how the rest of the Commission feels.

Mayor Benton said that won't affect their decision here tonight, because he has a request in and they will vote on that. But he is just hearing that there are other options. And he would agree with Commissioner Becht that there would have to be a lot of improvements made to that site before he would support any rezoning.

City Attorney Schwerer said a point of order. Actually the Commission needs to be aware of this. They have a request for rezoning before them tonight. If that application is denied, then they can't apply for another rezoning, which means they can't apply for PUR for some time. There is a time limit.

Mayor Benton asked is it six months?

City Attorney Schwerer said he doesn't know, he would have to check the code, but he thinks it is a minimum of six months. So the applicant also needs to consider that if this Commission is likely to grant some other zoning, that he may want to consider withdrawing this request before they take a vote on it. He is just pointing that out as a matter of procedure.

Mayor Benton said Mr. Moore might want to hurry up and speak with his client then.

Mr. Leiva said in the meantime, he just wants to call their attention to a couple of items. Section 22-42 of their Land Development Regulations titled Planned Unit Redevelopment Zone has four specific criteria. One of them, which is the first one, says: The Planned Unit Redevelopment is an effective and unified treatment of the development possibilities of the project site while remaining consistent with the comprehensive plan. What that means is that the project, even if the applicant wishes to rezone it to a PUR, is still going to have be in effect with the comprehensive plan in terms of land use designations. He just wants to make the Commission aware of that.

Mr. Moore said after discussing the issue with his client, he would request that the Commission allow them to either continue or to withdraw the application until they can go ahead and get a plan drawn up for the Commission that is acceptable in regard to improvements that would be made so that the Commission would feel comfortable.

Commissioner Becht said he is not in favor of continuing it, because if he wants to rezone it the way he wants to do it, let's call the vote tonight.

Mr. Moore said then he would ask that they be allowed to withdraw it until they can go ahead and get that plan to the Commission. He doesn't think there is anybody from the public who is here aside from them. But if there is, obviously they had the chance to speak. But they would ask to withdraw.

Mayor Benton said nobody else spoke during the Public Hearing.

Mr. David Recor, Deputy City Manager, asked as part of their conversion from tenant to home ownership - and that is essentially what they are talking about here, is a change of ownership, because there is no change of use, there is no change in intensity, they are not proposing additional construction - did a lender require some sort of certification that the property conform to all City codes and ordinances?

Mr. Moore said no. What they were asking for was for the City to give them a letter so they could send it to Tallahassee to approve the conversion to condominiums. And then staff initially told his client that it couldn't be done. And then they came and asked for the rezoning. But it was based upon their request for a letter, so they could send it to Tallahassee to get the approval.

Mr. Recor asked was Tallahassee requiring that correspondence, or was that something he was looking to...?

Mr. Moore said he thinks it was a general rule. That is his understanding.

Mr. John Bruhn said Tallahassee requires a letter from the municipality indicating they have no objection to the conversion.

Mr. Recor said staff has discussed this on several occasions. Condominium conversions are simply a form of ownership as opposed to a particular type of land use. So whether or not it is multi-family on the project or it is a condominium on the project, it really doesn't have an effect in terms of the administration of their land development regulations. So let's determine the effect, the impact of that correspondence from the City. They would be glad to take a look at correspondence that has been used for Tallahassee in the past. They may obviate the need for a rezoning all together.

Commissioner Alexander said he just wants to say one thing to the applicant. He is in support of anything they want to come into the area and do, because of the blight that is in that area. If they are going to come in and upgrade it, he is letting him know up front, he will be one of the ones willing to support him on that. But if they think they are going to come and get a different land use and then come back with something different, he will be here waiting on him.

Mr. Moore said he understands that.

Commissioner Alexander said he just wants to let him know it is much needed and he is in support of it. But he just wants his staff to work with them so to let them know exactly what they can or cannot do, and they don't have to waste their time.

Mr. Moore said he appreciates that.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to grant the applicant's request, that Ordinance No. K-392 and Ordinance No. K-393 be withdrawn.

Those voting in favor of the motion to withdraw Ordinance No. K-392 and Ordinance No. K-393 were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-394 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE APPROXIMATELY 40.71 ACRES LOCATED ON THE SOUTHEAST CORNER OF KINGS HIGHWAY AND WHITE ROAD (a/k/a **7001 WHITE ROAD**); DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2006; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on first reading and read by title only. (Owned by: Steven Craig & Christopher Cook)

Mayor Benton declared a Public Hearing on Ordinance No. K-394 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.

Mr. Fernando Leiva, Director of Planning, said the Planning Board had an opportunity to hear this item and they voted actually to approve the annexation into the City of Fort Pierce. Staff is also recommending approval. And it is now before the Commission for further consideration and review.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, that Ordinance No. K-394 be passed on first reading.

Mayor Benton said he only has one thing to say. He believes this was the site that he just read that there was proposed 999 homes. He hopes there is a lot of road improvements out there. Because what is that, one unit underneath going to the DRI process? So he hopes they are willing to make a lot of improvements.

Those voting in favor of the passage of Ordinance No. K-394 on first reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-395 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE APPROXIMATELY 9.32 ACRES LOCATED ON THE SOUTHEAST CORNER OF OLEANDER AVENUE AND TUMBLIN KLING ROAD (a/k/a **4202 OLEANDER AVENUE**); DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2006; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on first reading and read by title only. (Owned by: Eduardo Leal)

Mayor Benton declared a Public Hearing on Ordinance No. K-395 in session and asked if anyone in the audience wished to be heard.

Mr. Michael Jacquin, Paul Jacquin & Sons, said for the record he is here representing Ed Leal in regards to Oleander Village. At this point in time, they are looking to annex into the City of Fort Pierce. Subsequently, probably in December, they will be following up with a site plan for a condo, an apartment type complex, two and three story architectural, the cracker barrel, as Commissioner Nelson likes to refer to it. Anyhow generally speaking, he would like to just take a moment and outline what they are trying to do so the Commission has a general idea of what is going to be probably coming before them. From his understanding of time lines, it would probably be some time in March or April by the time they get through staff level and Planning Board, etc. Basically, they also own an adjacent parcel to the east and that is already in the City of Fort Pierce. What they are trying to do is combine these parcels, bring them in as one site plan for this development. Their intention is to go for bonus density and be in the neighborhood of about 12 units to the acre. That is kind of a brief outline of what they are looking at and what they will be bringing back before the Commission.

Commissioner Nelson asked does Mr. Jacquin represent the owner of the property or is he the owner of the property?

Mr. Jacquin said he represents the owners. There are actually two individuals, Ed Leal and Jim Coseo. Their organization is going to be called Oleander Village and that is what the site plan's name is going to be.

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

Mayor Benton asked what was Staff and Planning Board's recommendation?

Mr. Fernando Leiva, Director of Planning, said on October 11, 2005 the Planning Board made a motion to approve this subject application and they voted unanimously to approve the application.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, that Ordinance No. K-395 be passed on first reading.

Those voting in favor of the passage of Ordinance No. K-395 on first reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-396 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE APPROXIMATELY 18 ACRES LOCATED ON THE **NORTH SIDE OF WEATHERBEE ROAD BETWEEN SOUTH U.S. #1 AND MONROE AVENUE**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2006; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on first reading and read by title only. (Owned by: Dickson-Pierce Properties LLC)

Mayor Benton declared a Public Hearing on Ordinance No. K-396 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.

Mr. Fernando Leiva, Director of Planning, said the Planning Board actually made a motion to approve this subject application. It encompasses 18 acres. It is generally located on the north side of Weatherbee Road between South U.S. #1 and Monroe Avenue. The Staff also recommends approval of this subject application.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, that Ordinance No. K-396 be passed on first reading.

Mayor Benton said here is another one of those coming in from the County. If they look at the pictures, there are a lot of single family homes that have been there for years; but with the new zoning, the existing zoning on them now, it is multi-family, high density residential. So for the record, he hopes they plan on doing a lot of road improvements to Weatherbee Road and the other roads, because he doesn't think they can get two cars down them at a time now passing each other.

Commissioner Coke said hurry up on the Comprehensive Plan re-write.

Those voting in favor of the passage of Ordinance No. K-396 on first reading were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

The next item on the Agenda was Application for **Site Plan** Review submitted by Symphony Builders at **Gator Trace** LLC for construction of a condominium development of two-story townhomes (**PHASE I** - 6.94 acres, 67 units); said property zoned PUD, Planned Unit Development Zone and Application for **Site Plan** Review submitted by Symphony Builders at **Gator Trace** LLC for construction of a condominium development of four-story buildings (**PHASE II** - 17.60 acres, 264 units), said property zoned PUD, Planned Unit Development Zone. (PUBLIC HEARING held on October 17th. Action on Application Postponed to November 21st.)

Mayor Benton asked was the Public Hearing closed? And the recommendation was for the applicant to sit down with the Homeowner's Association and try to work out a solution, if he recalls correctly?

Commissioner Nelson said he thinks they did that.

Mayor Benton said they are getting there, but he just wants to make sure, for the record.

City Clerk Steele said she is pretty sure that is right. If they want the exact wording, she would have to dig it out.

Commissioner Coke said she would like to request that they reopen the Public Hearing on this, in case there are return people who have something to say after this presentation, in case all the issues have not been resolved.

Motion was made by Commissioner Coke, seconded by Commissioner Nelson, to reopen the Public Hearing.

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

City Clerk Steele asked do they want to hear the motion from the October 17th meeting?

Mayor Benton said sure, for the record.

City Clerk Steele said a motion was made by Commissioner Nelson, seconded by Commissioner Coke, to postpone action on the applications for site plan review submitted by Symphony Builders at Gator Trace LLC for Phase I and Phase II condominium developments until November 21st. They will bring it back again, and during the interim period, cognizant that responsible representatives from both the developer and the homeowners and property owners get together and come up with a proposed agreement, and staff report back.

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

Ms. Cynthia Angelos said she is here on behalf of Symphony Builders, addressing the Commission on both Agenda items. As a result of the Commission's directive to the developer, they did indeed meet with a representative of the Homeowner's Association, the President of the Master Board, which has sitting on as Board of Directors a member of each respective phase of Gator Trace. And after said meeting, an agreement was reached. She has an agreement signed by the Secretary of the Board, the President, as well as the developer. She would like to give the original to the City Clerk. She has copies for those who haven't had the opportunity to meet with her. She wasn't present at those meetings, those took place without her. But as a result of the Commission's directive as well, as part of the agreement that will be detailed by the President, the applicant has agreed to utilize St. James Boulevard as the access to the development. Mr. James Lennon is the President of the Association. Unless they have any questions, she will just have him present the agreement on behalf of the Board. And they have their full team here - the engineer, the traffic engineer, and landscape architect, as well as the planner - if there are any questions.

Commissioner Coke said she has a couple of concerns. And unfortunately, she has not had the opportunity to read this because she is just now getting it. However, she did receive as late as Friday several phone calls and letters that people are still expressing some concerns over this project. She is not sure how many of those have been resolved with this. She is sure the citizens are here and that is why she wanted to reopen the Public Hearing, so they can be aware of who is on the same page and who isn't on the same page. One of the large concerns she had with this that she expressed last time and she still has is health and safety as far as creating too much traffic with students and children. They need to insure that they are protecting them. She knows there was some discussion about developing the main road and whether or not that was going to be done at this juncture or later on. She would certainly think, if they are putting in a project of this magnitude, they need to proceed with that development now. And this developer should enter into an agreement with the future developer to share the cost or shift the cost or something else.

Ms. Angelos asked she is not clear, what main road, Gator Trace Boulevard?

Commissioner Coke said Gator Trace Boulevard, yes.

Ms. Angelos said the development that was approved this year by the Commission, which is The Preserve, was conditioned on their construction of Gator Trace Boulevard. They have submitted construction drawings as well as a building permit. Their engineers have looked at it, but that is the condition on The Preserve. What Symphony Builders has agreed to do in this agreement - and she will let the Board President address it, because she wasn't involved in the meetings - is actually to improve St. James Boulevard. Their engineer will address what is necessary to do that. That would be bringing it up to County standards and utilizing that as an entrance to this particular project.

Commissioner Coke said she appreciates that and she is glad to see they have made some progress. But she will tell her right up front, she has concerns. Because first of all, they need to bring it up better than County standards - nothing against the County standards. But if The Preserve never gets built, that leaves them in dire straits there. She thinks if this project is moving forward, then they need to go ahead and construct that and get a Developers Agreement with the people from The Preserve so that they can be reimbursed for it, or have The Preserve do it now. She thinks it is essential that they get traffic improved there to safeguard the needs of their students and other citizens in that neighborhood.

Ms. Angelos said she is going to let the other professionals on the team address that particular issue. At this juncture she will just ask that the Board President address the Commission. And then they will have the traffic engineer and the engineer address those questions.

Commissioner Nelson said he would like to disclose that as a follow through he was able to meet with the Homeowner's Director as well as the Developer on this project. He has seen prior to this moment the agreement that they have in fact passed out and he looks forward to hearing the presentation by the principals involved.

Mayor Benton said for the record, he has met with them also.

Commissioner Alexander said for the record, he met with them also.

Mr. Jim Lennon said he is the Treasurer of Gator Trace Master Association and at the present time the Interim President. He thinks they all have a letter that he typed up. First of all, the Gator Trace Master Association is made up of five members of the different organizations and one Director from the Golf Course. That is a total of six on the Board of Directors at this time. The by-laws on this gives the Association the right to make decisions for the benefit of the community. It also is the controlling end of the whole organization. They had on October 27th an informal meeting which all the Directors were present. Some of the people, dissidents against the project, were also allowed to attend and voice their opinions. At the end of the meeting, they came up with eight issues that concerned the development. If they want to start on number one, the planned traffic light at the intersection of U.S. #1 and Weatherbee Road. Also a turn lane on U.S. #1. The

resolution here is, there is a turn lane already being constructed there. He sees the telephone pole was out today, so he imagines that will be completed here shortly. As far as the traffic light, he knows that is in the hands of the FDOT (Florida Department of Transportation). Symphony Builders agreed to pay their fair share of installing that light. He thinks at some point that light needs to be put in, it has been for years, and he is all in favor of having it put in. On the road bond issue, some of the people requested that they ask for a \$100,000 bond. As it turned out, St. James Boulevard is going to be used for an entrance to that new development and also construction entrance to Phase I. The amount of road they will use, they will not use Gator Trace Boulevard or any of the residential roads except for that stretch of road. They agreed on a \$10,000 bond, which he thought was fair. Also, there was a question raised on dust being generated by using that back road. Symphony Builders said they will erect construction fences and use water trucks to minimize the problem. The third item was location of construction trailers, dumpsters, flags, signs, etc. The resolution to that was all construction trailers and dumpsters will be located on construction sites. Signs and flags will be placed with the approval of the Board. The fourth item, which was already submitted he thinks to the Commission, the height of buildings in Phase I will be two story. That has already been taken care of. The fifth item is, using of St. James Boulevard as a construction entrance to alleviate the road traffic. The resolution was Symphony Builders is going to use St. James Boulevard. And as he hears of just today, they were approved to pave that road and make that a permanent entrance. That is what the people at the Board meeting would have liked to see done, and it looks like that is going to be the solution to the traffic problem. Completion of the road on Gator Trace Boulevard and rerouting cart paths. The roundabout at St. James Boulevard as a permanent entrance. The development to the north of Gator Trace, he understands that they are required to build that Gator Trace Boulevard, complete it into the property north of them. That road is, before any construction there as he understands, is to be completed. Cart paths would be rerouted with the assistance of the Golf Course to make it safe for golfers going through this development. Item number seven is sewers and drainage. The original sewer and drainage were designed to handle the PUD. If some problems occur, Symphony Builders agreed to bring them into compliance. The last item was Phase II, the buildings to the west of Gator Trace Boulevard. They asked it not to exceed 30 feet and maintain a distance of 200 feet from the Villas. The resolution, in the graphic of their plans Symphony Builders shows the two buildings in question to the west are angled in such a manner that the corners would be only 35 feet and the total height of the buildings would be 45 feet. Several of the Board members went to the site and physically looked at it; and their expression to him was that there was sufficient distance from those buildings to the Villas that are nearest adjacent to them. With the landscape buffer and the setbacks, he feels that is adequate. He thinks the bigger problem there, in his own opinion, is that the road going through there will be a lot more detrimental to them than the construction of the four story buildings. At the end of the meeting, a motion was made and recorded to approve Symphony Builders building plan and it was passed by a vote of 4 to 2 by the Board.

