

MINUTES OF A REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, HELD IN THE CITY HALL COMMISSION CHAMBERS, 100 NORTH U.S. #1, FORT PIERCE, FLORIDA, AT 6:30 P.M. ON MONDAY, DECEMBER 7, 2009.

Mayor Benton called the meeting to order.

Reverend Moses Hill, Moses Hill Ministries, gave the invocation.

The Pledge of Allegiance was recited.

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

The next item on the Agenda was Approval of the Minutes of the Regular Meeting on November 16, 2009, and the Minutes of the Special Meeting on November 18, 2009, and the Minutes of the Special Meeting on December 2, 2009.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to approve the Minutes of the Regular Meeting on November 16, 2009, and the Minutes of the Special Meeting on November 18, 2009, and the Minutes of the Special Meeting on December 2, 2009.

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

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

Letter from Chief Donald Shinnamon, Port St. Lucie Police Department, in appreciation of the assistance given by Fort Pierce Police Lt. Thomas Smith, Lt. Katherine England, and Sgt. Donald Christman.

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

Ms. Patti Ene, 5111 Palmetto Drive, said she is here on behalf of **Lisa's Kayaks** for Jaycee Park. She would love to see Lisa there. It really would be a benefit to everybody because not everybody can throw a kayak on top of their car and go kayaking. It is not like there would be a big parking issue, because she only can carry so many kayaks. All she can do is carry a certain amount of kayaks with her, so there wouldn't be that many people down there taking up the parking spaces. It is just a fun thing to do. She has started doing it herself and just really enjoys going out and relaxing in the river. It would be nice to have a safe place to go, for everybody to be able to meet.

Mr. Paul Ene, 5111 Palmetto Drive, said he is also speaking for **Lisa's Kayaks** rentals. He does believe it will be a benefit to the community. Some of them who are getting up there a little more past 50, Lisa is getting them out a lot more. It is one of her philosophies, keep people active. Having a place that is big enough for people to get out and enjoy themselves and get physical exercise has been really great for him. He really has not ever seen anything out of the way. Everybody that comes there has always been real respectful of other people. He would really like to see this in the community.

Mr. Juan Titherington, 5709 Seagrape Drive, said he is here to ask for their consideration in rescinding the Code Enforcement Lien placed on their old family residence at **1232 Easter Avenue**. Due to extenuating circumstances leading up to the extremely premature birth of his twin daughters and his wife being on strict bed rest in the critical months before their birth, he missed his opportunity for

a Massey Hearing to defend his position. When he became aware there was a lien almost six months after the property was cleared up, he was told to come in to clear up the matter. He also met with the Special Magistrate Frank Blandino, who said his hands were tied and that they were only there for a recommendation to this Commission to decrease the lien, not to defend his position. He must admit, if not for the premature birth of his daughters, he would have given this matter his utmost priority and it would not have gone this far. It seems there is no chance to go back in this system. He regrets wasting time here to do this. But they have his letter to the Code Enforcement Board. He would like their consideration in helping him with this matter. He is not in a position to pay the fine. He has even had other complications. So if they would consider his case, he thanks them very much.

Mayor Benton said they will take that into consideration. The Consent Agenda is one of the last things they do.

Mr. Peter Nigro, 355 South Ocean Drive, said he is here to speak on behalf of **Lisa's Kayaks**. He moved into Fort Pierce about a week before Hurricane Frances hit. He has seen the beautiful job the City has done with State Road A1A. The bike paths are very beautiful. And Jaycee Park has come a long way. He commends them for it. Jaycee Park has the playground, the basketball court, the tennis court. These are some things they could put just about any place. But they only have one river. That is why something like kayaks and bicycles in that area is just a natural. It is a beautiful thing for a family who is coming there for a picnic to spend the whole day. It is another added attraction and would be a wonderful service and a real addition to the community. He really hopes they consider it as something on their to-do list. He really does think it is a very worthwhile thing for people of all ages. It is not just for little kids, but for senior citizens. His cousins came down from Maryland, both PhD's from Johns Hopkins University. One of the highlights of their trip down here was spending two or three hours on the river in kayaks - they just can't stop talking about it. It is a very beautiful thing to do. He does hope the Commission considers it, especially in Jaycee Park, it is a natural.