Commissioner Nelson said Mr. Lennon didn't mention about the option of the roundabout.

Mr. Lennon said the option really was that the roundabout that was in the original plans, they would rather see them complete the other exit and entrance to the development on St. James Boulevard rather than the cost of the roundabout. He thought that was a fair trade. Some of the concerns of the people there who would be on the roundabout is that would bring the road closer to their homes.

Commissioner Nelson said he noticed this document he has here is signed by James Lennon, President; and Eleanor Kay, Secretary; and he guesses the President of Symphony Builders. That is whom?

Mr. Lennon said Lewis Moscovitch.

Commissioner Nelson asked does the developer have anything to add to this or detract from it? And to what extent has this been coordinated with City staff?

Mr. Fernando Leiva, Director of Planning, asked could Commissioner Nelson repeat the question please?

Commissioner Nelson said Mr. Lennon pointed out some things that he has worked out with the builder. He wondered whether or not staff had any input on any of these in any way. Their mandate from the last meeting was that they wanted everybody - the builders and property owners - to get together and come up with some type of agreement, which they have. He felt it was implied, but they didn't say specifically, that the City staff also would have input relative to what they could or could not do and what is required.

Mr. David Recor, Deputy City Manager, said the applicant's representative followed up on the direction from the Commission and met with the property owners association; but Staff did not participate in that.

Commissioner Nelson asked are they going to hear from the developer's side too?

Ms. Angelos said everything is set forth in the agreement and it is consistent with what had been discussed with staff in the past. It is consistent with what had been submitted. The major difference is the St. James Boulevard entrance, which was discussed at the last Commission meeting, and actually she did discuss that with staff. The bonding or letter of credit is really between the Developer and the Board. The elevations are that which had previously been submitted, there is no change. Phase II is two stories as previously submitted. So she doesn't think there is anything new that Staff hasn't seen other than the private agreement between the Developer and the Board of Directors.

Commissioner Nelson said one of the major concerns they had before was traffic and the potential for unsafe conditions for their kids and the sidewalks. There was no mention of constructing sidewalks on either of the streets there.

Ms. Angelos said she would like the traffic engineer to address what that change to St. James Boulevard would do, and then their engineer to address the sidewalk issue.

Commissioner Becht asked if he could get some clarity here, is he understanding her to say that the plans have been changed and there is now an entrance on the western edge?

Ms. Angelos said before it was shown as construction entrance only. It is the same plan. But their engineer has met with the County and got their approval to utilize it as a main entrance. Same plan. There was always an entrance shown.

Commissioner Becht said he needs clarity. Is there now an ingress and egress point post-development on their western edge?

Ms. Angelos said yes, but there was before as well. It was shown as a construction entrance.

Commissioner Becht said but not post-development. All it shows as post-development is they have a 10 foot landscaping barrier on the western edge.

Ms. Angelos said she may not be the appropriate party then to address that, she is sorry. She thought it was the same plan.

Commissioner Becht said he has about three inches of material here that he is not seeing any entrance or exit point on their western edge.

Mr. Bradley Currie, Land Design South, said they submitted revised plans last week that did show an entrance along the western boundary. He believes they submitted those on Wednesday of last week. That was the date they were given by the City Clerk to get those in, in order to get those distributed.

Commissioner Becht said walk him through which sheet this is going to be on. Come up here and look at these.

City Clerk Steele asked was it this one? It was put in their Agenda packages.

Mr. Currie said yes, that is the revised one they sent. (Mr. Currie displayed slides.) If they notice there are two major changes to that plan - the removal of the roundabout and then the addition of the western roadway as well.

Commissioner Becht said just so Mr. Currie understands, they have contradictory drawings in their packets.

Mr. Currie said he is sorry to hear that. They did submit it on Wednesday as requested by City staff.

Commissioner Becht said Staff was probably doing him a favor. He has about five plans that don't have it on there.

City Clerk Steele said what he got was the old stuff and the new plan which was submitted last week.

Mr. Currie said if there is any way he could have done anything better, maybe hand deliver it to the Commissioners and gone over it with them, he is not sure. To make a long story short, they are providing an access to St. James Boulevard along their western property. And it is not just a construction road, it will be a full access point. As Mr. Lennon said earlier, it was recently approved just as early as today by the County to allow that. On the screen in the upper left hand corner it shows the access that is into their parking area that they have always proposed, and then they can see the roundabout has been removed from Gator Trace Boulevard as well. And that is the plan they submitted to the City

Clerk on Wednesday of last week. They also submitted a copy of the front elevation showing the building height and then there should have been a submittal letter as well.

Mayor Benton said that entrance looks similar to the entrance coming off Weatherbee Road and the other entrance coming into Gator Trace.

Mr. Currie said yes, it is an additional entrance.

Mayor Benton asked but the appearance will look like the same one? In other words, it will give that nice warm feeling as they come into the community?

Mr. Currie said he is not exactly sure at this level what it is going to be developed as. It will probably be similar to the way St. James Boulevard is today. It will be just an extension into the community. There is a potential to provide some sort of sign or something there. But he is just not sure it is the same right-of-way as Gator Trace Boulevard. They have issues with right-of-way and everything there, which the engineer can speak to.

Mayor Benton said hopefully it is something they can work through, because he just wants to make sure this entrance is used. It is one thing if it doesn't look as nice and is not as convenient.

Mr. Currie said he believes their traffic engineer has an estimate of how much it is going to be used in her study, so she can address that as well.

Ms. Susan O'Rourke, Traffic Engineer, said they did submit a study as well. This study, they have been kind of as they have gone along and questions have been raised, they have been providing supplemental material. So they thought it best if they combined all of those supplemental materials back into a comprehensive document that they could go through with the Commissioners. (Ms. O'Rourke submitted a Traffic Analysis for Gator Trace Phase 1 and 2 dated February 24, 2005, updated November 17, 2005.) She would like to walk them through the process, so the Commissioners can understand what they do and how they came up with what they are recommending and how they ended up on St. James Boulevard and what those impacts are. She is just handing it out so she can walk through it without talking numbers that nobody can see. There is a process they have to follow to establish concurrency on this site. They had done that originally on the Weatherbee Road entrance as their primary entrance. They were asked to address the St. James Boulevard entrance, which they did. They are anticipating that 95% of the traffic from Phase II, which this would provide direct access from U.S. #1 to St. James Boulevard without providing a circuitous route through the existing development. They expect that the Phase I traffic would continue to use Weatherbee Road to Gator Trace Boulevard. When Gator Trace Boulevard is extended, their impacts remain the same at that point at Gator Trace Boulevard and Weatherbee Road. If they look at Figure 1 on Page 2, that gives them the general road system in the area. She is going to skip to the good stuff. Page 4 is an evaluation of the trips generated by the site. These are national standards they use that establish the trips that would be coming in and out of the project. This remains the same as what has been in the project throughout. Page 5 is the primary change. She is not going to go through all the numbers with them; but basically they are taking the traffic that was coming down Gator Trace Avenue to

Gator Trace Boulevard down to Weatherbee Road and to U.S. #1, and they are saying that approximately 95% of that would now access St. James Boulevard. The same people who are going north are still going north, the people who are going south are still going south, they are just coming out a little bit differently. That takes about 104, which is 70% of the traffic they had on Weatherbee Road between Gator Trace Boulevard and U.S. #1, off that section of the roadway and off Gator Trace Boulevard. That is the major impact. There is an appendix in this document which, if they flip to Page 8 and go about three pages, they will see a table. They wanted to include this because there was some discussion about what they were including and they were just looking at their project. Basically, these were other projects they discussed with staff. They presented this material at other hearings, but there has been a lot of talking. There is Gator Preserve, Pinecrest, Weatherbee Village, and Platts Creek. And they give a general location on the map and then they show the trip generation for it. This is included in their traffic. So they have existing traffic, they factored it for peak seasonal adjustments, they have added their project on top of it, they have added all these other project traffic numbers. And then the papers that follow this basically are analytical processes that they have to undergo as the highway capacity manual software analysis of the key intersections to establish that they have safe operating conditions at these intersections. So basically, with this adjustment, their project will be 9% of the capacity of the intersection at U.S. #1 and Weatherbee Road. And obviously there will be a lot larger percent now at St. James Boulevard. And they will go over the improvements that are proposed for that roadway that the developer will be making. She will be happy to answer any questions.

Commissioner Coke said the first question she has relates to the St. James Boulevard entrance. Ms. O'Rourke said that will be utilized by the people in this development.

Ms. O'Rourke said correct.

Commissioner Coke asked is she intending that it would not be available for the rest of the residents of that community?

Ms. O'Rourke said at this point they were looking at kind of the worst case condition; and what they were trying to evaluate was, what was the impact on Gator Trace Boulevard. Now there is a lot of different things of how that might connect in the future. But right now they are proposing it as primary access to this site. And if there is any other traffic that would use it, that would be a benefit to Gator Trace Boulevard or Weatherbee Road. But they were looking at the worst case.

Ms. Angelos said Commissioner Coke asked can everybody in Gator Trace utilize St. James Boulevard. The answer would be, yes.

Commissioner Coke said the other two things, she brought them up the last time. They discussed safety issues - sidewalks on Weatherbee Road and school bus stops. She hasn't heard anything yet regarding either one of those issues.

Ms. O'Rourke said she is not the one to discuss the sidewalks and the bus stops.

Commissioner Coke said she will ask the next person then.

Commissioner Alexander said he just wants to follow up with Commissioner Coke and get clarity on the train of thoughts they are speaking of. If 95% of the traffic is going to be able to utilize St. James Boulevard, why are they sticking this developer with the sidewalks on Weatherbee Road? He is trying to follow on the same page with her now. His train of thought is, they are converting everything to St. James Boulevard for Phase II.

Commissioner Coke said she thinks part of what they would need to do is coordinate with the School Board and see where they are going to have children picked up. But most likely it is not going to be on St. James Boulevard, it would be on Weatherbee Road. That being the case, she thinks they need to provide a safe facility for the children to wait for a school bus.

Commissioner Alexander said that is why he wants to get on the same page with her, because he doesn't see the kids from Phase II going all the way to Weatherbee Road to catch any type of school bus.

Commissioner Coke said they were supposed to have some kind of coordination with the School Board. That is tied into that question, what kind of coordination do they have with them?

Ms. Kathy Tressler said she is President of the Homeowner's Association and member of the Master Board Association. She had a question about the sidewalks. She did ask Mr. Moscovitch at that time if he would put in sidewalks in Phase I, and he said he would not. It still is her concern. They still need sidewalks for the children there. They need sidewalks on Gator Trace Boulevard. There are bikers there, there are cars speeding up and down. Now if this whole development comes in and out, they still have no sidewalks in that whole development. Plus on Phase I, there are no sidewalks. Her main concern is the safety of the children in the area and for some elderly people who ride their bikes, like herself.

Ms. Marie Worthing, 4178-A Gator Trace Villa Circle, said she attended that meeting with 25 other residents. That was with the Board and Symphony Builders. Of course, they were not allowed to speak. They sat there mute. At that time Mr. Moscovitch said that Weatherbee Road he didn't feel was dangerous. Mr. Moscovitch said he is not responsible for Gator Trace Boulevard, that The Preserve is. Mr. Moscovitch said he would go ahead with St. James Boulevard as their entrance, if the County allowed it. She is so happy to hear, she thinks what they said, that the County was going to allow it. So they asked that them to open St. James Boulevard; and then they gave up the roundabout, because he couldn't afford both. So they thought St. James Boulevard was much more important than the roundabout. The only compromise they got, and she thinks it was supposed to be a compromise, was St. James Boulevard. And Mr. Moscovitch said at that time it was a maybe, if the County would allow it. The other compromise they asked for was for three buildings only to be 30 feet or two stories. They did not compromise on that. St. James Boulevard was the only thing they compromised to as far as she is concerned. She was allowed to attend, but was not allowed to speak. Only the Board. Unfortunately, two members of the Board are the only neutral ones who attended the Board.

Mr. Dale Cawthorne said he is President of the Villas at Gator Trace Homeowner's Association, Inc. He did previously give each of

the Commissioners a letter of their concerns (October 17th). They are very happy that St. James Boulevard will be open. However, that will only apply for anybody going north; because if they are leaving there and going south, it is going to be exactly like it is down on Weatherbee Road, they can't go that way. Because the traffic is so heavy, they go down Buchanan Drive over to Midway Road and out to where there is a light. They still believe very strongly that Gator Trace Boulevard has to be built and has to be built now. He knows it was a condition of the City Planning Board that Gator Trace Boulevard be built up to their entrance prior to the City issuing any occupancy permits. That is a fact, that was in their recommendation. How it got left off, he doesn't have an inkling, but that was the recommendation. Furthermore, as Ms. Worthing mentioned, they did ask for a compromise on those buildings that are adjacent to Gator Trace Boulevard that are opposite a number of their homes. There are four buildings there, eight units, that will be looking into four-story buildings. They asked for a compromise only on those buildings over. And Mr. Moscovitch said no, that he knows what he is allowed to build there and he intends on building them. He doesn't know if there is anything the City can do on that issue, if it is a compatibility issue or not. But they think for the safety of children and their residents and the traffic, that Gator Trace Boulevard ought to be built prior to the issuing of any occupancy permits.

Commissioner Nelson said Mr. Cawthorne mentioned he is President of one organization. What is his relationship with the other organization there?

Mr. Cawthorne said they are a 38 member unit that is immediately to the east of this development.

Commissioner Nelson said not physically, he is talking about organization authority-wise. Is he a member of this Master group?

Mr. Cawthorne said he is on the Master Association now, yes.

Commissioner Nelson said when they voted 4-2 on the information Mr. Lennon put forth...

Mr. Cawthorne said he was obviously one of those voting against.

Mr. Cosimo Daiello said he is a resident at Gator Trace. He doesn't think the issue on compatibility has ever been resolved. On September 17th, Symphony Builders lawyer said she was quoting from the Fort Pierce Code for Planned Unit Development. The paragraph she was allegedly quoting from is Paragraph K of that code. The paragraph is totally not applicable to their issue. They are concerned with compatibility within their planned unit and not an adjacent planned unit. Symphony Builders lawyer, in misquoting that paragraph to the Planning Board, stated it was applicable; and in quoting it improperly, omitted all references to the only object of this paragraph, which is the compatibility of this PUD with adjacent developments. In every instance in the paragraph where there was a phrase defining this, that phrase was improperly omitted from the lawyer's quote to the Planning Board. This occurred four times in her quote of that paragraph. This was not challenged by the legal or engineering counsel. It was believed that Symphony Builders was compatible according to the Fort Pierce Code. No mention of this improper misquote of the code was made at the October 17th Commission meeting. At that meeting, the Commissioners believed that Symphony Builders satisfied the

compatibility issue. Since Symphony Builders claim that they were compatible is not true, based on the above, the only way for them to be compatible to what is presently at Gator Trace is to limit the height of their structures to two stories. That is all he has to say.

Ms. Worthing said she forgot to mention that Mr. Moscovitch said that two story condos directly behind their Villas would not be aesthetically correct with the others. Her feeling is that four story condos are not aesthetically correct with one story villas. She just wanted to add that.

Mr. Michael Mett said he lives in Gator Trace. He would simply like to say that this project is doable. These folks do have vested rights to develop a certain number of units on Phase I and Phase II. And they tried to work with them to address the very central traffic issues that remained after the October meeting. St. James Boulevard was something that came up late in those meetings. And it was never intended that St. James Boulevard preempt or address all the traffic issues. St. James Boulevard was to be a second entrance and exit to Phase II. The eight points that were mentioned by Mr. Lennon are substantially correct apparently. He learned this from two people who attended this meeting, one of whom they just heard from, Mr. Cawthorne. Certainly there are compatibility issues, but he doesn't want to stress those. He wants to just stress the traffic, the optimal traffic solution here. It seems to him that it was always thought that The Preserve would be built ahead of Symphony Builders. If that was the case and if indeed The Preserve's approval required them to assume all of the cost of extension of the main road to the north, they wouldn't have this problem here. The problem is that Symphony Builders is apparently going to go ahead of The Preserve, which means that the optimal traffic solution of Gator Trace Boulevard is not going to be extended, is not going to be with them. They are just going to have St. James Boulevard. Let's take a look at St. James Boulevard and U.S. #1. As was mentioned earlier, they don't want to create another Weatherbee Road and U.S. #1. He doesn't see how people coming out of St. James Boulevard to U.S. #1 can turn left. It is right across from Sam's Club. Even though Sam's Club is leaving, somebody is going to be in there. It is very difficult to turn left there. So without the extension of Gator Trace Boulevard at least to where the roundabout was going to be built, and let The Preserve address the rest of the extension, and maybe some sort of arrangement should be made so that the developers can recoup the cost of extending Gator Trace Boulevard, because they are going first. He doesn't know. The City's Planning Department and City Attorney and others can figure something out here. But the optimal traffic solution does not include the disappearance of the extension of Gator Trace Boulevard. So when they reported an eight point agreement that has been reached, they failed to report that the rug was pulled out from under them, namely the extension of Gator Trace Boulevard. This is regrettable. Because he thinks there is a solution here, but they can't do it when they are giving one thing and unraveling something else. It just doesn't make sense. They are pleased, he thinks, that the St. James Boulevard solution has been addressed, and he thinks responsibly, and he wants to congratulate the developers on that. He is not certain that this unit of government can address the array of problems on Weatherbee Road and it is unfortunate. But he doesn't see how any occupancy permits would be soundly issued under their existing comprehensive code without having the extension of Gator Trace Boulevard ready and available before those permits are issued. He

can see the development proceeding, but on that understanding only. So St. James Boulevard was not something to take care of all the traffic problems, it is not going to. And they still have the issue of, if they don't build the extension of Gator Trace Boulevard, they are going to have ladder trucks coming through Gator Trace private roads for fires. Yes, the emergency trucks can get through there right now, they do, they make calls. But they can't get a fire truck to go right past the Club. They would run over half the trees. It would just be impossible. The performance level of those private roads of Gator Trace are totally inadequate for fire protection. And a number of multiple units have gone in there recently, so they are not talking about all one-story residences that don't need a ladder truck. He is not sure, he is not a fireman, he doesn't know, but that is what somebody might answer. So they do need adequate performance roadways for the transit of fire trucks. Under this arrangement with the removal of the extension of Gator Trace Boulevard, that is not going to be available. So he thinks it will be unsound and it would be inconsistent with the current comprehensive code for the City of Fort Pierce for any approval of Symphony Builders without the extension of Gator Trace Boulevard.

Ms. O'Rourke said she is just going to make a kind of a follow up comment based on a couple of things. They are talking about Gator Trace Boulevard and the safety on Weatherbee Road has been an issue. Their project is a very small percentage. And whether there is an existing problem or a total issue, they have 10% of all the traffic on Gator Trace Boulevard, 6% of the capacity. Whether Gator Trace Boulevard is extended or not, their traffic will remain the same on that portion of Gator Trace Boulevard and to the west on Weatherbee Road. The extension of that doesn't change the impacts they have been talking about and the safety issues that have been raised on Weatherbee Road. The safety issues are being addressed. The State is undergoing a study. They were trying to get a copy of it. The FDOT is responsible for safety along U.S. #1 and they have addressed some of the intersecting streets there. Bob Frank, who is in the City Engineer Department, they were trying to pull all the pieces together for tonight and they weren't able to get all of those pulled together, but he is going to continue to work on that so they can have that. She did want to point that out. And as far as on Weatherbee Road, they are less than 4% of the traffic on Weatherbee Road when St. James Boulevard is in place. So whether there is a problem or not and what is their contribution to that problem, but to affix the total problem to this applicant, it seems a little bit of an imbalance. That is what the numbers come out to be. There may be a problem, but whether or not it is a problem that is attached to this applicant or not. She wanted them to have those numbers so they had a feel for where this fits in with everything that is going on on those two roadways.

Mayor Benton asked the signalization of Weatherbee Road and U.S. #1, do they know what the status of that will be?

Ms. O'Rourke said she is going to tell them she doesn't know and she is going to tell them why she doesn't know. It was on the Capital Improvement Program and then it was delayed. One of the reasons is that legally the State and the municipalities find that if they don't go through the warrant process for signalization, they can end up being sued. So they prioritize the project on a point system based on these warrants that are based on the volumes of traffic. Accident data is one of them. If there are more than

five at the intersection within a 12 month period, that would satisfy a warrant. So they have to have all of these statistics in place before they can fund it. She has been talking to Bob Frank, who said it is the State who has been pulling it, they have requested it. It has been prioritized; but something else will either take a higher priority while they wait for the warrants. They are looking at future numbers and they say yes, it needs to be done. They are looking at peak hours and saying yes, it needs to be done. But there are other warrants. There is an eight hour warrant that they have to satisfy. They can satisfy 80% of it in combination with another warrant. So there is a whole series of things that has to be accomplished. That is what it is waiting for. So it is on the list and they could probably push it. The Commission could ask their staff to meet with the State and try to...

Mayor Benton said they have already... He believes this Commission is on record and the City has a request in. He believes the County Commission does too. So maybe through their MPO board members, they need to push that, because they have done that before. On Martin Luther King Boulevard, they have it where they need it. They have been pushing this for years now. And with this development, if this is approved, he thinks it is a necessity that this light is put in before the first person moves in.

Commissioner Nelson said they have looked at it at the MPO. Ms. O'Rourke is correct, the FDOT didn't think warrants were justified at that time. However, with certain requests from certain entities, it could be made to go above that, the warrants that are there. So if they go at it right and get the political muscle behind it, he thinks it could be done. It is just a matter of how they go about doing it.

Commissioner Becht said their traffic study, they just updated it on November 17th. Is that when it was done?

Ms. O'Rourke said correct. They had been updating it little pieces as they went. She just compiled it all in one place.

Commissioner Becht asked when did Staff get the updated traffic report?

Mr. Jack Andrews, Assistant City Engineer, said they received this Friday afternoon, November 18th - the revised one.

Commissioner Becht asked so he has gone through it thoroughly then?

Mr. Andrews said yes.

Commissioner Becht said with the creation of the ingress and egress point - and she may have told them this, maybe in one of the reports - what percentage of the traffic is Ms. O'Rourke estimating will be diverted from Phase II through the western ingress/egress point?

Ms. O'Rourke said they are estimating 95% of Phase II.

Commissioner Becht asked that will go out to the west?

Ms. O'Rourke said correct. That 70% of Phase I and II is their total assumption.

Commissioner Becht asked is she saying that 95% of the 264 units in Phase II will use the western point as their primary ingress/egress point?

Ms. O'Rourke said correct. It is a direct route from U.S. #1. Most of the traffic is coming from U.S. #1.

Commissioner Nelson asked what road are they talking about, Gator Trace Boulevard?

Ms. O'Rourke said U.S. #1 to St. James Boulevard.

Commissioner Becht asked was Ms. O'Rourke in concurrence with the developer's decision to drop the roundabout at the other entrance?

Ms. O'Rourke said she didn't discuss the roundabout with the developer.

Commissioner Becht asked is it her experience that roundabouts are a calming traffic device?

Ms. O'Rourke said they can be.

Commissioner Becht said they have two golf cart crossings within 500 feet of where the proposed roundabout was. In her expert opinion, is some kind of traffic calming device warranted there?

Ms. O'Rourke said it may be. There are two things to consider. A traffic circle keeps people moving; so if there is a way they would stop people as opposed to have them continuously moving, that might be better. But she would have to look at specifically what is occurring.

Commissioner Becht asked but she was not asked to look at it in this particular instance?

Ms. O'Rourke said no, she was not.

Commissioner Becht asked she wouldn't know whether the Fire District had a chance to review this plan that was revised November 16th of last week either, would she?

Ms. O'Rourke said no, she doesn't know.

Commissioner Becht asked can somebody answer that? Has the Fire District had a chance to look at this?

Mr. Bradley Currie, Land Design South, said no, the Fire District did not review that plan that they submitted last week. But he will tell them that the previous plan they did look at that went through Staff review, it showed only one entrance into the community off Gator Trace Boulevard. The application as they have it today actually shows two entrances. He can assure them that the Fire Department does like two entrances better than one. So he would think they would actually like this plan better. They can speak with Travis Gibbons or whoever sits at the DRC, they would be able to tell them.

Commissioner Becht asked does anyone know, what is the right-of-way width on St. James Boulevard that exists today?

Mr. Michael LaCoursiere, P.E., of Michael B. Schorah & Associates, Inc., said he is a Registered Engineer in Florida. The right-of-way for St. James road is 50 feet.

Commissioner Becht asked does Mr. LaCoursiere have permission from the County tonight to fully improve that, pave it, curb it, whatever?

Mr. LaCoursiere said yes, they have. They met with staff, primarily the Public Works Division. They received the request warmly as a way to get traffic off Weatherbee Road. It was recommended by the Public Works Director that the Road and Bridge Manager meet with each County Commissioner to discuss this issue. It was reported to them today by the Road and Bridge Manager that he has met with each County Commissioner, and they have warmly received it and have no objections to the use of St. James Boulevard as an access to the project. They will require them to not only extend, but reconstruct portions of St. James Boulevard to their desired sections.

Commissioner Becht asked how long a stretch of road is that?

Mr. LaCoursiere said it is approximately a half a mile.

Commissioner Becht asked what is the distance from the former roundabout down to where Gator Trace Boulevard ceases today, about a half a mile?

Mr. LaCoursiere said he thinks it is longer than that.

Mr. Cawthorne said about 1,700 feet.

Mr. LaCoursiere said that may be correct. He would have to get the plan out and scale it possibly, if it is on something they have here.

Commissioner Becht asked does somebody know why the sidewalk, that he thought he had seen on a previous plan, has been deleted off Gator Trace Boulevard?

Mr. LaCoursiere said he is not aware that it is removed. It is his understanding that it is there.

Commissioner Becht said then back to staff, he thought somewhere there was a regulation that they had to have sidewalks adjoining right-of-ways when projects were built. And he doesn't see it on these plans. Maybe he is looking at the wrong plans.

Mr. Leiva said Commissioner Becht is absolutely right. According to their code, they have to have the sidewalks. He is looking at the site plan that is revised on the 16th of November; and just as he pointed out, he does not see the sidewalks reflected on this sheet.

Commissioner Becht asked when did Mr. Leiva get these plans?

Mr. Leiva said Friday morning.

Commissioner Becht asked is staff really comfortable looking at this stuff coming in on Friday? He is bothered by that.

Mr. Leiva said he thinks Commissioner Becht pretty much echos what staff has been talking about. What he would like to say to the Commission is that staff would like to have more ample time and adequate time to be able to go through these plans.

Commissioner Becht said from what he is looking at, he doesn't think they have had the Fire District look at the changes. He agrees two entrances are probably better than one, but he doesn't know. His staff got hit with a traffic study - they should have known most of the information, it was just updated - but they got that on Friday. Tonight he got handed an agreement with the Property Owner Association across the dias. He got another letter from somebody else across the dias. He is not sure he likes doing business this way. He would like for everything to be in his Agenda package so he can read it during the weekend during quiet time, rather than up here having their traffic engineer walk him through a traffic report. This just doesn't make sense to him. Is it just him?

Commissioner Nelson said he has to echo Commissioner Becht's concern. The whole idea was having them go back and work with the parties involved and come up with a happy solution. He doesn't think the philosophy intent of that has been adhered to. There are too many questions out there that are falling in the category of traffic. It requires some coordination over and above their individual relationships and interface. It also requires coordination, and City staff should be pointing in those directions, with the School Board, with the Fire Department, and others who have interest in this program. And specifically, when it comes down to the traffic and sidewalks and that business, those should be in fact addressed just automatically, because those are dictates of the code. And this is not directed at Mr. LaCoursiere, who just happens to be standing at the podium. He would like to commend the applicant for the work they have done. He thinks they made tremendous strides in the agreement between the Homeowners Association and the Developer, even to the extent of working with some of the dissenting homeowners. But he feels they still can go back and work this thing out. He just wonders whether or not others will think the same way after they get through with the Public Hearing.

Commissioner Coke said she has some of the same concerns. She has received letters over the weekend, over the fax machine, from some of the citizens. And to receive things while she is sitting up here this evening, she is trying to listen and read at the same time, makes life very difficult. Her other concern is, not only are they changing things at the last minute that none of them or their staff has had time to fully digest, but simple things. When they talk about people's responsibilities to who should be doing what within the community. The one thing she will tell them that she firmly believes is, safety issues for their children in the community needs to be everyone's number one concern. Whatever the cost of that is, the added impact of this development should not cost the existing citizens money. If they are going to need additional sidewalks and additional school bus stops, then this developer who is going to make many millions of dollars she is sure, needs to be responsible for taking care of that. It shouldn't be the John Q. Citizen who has lived here for 45 years. It should be this developer who is making money. John Q Citizen's home may have gone up in value; however, they are not intending to sell it tomorrow, so they don't have that money in their back pocket. The City Commission has been saying for many months here

that they need to raise the bar and that every developer who comes to this community needs to make a contribution to this community. So when she talks to them all about school bus stops and sidewalks on Weatherbee Road, it is because she believes if they are coming to this community and they are looking to make a buck in this community, then they need to contribute to this community as a whole. Her other concern that she has here is, they are talking about an entrance at St. James Boulevard. They have recently approved something for a completely different developer who assured them they have spoken to the County and gotten several different assurances. The next day she was at a meeting and the County was saying what, is she kidding them, there is no way they agreed to that. The developer, if they had a stack of bibles, would have sworn on it. But they didn't have anything in writing from the County. So long before she will believe that they have talked to the County and the County has said this, she wants to see something in writing. And she wants to see the elevations for what they are planning to do on St. James Boulevard. And she wants to be assured that a 24 foot entrance width is enough. She wants somebody to address the issue of finishing Gator Trace Boulevard, if The Preserve is never built. She also doesn't think it is fair, right, and reasonable to have proceeded with St. James Boulevard - although she commends them for that - to give the community something that is going to alleviate traffic problems with one hand and take away the roundabout with the other hand. The roundabout was part of the original plan that was submitted. The fact that they are making an improvement at St. James Boulevard is great; but making the improvement at the cost of taking away something else is a wash, it doesn't become an improvement. Those are the concerns she has here.

Mayor Benton said he has a question for Jack Andrews. When it comes to Gator Trace Boulevard, any extensions, he learned at a few meetings back that it is a County road. He thought it was private. But it is a County Road?

Mr. Jack Andrews, Assistant City Engineer, said yes, it is.

Mayor Benton said so any extensions and improvements that this Commission required would have to go through the County.

Mr. Andrews said right.

Mayor Benton asked this Commission could request to the County that The Preserve build that road now, right?

Mr. Andrews said right.

Mayor Benton said that is something they can do. He doesn't think they ever conditioned when that road be built. When the Commission approved it, they just told them to build it. And it appears they are dragging their feet down there, just to keep their site plan up. Maybe when they ask the County and FDOT about the signalization, they could push that issue too, right?

Commissioner Nelson said when the Mayor says to ask the County to build a road now, Gator Trace Boulevard for example, he is not sure the County would do that unless it is part of their...