Ms. Lisa Perona, 1713 Coconut Drive, said she is here for **Lisa's Kayaks**. She is a grandmother of two. She has a lot of people that come to visit. Jaycee Park is an amazing place. She takes her kids there to play. She could never afford to have a big boat or anything like that. But to have a kayak already down there would be so neat for everybody. She lives over there and can walk there. That would be an excellent thing to bring to Fort Pierce.

Ms. Lisa Fasnacht, 1708 St. Lucie Court, said she is here tonight on behalf of **Lisa's Kayaks, Inc.**, regarding kayak and bicycle rental from Jaycee Park. She has been talking about this issue for almost two years. The Commissioners formed the Citizens Parks Advisory Committee, which was charged with deciding if this should be allowed. The Committee as a whole decided yes, they would like to see it. The Chair, Arden Peck, gave a final report to the Commission this time last year. She should have been up and running with this a long time ago. She believes that kayak and bicycle rentals in Jaycee Park would be a great enhancement for the enjoyment of their already beautiful park. She believes that it would offer residents and their visitors something special to do. She would never want to deprive anyone of an opportunity to kayak down their beautiful coastline. All the great sidewalks and bike lanes that they have spent so much money on is the perfect place for a safe bike ride. Most people are not going to invest in a kayak at first or maybe not at all; but they would pay

\$8 an hour to try kayaking. Some of her customers have bought their own kayaks and almost every single one of them have told her that they were so glad they tried a few different types of hers before buying their own, stopping them from buying the wrong type of kayaks. She sees parties, corporate events, and family reunions at Jaycee Park. What a great addition kayak and bicycle rentals would be for these events. This is completely portable, meaning everything comes with her when she comes and everything goes with her when she leaves, there is no structure to maintain. She thinks this would be a win/win situation for all. The City would generate revenues and the community is able to enjoy an affordable outside activity. She asks them to approve her use of Jaycee Park.

Ms. Kerstin Schildwaechter, 4225 North Ala, said she resides on North Hutchinson Island. She runs a health business where she helps people restore their natural immune defenses. She recently returned from losing several family members abroad and found herself really down in the dumps. She prayed every day that God help her get out again and enjoy life. She met Lisa Fasnacht (of **Lisa's Kayaks**) not too long afterwards and she has made a remarkable difference in her life. Lisa has not made a penny off her yet. Her bicycle broke down. She did have a kayak and went kayaking by herself and had something try to throw her out of the kayak, she doesn't know if it was a shark or a manatee; but she decided she couldn't go kayaking alone anymore. Some of her friends have shoulder problems and couldn't come. It was a godsend that she met Lisa, who had a group together for all of them to go. It pulled her mind out of the dumps immediately. Being in the health business, she knows there are a lot of people here who lose spouses and end up in somewhat of a depression or rut where they don't get out anymore. She has lived in San Diego and Germany and Washington, D.C. She is always surrounded with people that are healthy and are exercising and aren't polluting the world, really doing good things. God has given them such a paradise here and tells them to choose life, not just look at it but partake of it and make a difference. Jaycee Park is so beautifully quiet compared to the Jetty or other areas where there is a lot of boat traffic. To her, it is one of the nicest places. She would love to be able to call Lisa and say let's go for a moonlight kayak or something else, including bike riding. Thanks for their consideration.

Mr. T. J. Mete, 1710 St. Lucie Court, said he does not understand the problem in giving **Lisa's Kayaks** permission to go out of Jaycee Park. It is a beautiful park, the City has done an absolutely incredible job with it. It is a service industry, it is portable. There is really no parking problem. A hundred cars there would be a problem, but they are talking about maybe four or five cars. It is environmentally friendly. Most of the people he talked to on the island all are in favor of Lisa having kayaks at Jaycee Park.

Ms. Mabel Wasson, 2402 Newport Drive, said she is here on behalf of **Lisa's Kayaks**. Lisa just taught her recently how to handle on of those things. She loves it. She has used Jaycee Park several times before when she had a small Sea-Doo. It is just a wonderful place. She thinks their community would benefit from it and she knows their tourists would. They have all the facilities there and it is a wonderful place to kayak. They have so much fun when they go out. Lisa has been a big help to her in more ways than one, she really appreciates Lisa and her efforts. She hopes the Commission will take Lisa's suggestion into consideration.

Mr. Marty Laven, 2400 South Ocean Drive, said sometimes he wears the green shirt for Climatic Solar, sometimes he identifies himself as the Marine Industries Association past president. Tonight he has no

particular advocacy, he just wanted to bring something to their attention which they are already aware of. The County is going forward with a very unique **solar initiative**. The consultant, Lawrence Davenport, will most likely be meeting with the Commissioners, if he has not already done so. The key element is that of securing federal grants by the December 14th deadline. They are seeking and have obtained some resolutions of support from others in the public, private, and civic sectors. It is to leverage these federal funds along with letters of interest from local financial institutions, to put together a revolving loan fund which would have very low modest fees as to eradicate the barrier of cost for solar initiatives, both thermal and photovoltaic. If they would like to learn more about it, he would re-extend an invitation to both Commissioners and Staff to join them at Climatic Solar on Wednesday evening at 5:30. He believes Mr. Davenport will be there. If he can answer any questions or be of further service, his name is Marty Laven. He always signs his notices as for affordable renewable energy solutions. He thinks the concept of this affordability could be a great economic benefit to everybody, not just for the firm he works for, but certainly for the community. He always advocates for Fort Pierce's interests. If he can be of service to any of them in helping to move this initiative forward, please don't hesitate to call on him at any time.

Ms. Arden Peck, Chair of the Citizens Parks Advisory Committee, said she wishes to comment on adding Jaycee Park to **Lisa's Kayaks Inc.**'s current license. First, she would like to thank the Commission for postponing this issue to allow for public input. They may recall that the impetus to form the Committee was the contentious issues of vendors on public lands and the various parking issues within their parks. There is no doubt that people still feel very strongly, both pro and con, about vendors being allowed to make a profit on public lands. Jaycee Park's one hundred yards of useable beach is dangerously overcrowded, especially on weekends and holidays. Currently Lisa's Kayaks Inc.'s City license allows her to set up and rent only from Causeway Park. However, Lisa's County license and City occupational license allows her to deliver to any of the City waters and many of the County's. This includes Bear Point, which is just down the road from Jaycee Park, which has similar water, winds, etc., and certainly is not crowded as is Jaycee Park. The Committee's recommendation would be to leave what is currently in place alone until the vendor ordinance finally comes before them for discussion and for them to act on. This has been 53 weeks now. If the vendor ordinance is passed, the RFP process will put a level playing field in place, which is not the situation today.

Ms. Cathy Townsend, 3601 North A1A, said she is here on behalf of **Lisa's Kayaks**. She has known Lisa for the past two years. She has an establishment for lodging. She receives four or five calls a month from people inquiring about kayaking in the community. She is glad to be able to refer them to somebody locally within the community, because prior she was having to send them to a business outside of the County. Jaycee Park is a nice park. Fort Pierce is envied by Indian River County, because when she goes to meetings up there, they are in awe of what Fort Pierce has done on the beach and in downtown, it is brought up at almost every function she goes to there. As a business proprietor, she feels it would be another asset and a move in the forward direction they have been taking to add another amenity to the park. If it is a problem, maybe offer Lisa something like on the holidays, when they are expecting crowding, that she just be obsolete for that weekend or something. Just throw another option out there for her, because she does feel Lisa would be an asset.

Mr. Chris Dzadovsky, St. Lucie County Commissioner, said later on the Agenda they are going to talk about the **Parks MSTU**. He acknowledges that he thinks it is a great opportunity for them to have that discussion. He has spoken to some of them prior to this meeting; but due to health issues a little while back, he wasn't able to get to them some of the issues and items they requested, as their list is somewhat lengthy. He wants to make sure they get that information, so when they do have a discussion, they have all the information in front of them as they discuss the MSTU. He is basically here to ask they postpone the discussion on the Parks MSTU for two weeks. He will be able to work with them to get whatever items they have requested. He brought Faye Outlaw, the County Administrator, with him to insure that the items they ask for are delivered because he knows it is important for them to make that decision. He is just asking that they postpone this for two weeks until he can get them the information they have requested.