Mayor Benton said no, the County will not build the road. But the County required in the agreement that the developer build the road. The County would take over ownership. But what he is saying is,

that the County and the City require the developer of The Preserve to go ahead and build that road now instead of later, if need be.

Commissioner Nelson said he is trying to look at possibly having this developer build the road. He is confident the County would appreciate that. Because they don't have to build the road right now, they are not benefitting. It has been there for "x" number of years just sitting there fallow. And if the City were to ask the Developer to coordinate with the County, and the County extract from them a willingness to build it, the Developer might do it on his own.

Mayor Benton said they have already required the Developer to build that road. All he is saying is, instead of them building it at their pleasure, that they build it now.

Commissioner Nelson asked that who build it now?

Mayor Benton said The Preserve at Gator Trace has been required by this Commission to build this road. Right?

Mr. Andrews said right.

Mayor Benton said all he is saying is, instead of them building it at their pleasure, they build it now.

Commissioner Nelson said all right.

Commissioner Alexander asked concerning the same road, Gator Trace Boulevard, is it his understanding that there is some activity going on out there in The Preserve?

Mr. David Recor, Deputy City Manager, said his understanding tonight is that the development has moved beyond just keeping the site plan alive, but actually they have applied for building permits. There is clearing activity, so he thinks development is under way.

Commissioner Alexander asked so the Commission would be right to insist it be done now?

Mayor Benton said right.

Commissioner Alexander asked maybe he should ask Mr. Schwerer?

Mayor Benton said he is trying to come up with solutions here tonight.

Commissioner Alexander asked can they rightfully ask The Preserve to build that road now?

City Attorney Schwerer said he thinks timing is an issue that the City has control over and the Commission can make that request. It is a condition of the approval for that project. So the Commission is permitted to make that request.

Commissioner Becht said that is another piece of the puzzle that he doesn't have tonight, how far along The Preserve is with that. They have a development coming up later tonight and he met with that developer today and he advised him that he is seeing bulldozers and whatnot out at The Preserve property. He doesn't know if this developer has any information on that. But they had

a chance to get a letter from The Preserve before tonight that said the plans were to have it done by such and such a time. The Commission doesn't have that letter tonight. Maybe it is not directly related to what this developer is doing, but it is certainly important to him in making a decision on when the traffic can be going up and down Gator Trace Boulevard. They heard someone from the crowd tonight say that it is 1,700 feet to connect this property down to Gator Trace, and yet it is a half a mile to get out to U.S. #1. He is appreciative that they will have another entrance into the project directly off U.S. #1. And he hopes that their traffic engineer is correct in that 95% of the traffic generated by their project uses that. He believes it is a bit optimistic, but he is hopeful. So if they had any information from the County in writing and if they had any information from The Preserve in writing, that would have helped him tonight.

Ms. O'Rourke said she just has a final comment. As far as Gator Trace Boulevard goes and the capacity of Gator Trace Boulevard and the surrounding roads, up to this point they didn't understand there would be an issue with the capacity of those internal roads with the amount of traffic they are adding with the revision to St. James Boulevard. So with or without Gator Trace Boulevard, this project stands alone.

Mayor Benton said but it is an issue with the public here. That is why he figured if it is something the City has control over...

Commissioner Becht said but Ms. O'Rourke's assumption is that 95% of the traffic generated by this project is going to go in and out St. James Boulevard. That is what she said.

Ms. O'Rourke said about 70% of the total project, 90% of Phase II, so they still have 30% going in the other southbound Gator Trace Avenue to Gator Trace Boulevard.

Commissioner Becht asked does Ms. O'Rourke have any idea what the cost is to improve Gator Trace Boulevard from their east entrance point down to its current paved status?

Ms. O'Rourke said she doesn't know. There is a standard of about \$2 million for a road mile for a two lane road. So if it is about one quarter of a mile or a little less than that, it would be \$500,000.

Commissioner Becht asked had Ms. O'Rourke projected that 10% of their traffic would impact Gator Trace Boulevard?

Ms. O'Rourke said they have 10% of the total traffic.

Commissioner Becht asked why can't the Commission ask them for a \$50,000 contribution toward that road?

Ms. O'Rourke said she thinks they can ask whatever they would like to ask.

Commissioner Becht said he doesn't know if that solves the problem, but if the math is that simple...

Ms. Tressler she has a question if they would clarify it. She believes their development now as it stands has 275 residents. And Phase I and II, she thinks, are going to have over 350 residents, she is not quite sure. She just wants to see what level of impact

of traffic they are going to have as to what they have already. And if they are going to develop Gator Trace Boulevard and St. James Boulevard. Being a Master Board member, she knows it is a County road, but they maintain that County road - they pave it out of the Master Board Association's money, they landscape it, they irrigate it, and they light it and pay for the lighting. Now is this developer going to landscape it, or are they going to come back to the residents and ask for landscaping in the beginning?

Mayor Benton said he imagines when it comes to Gator Trace Boulevard, that will be done by The Preserve. And he would expect that any improvements that are made to St. James Boulevard will be done by these folks. And that is why he had mentioned, he hopes it is similar to the entrance they have off Weatherbee Road.

Ms. Tressler said exactly, because she thinks it costs them \$20,000 for those two signs - Gator Trace Country Club - that the Master Board and the homeowners paid for.

Mayor Benton said he would expect it would be in their best interest to landscape it nicely.

Ms. Tressler said she would like to see that in writing, please.

Mayor Benton said they condition all those things at the end. But he would think it would be in the developer's best interest if they are selling these units to make it very inviting to come in, as was done right off Weatherbee Road.

Ms. Tressler said exactly, not to have a dirt road; nor to bring it back to the Master Board Association later on and say they have to landscape it and irrigate it.

Mayor Benton said it is just like with The Preserve, Dickson Drive will be improved considerably. They were told that at their last meeting.

Ms. Tressler asked is The Preserve going to use that as a secondary road, Dickson Drive, or an entrance?

Mayor Benton said he would expect a primary entrance with the improvements they are making. There is a light there, he believes.

Ms. Tressler said there is a light there.

Mayor Benton said so he thinks that will be their primary entrance.

Ms. Tressler said she just wasn't clarified about the number of residents they were having, as to all of the associations that they have now.

Mayor Benton said he is not familiar with how many they have in there now.

Ms. Tressler said she believes they now have 275 units.

Mayor Benton said they will hear from the expert. He will tell them.

Mr. Currie said there are 678 total units approved for the development. They have calculated there is currently 346 units built. So they are proposing 332 units or 331 units, depending on

if they count that extra unit. Just to talk about the School Board for a second. When they first started this project, they went and met with the School Board. As many of them are aware, the School Board asked for an extra extraction - he guesses may be a polite way of putting it - from property owners who have over 200 units. So they were required to get an agreement with them as well as the Fire District. So they have met with the School Board. At this point the School Board has not requested any kind of school bus shelter. He just wanted to clarify that. As much as it may seem, they are not doing this as a fly by night. They have proposed all these things. The questions the Commissioners raised, they thought had already been addressed. And so he guesses that is the reason that maybe it seems that way. The other thing regarding the submittal, he just wants to clarify for his own self and for staff. They called to find out when they needed to submit everything in order to make it on this agenda. They called the Planning Department. They forwarded them to the City Clerk. They called the City Clerk and they were told Wednesday. He is not placing the blame on anybody. He just wants them to know it wasn't their intention to have the Commission have a short amount of time to review it. One more thing that he wanted to say was that his client, Mr. Moscovitch, has been in this process for well over a year now. He knows timing and everything, that is something that they don't necessarily look at when they are approving. But they have dramatically changed this application from when they first submitted it. They changed Phase I from three and four stories down to two stories. Now they have added a second entrance out to U.S. #1. And for his own clarification, he is having trouble understanding how Gator Trace Boulevard is going to help Weatherbee Road. He would think in order to help Weatherbee Road, they wouldn't build Gator Trace Boulevard, that they would force all the traffic to go out St. James Boulevard, as Ms. O'Rourke is saying is going to happen right now. By building Gator Trace Boulevard, they are going to invite more trips to go down Gator Trace Boulevard and actually use Weatherbee Road. As Michael LaCoursiere said, the County really wants them to use St. James Boulevard, because they want to relieve the amount of trips that are actually down on Weatherbee Road at this time. So he is not sure he understands that completely.

Mayor Benton said he thinks he can answer that. If he lived there and he was going to go south, knowing soon there is going to be a signal at Weatherbee Road, they are going to need that signal to head south, unless they are leaving in the middle of the night some time.

Mr. Currie said he appreciates that explanation. The other thing is, The Preserve at Gator Trace, it is under construction and they have pulled building permits. They have not contacted that property owner directly. They are going by what they had spoken with City staff about. The information they have is the same information that City staff has, that The Preserve has commenced construction and they have gotten their permits. He had not personally seen any bulldozers on site, but he does know the same information City staff has stated. He just wanted to make sure the Commission understood that they are not missing things. This project has thoroughly been reviewed by Planning Department on two occasions and by the Commission now on two occasions. The site plan that was submitted to staff on Wednesday, and they saw it on Friday, has not significantly changed. The only thing that changed was the roundabout was taken away and there was a secondary entrance, which makes the plan actually better.

Commissioner Becht asked so the plans never have a sidewalk on them?

Mr. Currie said he believes if they look at the plan, there is a sidewalk going out to Gator Trace Boulevard. They never proposed a sidewalk within the right-of-way of Gator Trace Boulevard.

Commissioner Becht said he has had many conversations with Ms. Angelos and the applicant about putting the sidewalks on Gator Trace Boulevard, so they knew about it. And as he has been led to believe by City staff repeatedly, it is a requirement of City code. So he doesn't understand how here they are here tonight at the last minute...

Mr. Currie said the understanding from his end is that Gator Trace Boulevard is going to be constructed by The Preserve at Gator Trace, they are going to be responsible for putting the sidewalk in. If this developer were to put the sidewalk in today, when The Preserve goes in to build the road, they are going to tear the sidewalk up. It doesn't make sense to do it temporarily.

Commissioner Becht said if they put it in.

Mr. Currie said the way land prices are today and the density that piece is approved at, it is a gold mine for a developer. It just takes the right person. That piece is going to get developed.

Commissioner Becht asked then why don't they ask his client to put up the full bond for it? Since it is a guarantee, he could put the bond up for the full thing, and he will get his money back when The Preserve puts it in. Now, wouldn't that be great?

Mr. Currie said it would be, assuming that The Preserve is going to do something in the next year or so, because Mr. Moscovitch is planning on going in and getting out. If he can put the shoe on the other foot and say, what if the City had to put their money up and they had someone that... Again, all the real estate markets say that piece is going to be developed; but if it is going to be developed this year or next year, he is not sure.

Commissioner Becht said he knows. But when Mr. Currie tells him he can rely on it, he is going to put it right back at him and say, put the bond up since it is so reliable; and they are not going to do that, because it is not reliable.

Commissioner Nelson said he thinks they can talk this issue for the rest of the night. It is quite clear that there is some unresolved issues here. He is in favor of sort of cutting the Public Hearing off, if there is nobody with any real burning desire to go further; and the Commission make a decision relative to what they want these people to do. He would want to have them go back and check with the various entities involved, and come up with a better agreement as to what they want to do. The obvious ones are sidewalks and who is going to do the road. It is quite clear to him that they need to address it. And staff must be given time to coordinate and guide and to assist the developer in what they want done.

Mr. Michael Mett said he lives at Gator Trace and has attended all of the Public Hearings on Phase I and on Phase II. This is the first time where there has been no extension of Gator Trace road, so there has been a change. What was just said, he knows the gentleman didn't intend to say that, but that is not accurate.

Mr. Lennon said he heard Mr. Mett at three different meetings say the same thing. Would somebody please clarify to Mr. Mett that it was not omitted from the bargaining, that the road is supposed to be done by The Preserve. It was not ignored in the discussions. That is already cut and dried, as far as he is concerned. He has in front of him a plan showing Gator Trace road being extended from where it is now to The Preserve. So they can leave that subject alone as far as sidewalks or anything, the developer that does that is going to have to do that road. It has nothing to do with what they are talking about here. Mr. Mett keeps saying, when it is built. They keep saying, nobody understands that. It has already been approved. The Commission has approved it. Is he correct? Does everybody understand that?

Mayor Benton said he is correct.

Mr. Lennon said okay, then that has been done. Let's go on from there. Go back and negotiate over this road? He is not going to do that, because that road is already cut and dried. So whatever negotiations they have to do, certainly isn't anything about Gator Trace Boulevard.

Mayor Benton said that is why he said that negotiation can be done by the City Commission, because they have that condition from another developer.

Mr. Roy Whitehead, 4027 Gator Trace Road, said he knows they are probably sick and tired of hearing from him on this issue, but Weatherbee Road is a very dangerous situation. They already had one child killed out there. Driving that road in the morning on a rainy morning, these kids are walking to school on the edge of the pavement to try to stay dry. On more than one occasion he has had to stop when meeting another motorist to avoid hitting a child. They seem to be not spending much time addressing this issue. He thinks it is one of the most dangerous situations they have out there. Thanks to Commissioner Coke for bringing that up. He just thinks they need to give this really serious consideration.

Mayor Benton said they have hammered the County because that is a County road. The Commission denied development to the south side for that same reason, because they are not willing to make these improvements. The only improvement they seem to be able to get out of the County is improvements at U.S. #1 and Weatherbee Road. Unfortunately, there needs to be a lot of work done.

Mr. Whitehead said he understands that, and he understands it is a County road and it is maybe beyond the City's control. But dumping all this traffic on to it, they are raising that danger level again; and he doesn't know what they are willing to accept, 5% increased danger, 20%, 50%, he doesn't know, but it is an issue.

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

Mayor Benton asked what are they going to do?

Commissioner Becht asked does staff have a recommendation?

Ms. Angelos asked can she verify something for the record? The homeowners and her client met without her. She wasn't aware of the roundabout being dropped and neither was staff. That is one thing that staff was not aware of until the plans were submitted, and she

wasn't aware of it frankly until today. So she just wanted to clarify that.

Mr. Leiva said prior to setting forth a recommendation from staff, he just wants to answer the question on sidewalks. In Chapter 22 of the City's Code of Ordinances, specifically Section 22-62, Sidewalks, it says: No building permit shall be issued for any new construction and additions or alterations costing in excess of \$15,000 upon any parcel of land in the City abutting a public right-of-way used for a commercial use, triplex, quadraplex, multi-family housing development or public use, unless the proposed plans show the proposed location of sidewalks and said sidewalks are to be constructed in accordance with City specifications.

Commissioner Alexander said he is concerned with Gator Trace Boulevard. He heard at the last meeting that there were 200 feet between the residents. Where did that 200 feet come from? He knows part of it is the County road, but where does the 200 feet buffer come in between, where did that come from?

Mr. Recor said that was a calculation that the developer introduced into the evidence to show, between the requirements of the back yard, the separation of the right-of-way. When they combined all of those distances, the cumulative distance was going to be in effect of 200 feet.

Commissioner Alexander asked is he saying the developer gave up some of that footage?

Mr. Recor said no, he is not saying that.

Commissioner Alexander asked where does it come from? Was it just there, the 200 foot buffer?

Mayor Benton said he thinks there is a utility easement there.

Mr. Currie said just for clarification, the original plan that went before Planning did not show 200 feet. They did revise it. So the 200 feet is, as Mr. Recor stated, a combination of a public right-of-way of 100 feet, of the 10 foot rear setback that the Gator Trace Villas have - or 15 feet if Mr. Cawthorne says so - and a 25 foot buffer that the developer is proposing, and then the remainder of that is actual setback from the edge of the buffer to the edge of their building. It will be driveway, it will be additional landscaping, it would be the side yard of the building. So it is an accumulation of the entire area. From the edge of the building to the edge of the building is 200 feet. It is comprised of many things.

Commissioner Alexander said he was just inquisitive about it.

Mayor Benton asked is there a staff recommendation?