Ms. Carole Mushier, President of the South Beach Association, said she wishes to speak to the 2002 **Parks MSTU** Interlocal Agreement. She has been present at a number of City Commission meetings over the years when this MSTU has been discussed. Notably the consistent absence of - she is quoting from the original Interlocal Agreement - an annual independent audit of the revenue receipts and expenditures which shall be performed annually, the County shall select and contract with the auditor, and the cost of the audit shall be paid from the total annual MSTU proceeds received from the Tax Collector. It is her recollection that the City has repeatedly asked to receive this annual independent audit, to no avail. Thus it would appear to her that the County has been and is, to her knowledge, in violation of the Interlocal Agreement since 2003. The County has made no secret of their intentions to concentrate their efforts and dollars on County regional parks - and the County has done so at Lawnwood Park - while seeking to divest themselves from other parks, giving the responsibility and the costs to the City. There is a history here. When the County divested the old Boardwalk Park to the City, it was in a sad state of disrepair. It was then up to the City to immediately make the necessary safety repairs to attempt to avoid potential lawsuits. She believes there was one brought against the City. Recently when the County decided they didn't have the money to meet their agreement with the City to reinvent South Causeway Beach Park, the County agreed to have the City take over the repair and maintenance of that park. They have all seen the great results in that park after years of neglect on the part of the County. Another case of the County concentrating their efforts on their regional park. St. Lucie County Regional Lawnwood Park does reside within City limits; but it is a County park which has used the lion's share of Fort Pierce's MSTU revenues to fund its capital improvements through debt service on their bond. Everything seems to be geared to a win for the County, with the City having little or no input into the expenditures. It is interesting to note that Lawnwood generates revenue for the County, which should be used to assist in retiring the debt. Yet it is her understanding that these monies go into the County's operating budget. Regardless of how this all started seven years ago, things have changed. It is time to reevaluate the City's position. She urges the Commission to support the City Manager's recommendation. Status quo is not an option. There is a change from the original document, where either party can withdraw giving one year's notice. She assumes this is a point that the City is willing to give up if the County agrees to the total revision, which up to this point the County has not, the County has said definitely no. It should be negotiation, give and take. It should not be that the City gives and the County takes. She thanks Commissioner Coke and City Manager Recor for championing this cause.

The next item on the Agenda was Public Hearing on Application for Site Plan Review submitted by TC Star LLC & Florida Tower Partners for construction of **Avenue I Wireless Flagpole**, a 150-foot monopole tower at **910 North 25th Street**; said properties zoned C-3, General Commercial Zone, and R-4, Medium Density Residential Zone.

Mr. Duane Yazzie, Development Review Planner, said this is a Site Plan review for a 150-foot wireless tower monopole camouflaged as a flagpole. The location of the property is 25th Street and Avenue I. The location of the proposed project will be on a leased parcel located to the east of the property. The applicant has undergone all Department reviews and received approvals. The applicant has fulfilled all zoning requirements. Staff is recommending approval of the wireless tower with the following conditions: (1) Prior to signing of a building permit, the applicant must submit a document of liability coverage in an amount satisfactory to the Department as reasonably commensurate with the nature of the structure as outlined in Section 22-159(b)(15) of the City Code; (2) Prior to issuance of a Building Permit, the owner or applicant must submit a bond, surety, or other financial guaranty for the use and benefit of the City, to ensure the removal of abandoned communication towers, which shall be approved by the Director and City Attorney, and this bond shall be subject to the provisions outlined in Section 22-163 at the time of final development approval; and (3) Include lighting of the flag.

Commissioner Becht asked the two conditions placed on this for the bond and the insurance, who within their organization is going to monitor that?

Mr. Yazzie said when the applicant comes in to fulfill a building permit application, it will be routed to the Planning Department; therefore, it will be subject to review and these conditions will be placed on it at that time.

Commissioner Becht asked who is going to monitor this in the future?