Mr. Leiva said the recommendation is that, should the applicant wish to move forward with this application, staff would like to perhaps set a meeting with the applicant, go over some of the revised sheets that have been turned in to the City. And perhaps somehow, personally he is going to have to make some sense of all these different revised sheets. And probably at this point, they are going to have to conduct a comprehensive review of the plans. And they will be happy to come back to the Commission with a specific review and recommendation at that point. There is no

further recommendations other than just continuing to work with the applicant.

Mayor Benton asked would Mr. Leiva's recommendation be to postpone this possibly until the next meeting?

Mr. Leiva said they will find that he doesn't like to come up with specific dates. If the applicant is ready to move for the next meeting, he would be happy to do that. He just doesn't know if policy will facilitate that.

Mr. Recor said he thinks experience suggests that they can't turn things around in two weeks. They may be able to have the follow up discussion in two weeks. But if they put it on the very next agenda, they will end up with the very same situation that they are in tonight, in that they won't have had opportunity to go back and determine whether the applicant responded effectively to the comments. So he doesn't know that December 5th works in this instance.

Commissioner Becht said as staff reviews this, although there may have sounded like there was some hostility tonight, he is very appreciative for the bending and the flexibility the applicant has shown to date. He is troubled tonight because he got hit with for the first time the elimination of the roundabout, which was one of the things he found attractive about it, particularly with the golf course crossings and the fact that the sidewalks never got put in. He appreciates that The Preserve may or may not do this; but until he can get a handle on that, that's bothering him. He didn't have a chance before tonight to deal with all the ramifications of them putting a western entrance in. The developer has been dealing with this for months, so maybe they understood that immediately; but tonight that catches him somewhat by surprise, so he didn't have a chance to wrap his mind around it. He would like for staff to understand the context of this, that this developer has consistently made a better product as he has gone along. The issues concerning the paving of Gator Trace Boulevard, he heard tonight with interest that there might be some logic to the St. James Boulevard improvement, because that is going to divert some traffic out that entrance. He doesn't know that it is as high as the numbers they were given, but it is going to divert a significant amount out that way. So if they would understand this is a developer who has worked with the City in a positive way, he would ask that they try to keep that in mind as staff works with him.

Commissioner Coke said first of all she wants to tell the developer that although they are up here arguing with them, they appreciate the efforts they are making. They do understand that the developer has the right to develop this property. However, she is hoping in the next two to four weeks, however long it is that they are meeting with staff, that maybe they can accomplish two more things. Number one, they can get one clear, concise, up-to-date packet, so when they open it up, they are not flipping through 15 different revisions and she knows exactly what she is looking for. Number two, that they could also include in this package some elevations for the St. James Boulevard entrance, because she thinks that is going to be instrumental to this project.

Commissioner Alexander said staff should have ample time to get a response back from The Preserve about what they are going to do about that road.

Commissioner Becht said and when.

Mayor Benton said he thinks in the packet they should have a letter from the County. He would like to have an idea of when they are looking at signalization on Weatherbee Road. If it means they need to start a letter writing campaign right now and put the pressure on with FDOT. And maybe, through their engineering staff, explain how many units they are looking at and how much the traffic numbers are going to go up. Also try to get some type of agreement from The Preserve of when they can look at construction of the extension of Gator Trace Boulevard.

Mr. Recor said they will bring the parties together.

Mayor Benton said he thinks the majority of the concerns have been dealt with. Traffic is their big concern. Legally there is nothing they can do about the elevations on some of these homes and the heights, unfortunately. But the developer has that ability, it is a Planned Unit Development, the density was agreed upon 20 years ago. But they can deal with the traffic issues.

Commissioner Alexander said they need to make sure they have the Fire District as well as the School Board on board with this too. They have ample time.

Commissioner Nelson said first he would like to determine whether or not it is amenable to the developer and staff for a December 5th or a December 19th postponement to hear this case. Is December 19th all right? No one opposes December 19th?

Motion was made by Commissioner Nelson, seconded by Commissioner Coke, that action on the Site Plans for Gator Trace Phase I and Phase II be deferred until the City Commission meeting on December 19, 2005; that staff work with the Developer and Homeowners Associations to insure coordination with the Fire District, School Board, and St. Lucie County on relative issues; and that specifically roads - to include both St. James Boulevard and Gator Trace Boulevard - be addressed, that entrances be addressed, that the roundabout be addressed, sidewalks be addressed, and various elevations relative thereto be presented.

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

Mayor Benton said he wants to thank everybody for coming out again, and hopefully they are going to see a better project by doing this.

The next item on the Agenda was Applications for Conditional Use & Site Plan Review submitted by Dickson Commerce Center LLC for an office and warehouse business complex at 3510 South U.S. #1; said property zoned C-3, General Commercial Zone. (PUBLIC HEARING held on November 7th. Action on Applications Postponed to November 21st.)

Mr. Brian Horowitz said he is the Developer for Dickson Commerce Center. From the last meeting there were a few questions or concerns brought up by the Commission. He addressed that in a letter to the Commission on November 17th. And also he had met with staff and reviewed those comments and satisfied them with that. Also he had spoken to a few of the Commissioners this past week as well. He brought his architect and engineer with him. If

there are any further things that need clarification besides in the letter, feel free to ask. There is only one thing he did leave out of the letter. In Paragraph 3, on Dickson Drive they had only one entrance originally. The engineer prior determined the one as the only one needed. In reviewing the plans, they decided to add a secondary entrance further down. And that shows on the revised plan that they had given staff and reviewed with a few of the Commissioners. They intend to do that as they phase down in the project to get to it.

Mayor Benton said he thanks Mr. Horowitz; and just for the record, he would like to acknowledge that he did meet with Mr. Horowitz in the last week or two, since their last meeting.

Commissioner Becht said him too.

Commissioner Coke said she spoke with Mr. Horowitz on the phone. She would like to commend him on these efforts. It is wonderful to see somebody come back, having taken notes and doing everything they want. She appreciates it.

Commissioner Nelson said he thinks he met with Mr. Horowitz too.

Commissioner Alexander asked did he hear him say there will be a second entrance?

Mayor Benton said right.

Commissioner Alexander asked where, south on U.S. #1?

Mayor Benton said on the eastern side of the parking lot.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve the Conditional Use & Site Plan submitted by Dickson Commerce Center LLC for an office and warehouse business complex at 3510 South U.S. #1, conditioned upon attaching the letter from Mr. Horowitz dated November 17, 2005 as part of the public record, and to include the secondary entrance.

Commissioner Coke said she would like to thank him especially for the \$7,500 toward playground equipment for the City. They appreciate that.

Commissioner Becht said the Commission had asked if 60 feet is sufficient for everything that is supposed to be designed where Dickson Drive intersects U.S. #1. He is not an engineer. They are going to have to get an inbound lane and outbound lane and a turn lane in 60 feet. Can they do that?

Mr. Jack Andrews, Deputy City Engineer, said yes. That is sufficient to get the turn lanes in there.

Commissioner Becht said excellent.

City Attorney Schwerer said just for the record, the letter being referred to is dated November 17, 2005 and is addressed to the City Clerk and is part of the Agenda package. It outlines a number of conditions for the approval.

City Clerk Steele said they have to realize, he explained that the November 17th letter does not have the second entrance. So does the motion also include the second entrance?

City Attorney Schwerer said correct, add that to the motion as well.

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 Application for a **Site Plan Review** submitted by Mitch Gevinson, Terri Gevinson, & Jeffery Papell for a 167-townhome project to be known as **Sunrise Lakes**, generally located on the northwest corner of Dade Road and Sunrise Boulevard; said property zoned R-4, Medium Density Residential Zone. (PUBLIC HEARING held on September 6th. Motion to postpone action to October 17th. Request by Applicant to postpone to November 7th. Motion to postpone to November 21st.)

City Clerk Steele said this item is a Site Plan for Sunrise Lakes. The Public Hearing was actually held on September 6th and there was a motion to postpone this action on several occasions. They received a letter from Cynthia Angelos requesting an additional postponement to December 5th.

Ms. Cynthia Angelos said they have met with the Homeowner's Association with the assistance of Mr. Recor and Mr. Leiva, and it was very helpful and beneficial. They have some issues. They have a meeting planned again on November 30th. She may have to continue it again past December 5th if her client lets her; but she wants to come in front of this Commission with all their ducks in a row, so that is the reason for the request. She needs to get with staff again and the homeowners, as well as check some things with the County.

Mayor Benton asked are there any interested parties here that wish to make any comments? (No one responded.)

Motion was made by Commissioner Becht, seconded by Commissioner Coke, to postpone action on the Application for Site Plan Review submitted by Mitch Gevinson, Terri Gevinson, & Jeffery Papell for Sunrise Lakes to the December 5th City Commission meeting.

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. Elie Boudreaux, **Fort Pierce Utilities Authority**, request approval of Resolution No. U.A. 2005-13, Amending the Fiscal Year 2006 Capital Budget.

Mr. Frank Varella, FPUA Director of Corporate Services, said he is here to ask the Commission to approve Resolution No. U.A. 2005-13 increasing the U.A.'s Capital Budget for Fiscal Year 2006 by \$3,635,000 to a total of \$34,353,738. The reason that they need this increase is a result of Hurricane Wilma which landed October 19th and left on October 21st.

Mayor Benton asked will this help fix those streetlights?

Mr. Varella said yes. But they will bill the City for streetlights.

Commissioner Alexander asked that does not come within this \$3 million he requested?

Mr. Varella said no, the streetlights are owned by the City; therefore, the U.A. has to fix the City streetlights.

Commissioner Alexander said maybe he misunderstood what he was asking for tonight. Would he repeat that?

Mr. Varella said this \$3.6 million is to increase the U.A.'s Capital Budget so that they can make repairs to the Utilities Authority's system.

Commissioner Coke asked if they approve this, would that encourage the FPUA to go fix the City's lights sooner? Or if they say, come back and ask them again after all their streetlights are fixed...?

Mr. Varella said they will fix their streetlights.

Commissioner Coke asked when?

Mr. Varella said as soon as he gets in tomorrow he will let everybody know the Commission is very...

Commissioner Coke said because otherwise, her inclination might be to say why doesn't he come back and ask for this after the lights are on, because they don't like to do things in the dark.

Mr. Varella said he understands that. They know the Utilities Authority works diligently to get everything up in order.

Commissioner Coke said yes. She really wants to compliment them on their excellent response time after the last hurricane.

Mr. Varella said but he will pass on the streetlight issue. The U.A. does have crews working at night fixing streetlights. They may need to add more crews.

Motion was made by Commissioner Becht, seconded by Commissioner Coke, to approve Resolution No. U.A. 2005-13.

Commissioner Alexander said obviously they are working in sections outside of where he sees going on there.

Mr. Varella said they may have limited crews working. They may need to get some more crews in to fix it like they did the other issue. Last year they had the other issue, but there has just been streetlights damaged.

Commissioner Alexander said they are having serious crime. And when they go to a crime ridden corner and they see dark, he sees kids standing over there at one building - 10 or 20 kids - and it is pitch dark there and they are leaning up against the wall. Because of all the crime, he doesn't want to hear any excuses.

Commissioner Nelson said let him echo what Commissioner Alexander is saying, particularly on 15th Street and 17th Street and 18th Street and Avenue D, and to some extent going all the way up to the Police Substation. A considerable number of lights are out in those areas to include both the decorative lights as well as the normal streetlights they have. Those should be fixed ASAP.

Commissioner Coke said as long as they are getting into particular areas, she will point out to Mr. Varella that the J.C. Penney parking lot, there are no lights back there.

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

Mayor Benton said if Mr. Varella will pass the word, thanks for getting the lights back on in the City after the storm. The U.A. did an excellent job. They are very proud. Three days. He talked to somebody today from Fort Lauderdale and it was three weeks for them.

The next item on the Agenda was Ms. Linda Hudson Bailey, representing Downtown Farmers Market of Fort Pierce, Inc., request Public Funds for Advertising Costs.

City Clerk Cassandra Steele said she will point out that this is one of the first applications under their new policy on public funds. They will see that they filled it out and attached the paperwork that was required. However, they are requesting \$4,000 and the City's policy is \$1,000, so the Commission will have to make a decision on that.

Ms. Linda Hudson Bailey said the Farmers Market is now a year round operation and that is the reason for the requested increase.

Commissioner Coke said this group comes to them once a year, where they have other groups who come to the Commission for \$1,000 now and then in six weeks and then six weeks after that. Her question is, when they adopted this new policy regarding the limit per request, did they adopt the policy that would limit the number of times any one group could come and request funding?

City Clerk Steele said no. On the application they will find a place where it asks about Other Requests or Sources of Funds. It says: Have grants/funds been requested or received from any other source?

Commissioner Coke said she thinks what the Commission is telling them here is that they have a policy that they can only give them \$1,000; however, they can't stop them from applying again quarterly. If they apply quarterly and the City has the funds available, they would be happy approve that.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve the Application for Public Funds submitted by Downtown Farmers Market of Fort Pierce for \$1,000 for advertising costs.

Commissioner Alexander said he just wanted to let her know he is in support of this. But doesn't this group have the benefit of all the City advertisement they have on T.V. and everything else? Don't they have the benefit of free advertisement on there, or does it cost them for that too?

Mayor Benton said he thinks they are included.

Commissioner Alexander asked but they don't have to pay for that?

Ms. Bailey said no, not to her knowledge.

Mayor Benton asked is this for entertainment, right?

Ms. Bailey said no, the \$4,000 they are asking from the County is for entertainment. This is for advertising.

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

Commissioner Nelson said he would like to recognize one of their former Commissioners in the audience on this issue, looking pretty as usual, Mary Ann Bryan.

The next item on the Agenda was Ms. Cecelia DeFilippis, representing Hibiscus Park Homeowners Association, request Public Funds for Winter Jazz Festival to be held at Glidden Park on February 25, 2006.

Ms. Cecelia DeFilippis said she just heard about the new rule, so she will reduce their request to \$1,000. Most of them are familiar with the success they have had with Hibiscus Park Homeowner's Association. They like to think of themselves as a role model and have continued to work toward doing fund raisers. This is a fund raiser they are very proud of. Not only is it going to be their first annual Winter Jazz Festival, and they are working with Darryl Bey and the Jazz Society for that, but it coincides with the last day of Jazz Week, so they are going to make that their last event for the week at the park. However, they have no advertising dollars left either to include them in their already set advertising. So they would like to make sure they get as many people out to that, outside of the community. The dollars will be going toward their National Night Out event held later in the year. They are also showcasing their 60th anniversary. So it is going to be a combination event. She hopes they all come out.

Motion was made by Commissioner Becht, seconded by Commissioner Alexander, to approve the Application for Public Funds submitted for Hibiscus Park Homeowners Association for \$1,000 for advertising costs for Winter Jazz Festival to be held at Glidden Park on February 25, 2006.

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 Request by Latecia Robinson for waiver of \$6,151.44 in interest, penalties, and fees against 436 & 438 Douglas Court, upon payment of Lot Clearing and Demolition Liens in the amount of \$15,428.35.

Mr. Stanley Robinson said all he is simply asking for on this is to get the Commission to consider this request they are making. They are trying to do some good in that area over there as far as trying to restructure some low income homes for people who are not fortunate. They have been working on this project for about two years trying to do a quiet title suit on it. They have been back and forth with this. He has been here before...

Commissioner Nelson asked is the amount to approve that they can waive, is that the maximum amount?

City Clerk Steele said yes.

Commissioner Alexander said he would approve the waiver of \$6,151.44, the rest to be paid in 90 days.

Commissioner Nelson said that implies that within 90 days the petitioner is going to have to come up with \$15,428.35. Is he

prepared to do that? He asked the question before, is the maximum amount they can waive as so indicated in their documentation of \$6,151.44?

City Attorney Schwerer said the answer to that question is yes.

Commissioner Nelson asked is Mr. Robinson prepared to come up with \$15,428.35 in 90 days or so?