Mr. David Carlin, Assistant Planning Director, said the Code requirement will be the same for all subsequent applications for building permit. When they get these applications in, the Code clearly states when these conditions have to be adhered to; and that it at building permit.

Commissioner Becht asked so they don't have to have the bond next year? They don't have to have the liability insurance next year?

Mr. Carlin said the Code doesn't say whether it has to be in perpetuity or whether it is for each year. Certainly there could be some interpretation here. Maybe Mr. Schwerer has a better perspective on that. But the Code just doesn't get into that level of specificity.

City Attorney Schwerer said the Code indicates that the bond would be on a form approved by the Director and the City Attorney. He can assure the Commission that they would not approve of a form of a bond that would not be for the lifetime of the tower in perpetuity. It would roll, or if there was a cancellation, they would be required to give notice to the next surety that would be taking it over. That is their standard practice.

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

Mr. Anthony L. Recio, Law Firm of Weiss, Serota, Helfman, Pastoriza, Cole, & Boniske, P.L., said he is here on behalf of the applicant, Florida Tower Partners, as well as the owner, TC Star LLC. Staff has presented the application, so he will just go through some highlights. It is on the southeast corner of Avenue I and North 25th Street. It is located towards the rear of the parcel. It has been designed to resemble a flagpole. No antennas will be visible from the outside, those will all be within the actual flagpole structure. The reason they decided on a flagpole was to try to minimize any aesthetic impact. This location was chosen as this area was identified as a coverage gap for cellular carrier Metro PCS. A severe coverage gap extends about one-half mile on either side of 25th Street all the way from Orange Avenue up to north of the canal. In order to address this coverage gap, this area was chosen after a search was done. In accordance with City Code, all existing structures were analyzed for structural integrity, the ability to locate these towers on there; but there were none that were in close proximity to the site that could address this coverage gap unfortunately. They submitted a couple of search ring analyses - the initial analysis and then a response to a staff comment. They basically did an exhaustive search. They come to this site after pursuing five or six different sites where there were possibilities. They ended up with this site at 25th Street and Avenue I, and ended up with a flagpole tower to hide the antennas within the flagpole. There is space for five different antenna arrays. Metro PCS would fit in only one of those slots, so there would be space for an additional four carriers, thereby minimizing the need for further towers in the area. The ground area will have small equipment buildings at ground level which will not extend over the fence. There is a wood slat fence, staggered wood on wood. Then there is going to be landscaping all around it in order to even hide the fence a little bit. They are proposing a wood fence in order to minimize the impact, it is better than an chainlink fence, they thought. They have submitted correspondence for the record as far as how they meet the different criteria required by Code. This is a unique type of use. It does not place any demands on water, sewer, roads. There isn't any demand for parks or schools. It is a very minimal use. No odors, no noise. It does serve the immediate area in terms of addressing that coverage gap with Metro PCS. The Planning Board reviewed and approved this on a 7-2 vote. Staff is recommending approval subject to conditions. They accept those conditions. As part of this process, they did invite the community to a meeting on Thursday, November 12th, but they did not get a lot of response. They tried to get the word out. They ask the Commission to approve this in accordance with Staff's comments and conditions.

Ms. Carole Mushier, President of the South Beach Association, said while she does not have a dog in this fight for real, she is concerned that she has been told that Fort Pierce has no regulations regarding towers in residential areas. Is that true?

Mr. Carlin said currently the ordinance, the way it is set up, it is permitted in all zoning districts, so it is permissible. Different jurisdictions have different requirements. Certainly this ordinance has been around for some time. When their Land Development Regulations are updated, there may be some tweaks. But certainly if it is something the Commission wants Staff to explore, they can look into it.

Mayor Benton said that is if this Commission deems to approve it.

Ms. Mushier said she is not an expert on towers. But her concern is that she has been told, relating to South Beach and the eastern areas of Fort Pierce, that there is very poor reception out there. And in

an existing residential area, this could set a precedent for somebody else coming in and saying they need a tower. This is a commercial tower, it is not a government tower. That is her concern, that they approve something that may be setting a precedent for towers in a residential area without any ordinance on the books regarding these towers. This is not going to go away. With cell phone usage, this is only going to be more and more. So her reaction is let's hold off on this until they get an ordinance in place that can deal with this, particularly in residential areas, before this whole thing runs away.