Mr. Robinson said no, they are not prepared to pay the \$15,400 in the demolition liens within 90 days. The thing they had in mind is to try to formulate some type of plan. Hopefully they were going to try to direct them so far as to trying to build something and put a house there within two years. He is thinking if they could like another request in a sense as far as using that as have it going toward impact fees or something. To say to have this be paid within 90 days, \$15,400. They have to keep in mind, this is a lot that is 28 feet by 119 feet.

Commissioner Alexander asked did he understand that they made this request before?

Mr. Robinson said they had done it once before.

Commissioner Alexander said this request here states that they will be willing to pay that amount of \$6,151.44. Did they make this request?

Mr. Robinson said they did make that request. But as far as paying the \$15,000 within 90 days...

Commissioner Nelson said that is the reason he asked the question. The Commission is permitted by law to only waive certain monies. Other monies that have been dispensed from the City coffers they must collect, they can't waive. That is why he kept pressing him on, can he come up with \$15,000 or so within 90 days? If not, what they will do, possibly they can extend this to six months; and see what he can do and he can come back and tell the Commission how he has progressed on this. There are certain things they can't waive.

Mr. Robinson said he understands that. They have their policies and regulations.

Commissioner Alexander said he will make the motion for six months.

Motion was made by Commissioner Alexander, seconded by Commissioner Nelson, to approve waiver of \$6,151.44 in interest, penalties, and fees against 436 & 438 Douglas Court, upon payment of Lot Clearing and Demolition Liens in the amount of \$15,428.35 in six months.

Mr. Robinson asked can he ask for a year?

Commissioner Coke said she sees the size of this lot is 28 feet by 119 feet. Can he tell her what was on it previously that they demolished?

Mr. Robinson said it was one of those shack homes, a historic building. There were actually two homes there. It was sticks.

Commissioner Coke said her second question goes to staff. Is there anything that can be built on a 28 foot by 119 foot lot?

Commissioner Nelson said there are two lots.

Commissioner Coke asked he is telling her it is two lots? So it is actually 56 feet by 119 feet. There are two lots that are that size. She understands now.

Mayor Benton asked can he pay this in six months?

Commissioner Nelson said he thinks it would be appropriate that he works hard at trying to get the \$15,000 in six months. And if he can't do that, before the expiration of six months, come in and tell staff and petition the Commission again. Because, as he indicated, their hands are tied with what they can do.

Mr. Robinson said he understands that.

Commissioner Becht said so there is no misunderstanding, if he doesn't come in at six months and show the Commission that he has done something actively to try to develop it, then the whole purpose behind waiving the penalty is lost. The idea behind waiving the penalty is to give him the inducement to do something with it now, not two years, but now. For his edification, the City right now doesn't have any impact fees that they could waive, so they couldn't do that for him even if they wanted to. But this isn't the right forum to be negotiating that issue anyway. So he would not be in favor of doing anything beyond the six months tonight. If he is going to come back in six months and ask for an extension, as far as he is concerned, please be prepared to demonstrate that he is trying to do something with that property to eliminate the blight that is in that neighborhood.

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

The next item on the Agenda is Discussion on Construction Standards for building east of **Coastal Construction Control Line**.

Mr. Paul Williams, Urban Forester, said tonight's discussion on this particular item comes from a memorandum the City Manager sent to the City Engineer on September 22nd concerning the construction standards for Coastal Construction Control Line (CCCL). He was given that assignment to look into that and has found it to be a very interesting subject. He has contacted State, County, City, also private citizens on this particular matter. He knows in Mr. Beach's memorandum it states that research be done to determine what type of regulations exist that may be appropriate for the Fort Pierce area. The Coastal Construction Control Line is controlled by the State. Most recently in 1987 that line was re-established. He attended a meeting at St. Lucie County with private condominium owners and the County staff, along with Mr. Wazny, Assistant County Administrator, and a gentleman by the name of Mark Tayton who is the Engineer for the Office of Beaches and Wetland Resources, whose specific area currently goes from Miami to the Space Coast. It is unbelievable what this one person deals with, all the permits throughout that entire area, and he deals with all the municipalities and the counties up and down that area. The bottom line here is that the CCCL is not a line where they cannot build, but they can build if certain criteria is met. Each county or city has the ability through its Planning Department and Building Department to specify regulations that would take place. Let him bring the Commission back to the memorandum that was written to the City Manager from the City Engineer, basically describing the

information they came up with. Throughout that memorandum, they will see that he met with the County and Mr. Tayton. And the State looks at the CCCL, not as one of construction prohibition, but one of construction requirements. The way the County does it is, if they can get a permit from the State, then the County will look at possible development and it will go through staff regulations. When he asked the State representative how they came up with their particular method of operation, basically it was all mathematics. It boils down to a 100 year storm and a giant wave and a certain height that the bottom beam of a living floor would have to be built. So the State is concerned with that specific item. What happens beyond that height is the building that would be built, and the county or the state regulations take care of that. So in talking with the City Engineer, they felt that the City Planning Director and the City Building Director would be the best, along with the City Engineer, to come up with any regulations up and beyond what the City already has, to intensify that. So currently, in his opinion with what he found, they cannot prohibit someone from developing east of the CCCL, especially if the State grants a permit. What they are finding is the variance permitting with the State is so loose right now that usually they can get that variance and then it bounces back into the City's ball park. He did contact Indian River County and the gentleman there was quite forward with him and told him that they are all dealing with the same issue here. As they will see in their packet, there is an editorial on rules on coastal setbacks need updating and enforcement. If he has the Mayor's permission, he would like to read that for the record:

Editorial: Rules on coastal setbacks need updating, enforcement

August 17, 2005

A home on one of Florida's beaches is a dream for many people, but it could become a nightmare because Florida's coastal setback limits are either being ignored or rendered useless by beach erosion.

The Florida Department of Environmental Protection has recommended that the coastal setback line, which varies from place to place, be re-evaluated and re-established.

What is a coastal setback limit? It is a line normally drawn landward of the dunes beyond which nothing may be constructed toward the water. The intent is to prevent breakdown of dunes, which protects land from heavy waves and slows beach erosion.

Construction on the sea side of the line requires a state variance. Unfortunately, the State has issued such variances freely, if property owners agree to build edifices strong enough to handle tidal forces.

Sturdy buildings are not immune from heavy damage, as many residents learned to their dismay last year. Experience also has shown that some structures, particularly sea walls, actually contribute to beach erosion.

The DEP recommendation was made after a study of beach erosion and structural damage caused by Hurricane Dennis in the Florida panhandle, but it could apply to any coastal area of the State. While the emphasis was on damage from hurricanes, normal erosion has also affected coastal setback lines by wearing away beaches.

Examples of the problem may be seen along the Treasure Coast. At the Sebastian, Fort Pierce and St. Lucie inlets, sand builds up on the northern sides, and erodes on the southern edges. Normal tidal erosion has also eaten away beaches right up to some structures. In all cases, the old coastal construction setback line now lies either very close to the beach or somewhere offshore.

The restudy called for by the DEP is needed, and a new line needs to be drawn to protect future builders, as well as the dunes and beachfront. Structures already seaward of the new line would be grandfathered in, and could continue to be used until the water either knocks them down or undermines them, after which they would not be rebuilt.

The Legislature ought to mandate and fund a study of coastal setbacks on a county-by-county basis. It also ought to provide additional funds for the repair of dunes and beaches to protect inland areas.

Mr. Williams said the Commission knows what they are facing here. Every northeaster or every hurricane, it just eats away at it. Mr. Alcorn has also provided information that is part of this packet that shows detailed information back from the State. And as he read it, it was very state written, it didn't answer the exact question. So on that point he is here to answer any questions. But he does feel that their Department Heads could get together and come up with additional ordinance requirements that could meet their needs.

Commissioner Alexander said just one question that comes to mind since they were talking about all the beach erosion. What if they had a fire in one of those structures? Would they be able to rebuild?

Mr. Williams said from what he understands talking with Mr. Alcorn and the other Building Officials, because when he called the different cities and counties, he usually ended up with the Building Department or with the Planning Department. If less than 50% of the building is damaged, they are able to get the variance to rebuild. If it is over 50%, they have to fall back to the most stringent code, which he believes now is the 2004 Building Code which went into effect October 1st.

City Manager Beach said the answer is yes, they can rebuild.

Commissioner Becht said he would like to thank staff for picking the ball up and running with it. He did get a chance to read through what he presumes is the Indian River County ordinance that Mr. Williams got and he noted with interest that their code has already been upgraded. He doesn't know if they all had a chance to read through it or not. It was very detailed. Unfortunately for Fort Pierce, they can't just take it and fold it in, because it makes reference to a turtle ordinance and also a tree protection ordinance. He doesn't think Fort Pierce has either of them.

Mayor Benton said yes, they do. They have a turtle lighting ordinance.

Commissioner Becht said it was not his goal, and he needs to state this on the record, to absolutely prohibit development over there. But it was his goal that the City does have the ability to place additional conditions on construction eastward of the coastal

construction control line. Indian River County, and he doesn't know if anybody understood this, adopted their own county line so that the State can't come play with it, so they have their own line. And then they also make reference to the CCCL that the State sets. It would be his desire that somehow they get staff or get their consultant to come back with a draft ordinance on this as soon as possible before.

City Manager Beach asked does the ordinance, the conditions that are placed on development east of that line in Indian River County, does that address the concerns that all of the Commissioners have expressed about this? Because if it does, they will plagiarize that to the point that...

Commissioner Becht said he would see that as a great starting point. There are some additional concerns that they raised that he did not see. He tried to read it twice, but he was tired both times he read it. It doesn't address the site easements that they were talking about.

City Manager Beach asked it does not?

Commissioner Becht said he couldn't find it in there. But it may be hidden there somewhere and he missed it. And he didn't see anything about hurricane shutters either. Again, it may have been hidden in there. He doesn't think it is in there.

Mr. Williams said that will fall right back into their building codes. The 2004 building codes are the most stringent.

Commissioner Becht asked does the Building Code require hurricane shutters as part of the Coastal Construction Control Line?

Commissioner Nelson said yes; not only those, but inland too.

Commissioner Becht said great. He thinks the City has all the justification in the world to tighten this up to a reasonable degree. What he is saying is he thinks Indian River County is a great starting point. He would like to see if Fort Pierce can put in the site easements they were thinking about.

City Manager Beach said if there is a nod from the Commission, staff will take that as direction and move it forward.

Commissioner Alexander said he just wanted to ask Commissioner Becht, was his question answered about, did the City have the ability of putting more stringent...?

Commissioner Becht said he kind of answered it himself, because he knows the City can. There is a rational safety issue here.

Mayor Benton said as long as it is implemented in their Comprehensive Plan.

Commissioner Becht said so they are there. He does believe, or rather he hopes, that the State will deal with the issue on their own; but the State is not moving as fast as the City needs them to. The City can get this done hopefully faster than the State can, and then the City is ahead of the game. Indian River County already has it. Plagiarize it and bring it back.

Mayor Benton said it is scary with the philosophy of the State and the Federal Government now. When they talk to the Army Corps of Engineers, years ago they weren't wild about putting sand back on the beach. Now they think it is a great move because of all the high-priced beachfront development out there. He has never seen such a turn in philosophy as he heard this year when they were having that little presentation out on the beach and when they were putting sand back. He couldn't believe what he heard, especially after just seeing two hurricanes. When they present this, if Mr. Williams can get some pictures from St. Lucie County or Martin County, because the pictures he took of some of those condominiums down there around the County line didn't come out. Basically, they had sand washed out from way up underneath and one of them had a pool collapse. They got bulldozers down there and put sand on the beach long before they had any permits to do it. Because he thinks if the public saw what happened down there, no one would be living out there in those buildings.

Mr. Williams said yes, definitely. Mr. Tayton, who he did meet, is a very nice gentleman; and with proper notification, can meet staff or come to this Commission at any time to give the State's detailed analysis of this. Mr. Tayton did advise him that they are trying to replace the person who did leave. Basically his area covers south of Fort Pierce from Martin County down, and that the person who would cover from Fort Pierce up is not there, they are having difficulty replacing him. But Mr. Tayton is a resident of this County and has lived here for many years. Some of them might know him.

Mayor Benton asked he used to work for the County, right?

Mr. Williams said correct. So he would be available also. Yes, he will provide the pictures.

Commissioner Becht said there was one other point they discussed and he doesn't know how to get there. He doesn't know if they all know what an MSBU (Municipal Services Benefit Unit) is. It is a taxing district. Most of those he has seen are voluntary. And he doesn't think they can do it voluntarily on the beach. But the idea that he had was, as they permit a structure, as a condition of permitting the structure, they would have them voluntarily agree to be part of a MSBU that would tax them for purposes of beach nourishment. They are the ones who are building over there. He doesn't know if they can do it or not; but if they don't try, they never can.

Mayor Benton said if the idea was to stop growth east of that line just like that.

Commissioner Becht said that is not the goal. The goal is different than that. If there is some way that the City could have the County impose an extra tax on them. He doesn't know if they can do it through impact fees or not for beach renourishment. He doesn't know if that is a capital improvement or not.

City Manager Beach said there is actually an Erosion Control District in place in St. Lucie County. The amount of money that it generates is fairly meaningless. But it is in place for that very purpose, beach renourishment.

Commissioner Becht asked does anybody know the geographic limits of the district?

City Manager Beach said he does not.

Commissioner Coke said however, just so the Commission is aware of it, she has been working with some of the people over on South Beach and they have been researching some laws throughout the State. And she was going to, when they get it finalized hopefully in the next month or so, bring it back before this Commission with a proposal to require people who build on the beach to maintain it. And what they want to do is develop a set of regulations for vegetation of the dunes and the maintenance of the dunes. They can incorporate some of that into this. She was very pleased with this. She wants to thank Mr. Alcorn and Mr. Williams both, because she has been looking forward to this. They did a very thorough job and it is wonderful. She thinks as quickly as they can move forward, the better off they are.

Commissioner Becht said right.

The next item on the Agenda was Discussion on proposed ordinance providing limitations on **outside storage** in Marine Industrial Zone.

City Attorney Schwerer said the subject ordinance is a draft which is before them for discussion purposes only. It was brought to his attention by staff, primarily Code Enforcement staff, that there have been issues in the Marine Industrial Zone which comprises primarily their Port area, as to the stacking of certain types of materials outdoors - including products, inventory, containers, and equipment - and that they were attempting to enforce a height limit on the stacking of such materials outside a building to 15 feet. Under some sections of their fencing code, it appears to limit the height that materials can be stacked or kept outdoors in various different zoning districts. Due to their strict reading of the ordinance, it appears while it is sustainable to attempt to limit the height of these types of materials by use of that code provision, they advised staff that it would probably be best to make a very specific clarification of the code to include all of the types of things that one would want to prohibit from being stacked outside. So this is the net result of that discussion. What he wants to make sure is that the Commission understands if they do this, it is going to prohibit the outside storage of goods, products, inventory, materials, containers, equipment or any other object. And only then when it is behind a screened enclosure. This is basically parroting the fence code and the outside storage which is mentioned in the fencing code. But he wants to be absolutely clear that it is adding words in here that makes it applicable to inventory, containers. For instance, they are talking specifically storage containers here. And equipment, meaning anything that can be utilized in connection with the business. So if it is the Commission's desire that this is the type of regulation they want in the Marine Industrial Zone, then it be scheduled for public hearings and have public input. He thinks this might have to go to the Planning Board, he will have to check on that. It is very borderline as to whether it is a zoning application or if it is a restriction from a different area of the Code. That is it from his office. There is Staff from the Planning Department that can answer questions concerning this proposal.

Commissioner Alexander asked is Mr. Schwerer saying it will allow 15 feet of fence in height? Whereas no other City residents or businesses can have that type of...

City Attorney Schwerer said the current code allows in that type of zone a site-obscuring fence of that height, if he is not mistaken.

Commissioner Alexander asked they are speaking about the Port area, right?

City Attorney Schwerer said yes.

Commissioner Alexander said they really don't have a port there. Is he telling him they are allowed to have outside storage and the citizens of this community cannot? They can have 15-foot fences?

City Attorney Schwerer said let him clarify. The current height of fences in industrial, light industrial, and heavy commercial areas can approach 15 feet in height, depending on the zoning district. They can't have that for general commercial zone. They definitely cannot have that in a residential zone, there is no way they can have a 15 foot fence. They are not talking about allowing the storage of junk and debris here, so that is not what they are allowing in that zone. Quite frankly, the current code reads that they cannot store materials or objects outside in a marine industrial zone or even in an industrial zone unless they have a sight-obscuring fence and it cannot be any higher than the 15 feet. But what he wants to make sure of here is that this is designed specifically to direct toward types of materials that they are seeing appearing in the Port area. And to be blunt, it is the storage containers that the Code Enforcement officers are looking at.

Mayor Benton said this is so they can enforce their ordinances.

City Attorney Schwerer said yes. The argument has been that the way the Code now reads, when it talks about materials or any other object, there is an argument that can be made that it does not apply to a storage container because that is not really a material or an object. So they are just making it absolutely clear. Again, it is up to the Commission whether they want to adopt this kind of regulation or not.

Commissioner Becht said he and the City Manager went on a little cruise through the City and they happened upon Taylor Creek Marina. They have boats stacked up there outside of what should be the inside, four or five high on outdoor racks. If they assume that is a marine industrial property, Taylor Creek Marina...

City Attorney Schwerer said it is not. He is familiar with that property and he does not think it is I-2.

Commissioner Becht said so that nuisance would not be caught by this ordinance.

City Manager Beach said they have an active code enforcement case with Taylor Creek Marina over that issue. Then they have two other Port issues going on with active code cases that are being worked. They do believe those constitute violations. And if they can ever get it through the process, they may get it corrected.

Commissioner Nelson said Mr. Schwerer mentioned equipment. There is certain equipment that definitely is going to be higher than 15 feet, such as a gantry crane or a drag line or things of that nature. They are annexing quite a bit of property and some of these properties have equipment.

City Attorney Schwerer said this applies only to the I-2 zone. It is not anywhere else in the City. The I-2 zone is only in the Port. It is not out there at Selvitz Road or Orange Avenue Extension. He does not want them to think this applies City-wide. It is I-2 zone only. He drafted the ordinance, but it was based upon his discussion with Staff.

Commissioner Nelson said the I-2 area, the Port in particular and the Taylor Creek Marina complex down there. They have these big gantry cranes. He will guarantee that quite a few of those are in fact more than 15 feet. They can imagine that crane with big wheels on it that has the ability to lift up a boat and move it from Point A to Point B. Those are greater than 15 feet. Are they going to tell this man he can use his crane?

Mayor Benton said they keep their cranes indoors.

Commissioner Nelson said no, they do not. He has been down there several times. These big cranes are sitting right on the outside. He just wishes they would verify the fact that they will be allowed to utilize those cranes are they process this ordinance.

City Manager Beach said the reason this ordinance is brought to the Commission for discussion is to bring up these specific issues. Staff will take their concerns and apply that to this, if they wish to go forward with the ordinance.

Mayor Benton said just to clarify, Taylor Creek Marina is the only one that has the lift that they keep inside. The only one that has the crane outdoors is on the Port property.

Commissioner Nelson said just have Staff look at it to make sure.

Commissioner Coke said she thinks it is a great idea. She would request when Staff brings it back, that they bring a map outlining the area this affects so they all know exactly what property they are talking about.

City Attorney Schwerer said essentially his office drafted the ordinance. This is really something that they are going to hear from the Planning Department and with maps and everything else.

Mayor Benton said let them move forward quickly, so they can finally get some action done over there.

City Clerk Steele introduced the following Resolution by title only:

RESOLUTION NO. 05-51

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, APPOINTING **RODERICK WALLER** TO THE **CIVIL SERVICE APPEALS BOARD** AS AN ALTERNATE MEMBER; CHANGING LEWIS RICE FROM ALTERNATE MEMBER TO REGULAR MEMBER; PROVIDING FOR AN EFFECTIVE DATE."

Motion was made by Commissioner Alexander, seconded by Commissioner Coke, that Resolution No. 05-51 be adopted.

Those voting in favor of the adoption of Resolution No. 05-51 were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

City Clerk Steele introduced the following Resolution by title only:

RESOLUTION NO. 05-52

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, APPOINTING **DYLAN MURRAY** AND **PHILIP C. GATES JR.** AS ALTERNATE MEMBERS ON THE **BOARD OF ADJUSTMENT**; PROVIDING FOR AN EFFECTIVE DATE."

Commissioner Alexander said it was brought to his attention that Mr. Murray and Mr. Gates are father-in-law and son-in-law.

Mayor Benton said yes, that is true.

Commissioner Becht said he had approached several people trying to get them to apply for this Board. He had talked to Harriet Brenner and Howard Brenner, both who had prior service to the City, who said they were moving and then changed their mind and are not moving; but they are not up for this particular Board. He was not aware that Mr. Gates was going to apply for it at the same time. But he had talked to Mr. Murray, who is the young blood they have talked about trying to get on board here in the community. If they will remember several months to a year ago they talked about how they could help encourage getting some rotation on some of these boards and it hasn't happened yet. He does not know how to deal with the issue of Mr. Murray's father-in-law applying for the same Board.

Mayor Benton said his suggestion would be to appoint one or the other. He knows Mr. Murray is a little bit younger. That would be his opinion. But it is the pleasure of the Commission.

Commissioner Nelson said he is not sure they have advertised this to the point they have got a lot of people interested in it. He would prefer they delay this somewhat and advertise it more and try to come up with some level of recruitment. Because they need diversity on these boards and he is not sure they have that as they are currently going.

Mayor Benton said that leaves it up to the Commissioners to get out there and he is sure they can find people.

Commissioner Alexander said he would be willing to support Mr. Becht in his efforts, that he has already taken that step forward.

Commissioner Becht said they have all known about this vacancy for a month or longer.

City Clerk Steele said over six months. She has sent out four notifications.

Mayor Benton said these are alternates, so a lot of times they are there but don't get to vote.

Commissioner Nelson said they have had alternates sit for eight or ten years and people as principals there fifteen or twenty years. They still need to look at who they have on those boards and make sure they are current without thoughts with regard to whether... And that they have the diversity that is appropriate for moving this City forward. He would choose to defer this appointment until they look at it further and get an opportunity to beat the bushes

a little bit more and come up with some more candidates if possible.

Motion was made by Commissioner Nelson, that Resolution No. 05-52 not be adopted.

MAYOR BENTON PASSED THE GAVEL TO MAYOR PRO TEM COKE AND SECONDED THE MOTION.

Commissioner Becht said just to reiterate, as the City Clerk said, they have been looking for six months. And if Mr. Nelson thinks he is going to get somebody out of the bushes in the next two weeks, that is great. But he has been asking and this was the first person he could get. In his opinion, Mr. Murray fits the model they want. He is a young guy who lives in Oakland Park. He is the guy that came in here yelling and screaming about Oakland Park flooding. He is active. He thinks Mr. Murray would be a good addition. But if Mr. Nelson thinks he can find somebody in two weeks, he does not know what the harm will be, but he will not be supporting the motion. He thinks they need to move forward on it tonight.

Mayor Benton said if the Resolution was just for Dylan Murray, he would support it. He does not like the idea of putting people that closely related on a board together.

Commissioner Becht said nor does he.

Commissioner Alexander asked can they separate the two individuals?

City Clerk Steele said she can bring back a new resolution with just Mr. Murray to their next meeting.

City Attorney Schwerer said they can do it right now, just amend the resolution by striking one of the names.

City Clerk Steele said but there is a motion on the floor at this point to not adopt the resolution.

COMMISSIONER BENTON WITHDREW HIS SECOND TO THE MOTION. MOTION DIED FOR LACK OF A SECOND. MAYOR PRO TEM COKE RETURNED THE GAVEL TO MAYOR BENTON.

Motion was made by Commissioner Becht, seconded by Commissioner Alexander, to amend Resolution No. 05-52 by removing the name of Phillip C. Gates, Jr. and leaving the name of Dylan Murray; and that Resolution No. 05-52, as amended, be adopted.

Those voting in favor of the adoption of Resolution No. 05-52, as amended, were: Commissioners Alexander, Becht, Coke, and Benton. Those opposed: Commissioner Nelson.

Commissioner Coke said Commissioner Nelson needs to bring them back a name in the next two weeks.

City Clerk Steele introduced the following Resolution by title only:

RESOLUTION NO. 05-53

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, ESTABLISHING A **KEEP FORT PIERCE BEAUTIFUL ADVISORY BOARD.**"

Motion was made by Commissioner Coke, seconded by Commissioner Becht, that Resolution No. 05-53 be adopted.

Those voting in favor of the adoption of Resolution No. 05-53 were: Commissioners Alexander, Becht, Coke, Nelson, and Benton. Those opposed: None.

Ms. Jeanne Hearn said many times she has come before the Commission with concern about the expansion of their cargo **port** on to the precious 87 acres. She is trying to help them through the process that is coming very quickly. She does not know if they were aware, probably three months ago Mr. Michael Ravelo had applied for a submerged land lease for Berth 4. Berth 4, according to the County's Comprehensive Plan, is not where cargo is permitted, is her understanding. Mr. Ravelo was not a property owner at that location, nor did he have a required lease that DEP required. She thought things were rolling along now. And now Mr. Bell has reapplied to DEP for a submerged land lease for Berth 4, and specifically for cargo. She does not know if they know the port or not, but this is the AES property. She is not going to tell them or help them make their opinion, it is their City, not hers. She urges them to study carefully what impact this will have on the City. DEP is very open for comments, especially from the City and the County at this point. Let her back up a little bit. After the application was submitted by Mr. Bell, the DEP replied with she thinks ten questions maybe that were not answered sufficiently, leaving it as an application not completed. Now it has come back with those answers. However, after reviewing it, she finds that some of the answers are conflicting. For instance, they had a hearing here on the 16th with Code Enforcement concerning why that area of the Port was not fenced. And Mr. Bell and Mr. Ravelo spoke about that and said they don't need to do that because it is not in use. However, the application states that they have the right to develop that area because it has been historic and continual use. So she is not here to explain all the detail, it is far over her head, probably it is very confusing for them. But she can't urge them enough, because this is probably the final issue. If DEP does approve this, this will end up with the Cabinet and the Governor will be the final say on giving this permit. The DEP office in Port St. Lucie is handling it.

Commissioner Becht asked does she know how long? Is there a time limit for when they need to respond by?

Ms. Hearn said as soon as possible, according to DEP, because there is a 30 day window now that they will be reviewing the new submittal of information.

Commissioner Becht asked does she know when that 30 day period will end?

Ms. Hearn said she thinks it was submitted on the 17th. So during this 30 day window, DEP has the opportunity... And he indicated to her that he will be taking that because they are being very cautious and doing it as complete as possible with conferences in Tallahassee going on, teleconferences all the time, about it.

Commissioner Becht said maybe they can Agenda this for the December 5th meeting and have Staff get back on it.

Ms. Hearn said the 30 day window will be just for the approval of whether it is a completed application. Then it goes back to

advertising. But then it goes on to public hearings if there is comment. And that is official comment at that point. But the way Mr. Sellers indicated to her, he would rather have this application and all the debate about this application, if there is any, completed correctly before it goes into the advertising. Because once it gets to Tallahassee... He is rather new with the Department and that makes it difficult as well. So any information they can provide concerning their concerns or their support. However, she is hearing on the street that Mr. Pruitt is being lobbied very heavily by some of the local agencies that feel this is the way their community should go. So she is giving it to them. She put a lot of work into it. She plans to put a lot more. But she thinks they should not depend on the Waterfront Council or the Conservation Alliance, solving this issue for the City. She means, they are sort of saying, here it is. It is their City and they need to take caution and know what they are doing. Whether she likes their decision or not, but she would suggest, because it is very complicated. She appreciates their time. The Waterfront Council and herself stand ready to help them. They have stacks of documents. Whatever they can do to help provide any information, they will be glad to.

Mayor Benton said he will be asking also that they put it on the next Agenda. Because as far as he is concerned, before anybody gets a berth over there, they need to know what their intent is with the property. And the only activities over there now are illegal activities.

Ms. Hearn said it is in the permit what their intent is. However, she will urge them. To her it is vague. It mentions various cargos, nothing specific. She just hopes they will move cautious. She hopes they will work with the County. She knows sometimes they bicker back and forth, and rightfully so.

Mayor Benton said they get along pretty well, believe it or not.

Ms. Hearn said but on this issue she thinks the County is probably very knowledgeable of it because of the County being the port director. They have played a very important part getting the Port Master Plan. So hopefully the Commissioners will take the lead along with the County and work together on it. That is all she can ask. Maybe she will never come back again. Maybe it will get all resolved. Wouldn't that be wonderful?

Mr. Rick Reed, 716 South 2nd Street, said back to **Resolution No. 05-52**. He appreciates Commissioner Nelson's and Mayor Benton's concern with regard to this. In the phone call that he received today and the phone calls that he made, the citizens aren't aware of these appointments. So however they are advertising it, people are not aware that these vacancies exist. He happens to personally know Dylan Murray and Flip Gates, because Flip Gates is his neighbor. He just thinks they can do better than this. Dylan Murray-Gates, he and his wife, come from a family of privilege. They received a SHIP loan from the City to buy their house in Oakland Park. Mr. Murray's mother-in-law is on the Planning Board. He just has a problem with the good old by network when too much power is concentrated in a family like this. He thinks they can do a better job of advertising. He does not think they have to scrape the bottom of the barrel when it comes to the important positions. So he does not think they are getting the word out there. Mr. Gates seems to always apply for anything they have open.

Mayor Benton said that is one thing he explained to some folks tonight, anybody can go to the City Clerk's office - there doesn't have to be an opening on a City board - and they can put an application in for when an opening does appear. If somebody's term is up, they look at other applications. That is his recommendation. He does not know if it is posted on the City's website, maybe that is something they can do in the future. But it is usually up to the Commissioners to go out there and find people for their boards. He would ask that people put their applications in, because sometimes it can be very difficult to find people. He knows when he put his name in years ago for the Planning Board that there just wasn't a big list of people out there. He had to do a lot of complaining before he had the ability to put his name in.

Mr. Reed said these are important positions and need to be filled by qualified people, not members of one family serving on one or two boards. He means a father, a son-in-law, a mother.

Mayor Benton said but they are not on the same board. They recognized that fact, and placed one person on there and not the other. He is sure they would have caught it.

Commissioner Coke said she wants to thank Staff and everyone for their cooperation in organizing all the events for the **Southern Kingfish Association** Fishing Tournament. It was very much appreciated by the people that came here. When they come back again in April, they get to do it all over again.

Commissioner Coke said she happened to be at **old City Hall** (315 Avenue A) last Thursday evening for an event. It appears they are getting some water damage and the roof is leaking. She is wondering if they have somebody assigned to take care of that? Or is it just something new she discovered after the rains last week?

City Manager Beach said the roof was damaged last year during the hurricane season. The tiles were removed and a temporary preliminary roof is what is on there now. He guesses that was there during this last hurricane. If that did not come off, he would be surprised. But the answer is yes, there is someone working on that. They are supposed to be getting the tile put up. They will take whatever steps they need to take.

Commissioner Coke said could they just maybe get a time schedule? She thinks that building is too wonderful to allow that damage to go any further.

City Manager Beach said he can get her a time schedule.

Commissioner Coke said when they had a presentation here a few weeks ago, there was major discussion about **Jenkins Road**. It was her understanding from the developer that he had spoken with the County and that there were no plans to improve Jenkins Road. Now she has received all kinds of memorandums from the County saying that is not the case. They were kind of lead down that primrose path. So her concern first of all is that they don't allow themselves to be lead down that primrose path on any other events. But secondly, is there any way they can perhaps take these memos from the County and forward them to the developer and let them know that this Commission has a concern about the fact that they were not given the full facts and the proper story?

Commissioner Alexander said to back up to what she just said, they can't punish the developers for something that staff didn't bring forth. He got the same memo from the County. He thought it was very odd that the County is saying they are going forward and they had contacted someone at City Hall. He doesn't recall who. But the County did say there was communication.

Commissioner Becht said he does not need to pick up the ball and run with this, but obviously he shares their concern on this. He had sent an email to Mr. Beach today, too late for him to do anything with today. But what he has asked Mr. Beach to do is give him an outline of the various steps the City took to inform the County of both the KB Homes projects and the project on the southeast corner of Jenkins Road and Edwards Road. Then once he has that, where he knows that City staff in good faith gave the County an opportunity to have input, he plans to take that out to Doug Anderson to show him the County had three or four opportunities and it didn't happen, so let's not do this again, let's get coordinated. Because that developer, they could have extracted \$50,000 to \$100,000 out of him, had they had good communication from the County. He does not think it is the developer's fault. He is not going to pick on City staff. He sincerely believes that City staff is giving the County an opportunity to participate. The County just needs to be educated on the new process. If the County will tell them what they need, they can work together and make it happen easier and not at the existing taxpayers expense.

Commissioner Alexander said to follow up on that, he is not jumping on staff. He just thought they all agreed that staff would correspond with the County on all efforts. Now they have two developments coming in at one time. They are telling him now, again they reiterated that a couple of times about staff communicating with the County. Now he is still asking the same question, because it looks like they have egg on their faces because there is no communication or the lack of communication? He knows staff told him they had invited the County. But if they don't come, then send it and deliver it to the County to make sure.

Commissioner Coke said at the last Interlocal Government Committee meeting they had, the County was supposed to forward to her personally the next day - of course, that was seven or eight weeks ago - the checklist that they County uses to approve projects. Then she could have gotten with City staff and showed them what the County uses, how much of this do they want them to comment on in response to their projects? So then at least they would have something in writing to go back and forth. But unfortunately she never received that checklist from the County.

Mr. David Recor, Deputy City Manager, said not only is the County invited, but they are actually provided the plans ahead of time to review ahead of time, so when they attend the meeting they can provide written feedback. The second point he wants to make, several months ago they in fact wrote to the County Administrator to request the County's comments in writing and offered to reciprocate. If the County would provide plans to the City, the City would review them and provide written feedback to the County. They did not receive a response to that. But he can assure them that coordination with the County on development review remains and will be a priority for staff.

Commissioner Alexander said he does not mean to keep harping on it, but he is expecting staff to let him know that the County is not cooperating. When they go to meetings and sit on boards with different County Commissioners on a regular basis, if they are aware of these things, he can ask them. They continue to beat a dead horse. It is not City staff's fault, it is County staff's fault? They don't want to blame anyone. But when a project like this on Jenkins Road, that bridge going over there, is nonexistent in conversation?

Mr. Recor said staff recognizes this is an important issue for the Commissioners. They want to have that correspondence for the Commission's review when they are sitting here in order to make a decision. They are anticipating that question. They want the Commissioners to have the answer.

Commissioner Becht said he can assure them that two County Commissioners are going to be extremely hot when he lays out for them the steps that City staff has gone through on these particular projects and did not get the kind of feedback they needed in order to get the kind of compromises out of the developer. If they will lay out for him the various specific steps they went through on these projects on this particular corner, he promises he will take it out there. He does believe there are at least two County Commissioners out there who will encourage their staff to give the City meaningful feedback.

Mayor Benton asked wasn't it the developer's attorney that told them there wasn't any plans for the bridge at Jenkins Road? Because he has spoken to the City Attorney. It is his understanding that if the Commission is misled, they can bring that back up for discussion.

Commissioner Becht said it was not the developer's attorney, it was Rod Kennedy, their engineer; and he based that on a statement he had with somebody that was not... He does not want to start naming names in the County Engineering and Road Department out there. But it was Mr. Kennedy who said he had talked with them and they did not have plans.

Mayor Benton said he posed the question to Mr. Ferguson about that. When they postponed it, Mr. Ferguson wasn't here that night because of the FP&L public hearing at the County. If there is anything this Commission can do legally... He does not remember who said what.

Commissioner Becht said Noreen Dryer did not make the comment. It was Mr. Kennedy.

City Attorney Schwerer said any representative of the applicant making a misstatement to the Commission which the Commission relies upon, whether intentional or unintentional, if they rely upon a mistaken fact in their decision, whether the mistake was made by an intentional misstatement from the applicant or whatever, it can be brought back for a reconsideration, if that is what they want to do. If there is some action that they can take that they would have taken had the true facts been known, then they can bring that back before them. But it has to be done in a rather quick fashion, once the misstatement is discovered.

Commissioner Coke said that being the case... To be best of her recollection, she briefly skimmed the Minutes from that meeting,

that there were erroneous statements made. She thinks perhaps she will prioritize reviewing that again. And if that is case, put it on the next Agenda for them to discuss.

Commissioner Alexander said his concern again is, he knows the developer did discuss about improving Jenkins Road and Edwards Road intersection. But his concern is again, why are they punishing developers that are coming in here when they have County officials... Mr. Nelson asked about that when they did the Wal-Mart project over there, about that bridge. Why is it that all of a sudden now everybody is so happy go lucky about a bridge when it hasn't been in the conversation? Again, he is not here to punish anyone.

Commissioner Coke said no, she would not want to punish anyone, unless they were misled. She just wants to make sure they have what they need for that road improvement in the future as far as easements and other things.

Mayor Benton said plus there is a health and safety issue when they are putting that many residents in line with a bunch of semi-trucks, literally hundreds of trucks a day. They might have to find another entrance other than Jenkins Road for the safety of all those people. That was his concern.

Commissioner Nelson said along with Commissioner Alexander, he attended the Florida League of Cities Annual Conference in Orlando this past week. He was able to attend one of the workshops there, wherein he was lead to believe that there is a possibility that they could get monies, i.e. grants, from zero to \$5 million by asking. He tried to focus in on the **water treatment plant** across the river, the removal of it from the beach area and possibly the establishment of another facility out west some place. Due to the fact that it has some environmental sensitivity, the presenters assured him that their chances for getting approval of these type grants was quite high. He came back and talked with the City Manager and the Director of the Utilities Authority and pointed out the avenues for doing this would be through the Treasure Coast Legislative Delegation for them to make it up from a political standpoint like they give the monies to the Theatre and the Human Development & Resources Centre and other areas. Of course, the County is in fact going before them for some eight different projects they are asking for. The second way of doing this thing is to do it by way of a request directly to the Department of Environmental Protection and the Department of Community Affairs. As indicated, he talked to the Director of the Utilities Authority. He is hoping that he will submit the Community Action Request to the Legislative Delegation, which has to be done by November 23rd for their meeting on December 1st. Then follow that up with some information relative to getting a letter going directly to the Tallahassee people, because that has to be done before February.

Commissioner Nelson said he would ask they give a status report on the **Comprehensive Plan** preparations. How are they coming along?

Mr. David Record, Deputy City Manager, said they have had two preliminary meetings on the port sub-element. They have included Ms. Jeanne Hearn, who has expressed an interest in sharing her information. And for the Commission's information, they are going to be providing, beginning next month, a monthly written update to the Commission as to where they are on the scope of services.

Commissioner Nelson said November 11th came by again. They keep killing their boys over in Iraq. Eventually they are going to have somebody die here in the Fort Pierce area that is going to make a lot of sad faces. Where are they on the **Veterans Park** effort? Can somebody assure him that they will have on November 11, 2006, a Veterans Park over there that they can be proud of?

City Manager Beach said the Veterans Park contract for design is on the Fort Pierce Redevelopment Agency agenda for their next meeting. They cannot assure him as to how long that design is going to take, what is going to be constructed, or when it is going to be constructed.

Commissioner Nelson said he is going to be sad and melancholy next November 11th.

City Manager Beach said they can work in that direction. But they have had a lot of experience here with making commitments that they can't keep up with. So their answer to that now is not to make those commitments.

Commissioner Nelson said they have had **debris pickup**. They have had some very fine work done in the Lincoln Park Plaza area there - straightening the trees and fixing the lights and everything. But they didn't go so far as to go to the next block and get the trash from the vacant lot by the Police Substation. What can they do about getting that lot cleaned up, so that they set an example of cleaning up their own house? For debris removal, it doesn't take that much to get that cleaned up. It is a vacant lot.

City Manager Beach said just give him an address and he will see it is taken care of.

Commissioner Nelson said east of the Police Substation. The City owns that.

Commissioner Alexander said he has one concern about the debris pickup. Have they any input on how their debris pickup is coming along?

Mayor Benton said he knows one thing, they sure are doing a better job than last year because they are picking it up by the ton instead of by the yard. So they should save a lot of money.

Commissioner Alexander said but that is what his point is. It is almost with slave labor when they are talking about picking up something by the ton. He hears them say it saves the City money, but he does not foresee it like that. Are they having any complaints from any of those workers?

Mr. Bob Hood, Director of Public Works, said it was put out to bid. There were fifteen bids on it. Three contractors agreed to haul for \$35 a ton. That is what they are doing.

Commissioner Alexander asked so they are doing it with a smile?

City Manager Beach said would Mr. Hood tell them when it started, what the process is?

Mr. Hood said it started on Friday. They picked up Friday, Saturday, and today. They have hauled about 360 tons to date.

Commissioner Nelson asked where are they picking it up from?

Mr. Hood said they have three routes throughout the City. They are doing it about like they did it last year, using the same zones and sub-zones to pick it up. So they are staging across the City.

Mayor Benton said he had phone calls from several contractors that were bidding on this that said they weren't going to bid. When he explained why, one of the reasons was last year he witnessed people out on the island that would not pick debris up when it was raining, because it being wet it would pack in more. That was why. These people were raping the City last year, because the way FEMA set it up, it was done by the yard. They could fill these trucks up, but half of them weren't even near full last year. So this year they are going to save a lot of money. When he explained that to several people that called him, they understood. He guesses that wasn't brought to their attention early on.

Mr. Hood said there is an equilibrium here they try to establish. The contractor has to make money. Commissioner Alexander is exactly right. Can they do it for \$35 a ton? Some of them are doing a better job at \$35 a ton than others. Some pack their trucks and are getting 4, 5, or 6 tons a trip. Others aren't. Some are better at this than others, is all he can say. Of course, all three contractors are local contractors. They wanted to make sure their local contractors make some money on this. This is not a get rich quick scheme by any means. They probably have no more than 15% or 20% of what they had last year in debris. The most fair way they can do it is put it out on the street and let people bid on it, because they know what they are looking at and they know what they are bidding on.

Commissioner Becht said he does not know if the Commission needs to establish a protocol for how they are going to handle material that is brought to them at the last minute, meaning it is handed to them across the dias as the **Agenda** item is called. He would point out to staff that he is very comfortable, if they get something on Friday afternoon and don't have a chance to intelligently analyze it, if staff will let the Commissioners know that as the Agenda item is called, he thinks they might not have as long a meeting.

City Manager Beach said the City Attorney has been suggesting for some time - and they really need to do this - that they start those Agenda items with a staff report. It shouldn't start with a Public Hearing. It shouldn't start with comments from the consultants. They should start the discussion with a staff report to lay out what is being proposed and what is going on.

Commissioner Becht asked why can't they do that?

City Manager Beach said he does not know. They just haven't.

Mayor Benton said the County does it that way. He watches it on television.

Commissioner Nelson said he thinks they have the authority to do that.

Mr. David Recor, Deputy City Manager, said all he can say is, great minds think alike, because that was going to be his suggestion. He has his note right here, talk to the Mayor about changing the format. They can have Mr. Leiva present to the Commission exactly

what has occurred, what issues they discussed at the last meeting. Go on the offensive, rather than the defensive. So consider it done.

Mayor Benton asked is that agreeable to everybody? (The Commissioners agreed.)

Commissioner Nelson said he hopes there is no legal thing that says they have to do it the way they do it.

City Attorney Schwerer said he has been asking the City Manager to discuss this for quite some time. They can do it. There is no legal prohibition, the Mayor has control of the meeting.

Commissioner Alexander said no only just that, but stuff coming up here during the meeting. City staff is the same way. He wants them to know that he throws it to the side because he can't read it and pay attention.

Mayor Benton said he would ask for the status of **condemnations**. They received a copy of the Demolition Status Report. When he looks at several structures... There was a house that burned down over on 11th Street or Texas Court some years ago. It wasn't weeks after the fire that they tore it down because they determined it was a health and safety issue. They didn't wait to go through the process, they did it. When he looks at the Circle K building, the South Beach Apartments, Mr. Bell's piece of property which used to be the Chamber of Commerce up here on U.S. #1 coming in to Fort Pierce, these buildings are a health and safety issue. If somebody goes in there and moves something, more of them can come down. It has been going on fifteen months. People like Mr. Bell, these people can afford to have done something to their property by now. What can the City do to speed up the process? He can't wait any longer. These buildings have to come down. This last storm, part of the Circle K building almost flew over and hit Pat Murphy's building, it is laying there still against the fence. These need to come down as soon as possible. Now they buy time possibly by putting a For Sale sign up in front of the Circle K building. He knows there is a possible buyer there. But then it is going to get tied up again. What can they do to say this is an emergency? They need to take these structures down before somebody is hurt or the adjacent property owner is hurt. They can put a lien on the property?

City Attorney Schwerer said he would have to check with staff to determine what the legal impediment has been to getting them down. But his understanding the way the Code works is, the Building Official makes a determination that the structure is condemnable, based on health, safety, and structural issues. Notices are sent. There is a very brief time for the property owner to respond. He thinks they have ten days to appeal. If the owner claims the building is not condemnable, there is a hearing scheduled right away before the Construction Board of Adjustment & Appeals. If the Construction Board of Adjustment & Appeals rules in favor of the Building Official, there is a short period of time thereafter that the Building Official can then hire a contractor to go demolish. That process does not take that long, certainly not the time frame the Mayor is talking about. There must be something going on there. The only way the City can do it is to use their own crews. They would have to make a declaration of an emergency under the Code and go before the Special Master to get permission to do that. And he would not recommend that for many instances because they

don't know what is in those buildings, they don't know if there is contaminated or hazardous waste there such as asbestos or chemicals. Unless it is an absolute emergency, his recommendation is to let the process run. But if someone would...

Commissioner Coke said she thinks the problem is, they tried to be real nice in the beginning after the hurricanes and not push anybody, thinking everybody had enough problems and they would all be responsible citizens and do what should be done.

Mayor Benton said they have been nice. But he thinks now it is time. He reads the estimated demolition of Circle K, for instance, is prior to December 1st. It has been long enough. It is time to quit playing games. It is time these have to come down. The ones there, the properties on the east side of A-1-A owned by a certain investor. Those buildings have been in disrepair for how long? It is wintertime, the unwanted element is going to be moving it, if they haven't moved in already. That is a threat to the citizens health and safety. And also, the amount of rats that are going to be in there. Circle K, here is a building full of food from last year.

City Attorney Schwerer said he thinks that building may be in litigation.

City Manager Beach said the Circle K building is coming down probably this week. But that isn't the issue. The issue is, there is another 20 buildings out there that they are completely stymied with legal processes. He is not talking about the City Attorney. He is talking about the whole legal process of being able to remove somebody's private property. It is virtually impossible.

Mayor Benton asked does everyone agree that these structures need to come down as soon as possible? They have to somehow push that issue legally. Whatever it takes, this has got to be a priority.

City Manager Beach said the report they have in front of them gives some idea as to what they are anticipating the dates for those units to be removable. They have even added new wrinkles to their own processes that complicate it. He saw on this report that some of them are tied up in Historic Preservation Review. There wasn't enough nonsense already, they had to create some of their own.

Mayor Benton said right. But the 50% rule should take effect there and common sense applied. Then down it comes.

There being no further business, Mayor Benton declared the meeting adjourned at 10:55 p.m.

Adjournment.

ATTEST:

CITY CLERK

MAYOR COMMISSIONER