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

Commissioner Becht said he was reading the Planning Board Minutes (from October 13, 2009) and someone made a representation that the width of this pole is 3 feet.

Mr. Recio said 3 feet at the base and it narrows as it goes up to the top.

Commissioner Becht said the pictures provided in their Agenda packet would indicate that the base is larger than 3 feet. So this 150-foot tall tower is going to be 3 feet at its base and will narrow as it goes up?

Mr. Recio said he apologizes, he was confused. It is 3 feet at the top. At the base, it is 6 feet in terms of the foundation.

Commissioner Becht said so it is 6 feet at the base. And at its narrowest point at the top it is 3 feet.

Mr. Recio said that is right.

Commissioner Becht said the picture provided shows a tower that is painted white. What are their intentions with regard to this tower?

Mr. Recio said the idea was to have the same color - white. If this Commission prefers a different color, they could paint it.

Commissioner Becht said the white just makes it stand out more. What flag are they planning on putting up there?

Mr. Recio said the American flag at the top. It would be commensurate with the size of the pole. There are federal regulations which govern that kind of thing. He believes this flag is 20 feet by 30 feet.

Commissioner Becht asked it would only be the American flag flown?

Mr. Recio said at the top. There is a secondary flag they are proposing, they were thinking the Fort Pierce seal. But that is only if this Commission is in favor of something like that. If they prefer to see the American flag alone, they can do that.

Commissioner Becht asked the lights, why does it have to be lit up? Why can't they just eliminate the lights?

Mr. Recio said there are federal regulations which require if a flag is flown at night, they have to light the flag.

Commissioner Becht said if they get rid of the flag, they don't have to have the lights.

Mr. Recio said that is correct.

Commissioner Becht asked is it cheaper to put up the flagpole tower? The literature they were given says this is more expensive than a lattice or a ladder type of pole with guy wires.

Mr. Brett Buggeln, Chief Operating Officer of Tarpon Towers, said this is more expensive. When they first looked at this area for this type of installation, their first consideration was cost in building this type of facility. However in looking at the area, they didn't think it was in the best interest of aesthetics and everything else to come in here with a traditional type structure.

Commissioner Becht said aesthetically, he is not sure this is better than the old time stuff. The literature very clearly says they are going in a different direction, they are not trying to hide it, they are just trying to make it look like a flagpole instead of a microwave tower. He is not sure that aesthetically this is better. It is a microwave tower, that is what it is.

Mr. Buggeln said with all due respect, it is obviously a personal taste. They have seven flagpole towers in Florida at this time. They have two at two school sites, one at a community center, and another on a city property in Palm Bay. Based on what they saw in terms of the area and an opportunity to have something that seemed to fit a little better, that is why they ended up with this design.

Commissioner Becht asked they could put this tower up without the flag, without the lights, and they don't have to paint it white?

Mr. Buggeln said that is all correct.

Commissioner Coke said she is not sure she likes this at all, but she much prefers the flagpole with a beautiful flag which is lit to deter any vandalism or other things. Her concerns are more along the lines of the question of maintenance, not only of the property but the fence, and graffiti, and who is in charge, and how often will that be taken care of? Can staff tell her the average height of the buildings in that neighborhood versus this flagpole?

Mr. Carlin said there are some residential areas. The heights are not going to be much greater than 28 feet on average for a residential property.

Commissioner Coke asked how far is this situated from the nearest residence?

Mr. Carlin said he believes there is a diagram of the radius in this packet. As far as the maintenance of the property, that becomes a code enforcement issue if someone is not maintaining it to standards. They have that with other existing cell tower sites within the City, where they are required or obligated to bring their property up to compliance.

Commissioner Coke said she has major concerns with the height and the fact that it is in a residential area. She thinks the County has a regulation of 1,000 feet from the nearest residence. She really does not want to set a precedent where somebody else is going to come in and say they allowed this, so here is another vacant piece of property and they need to let them do it also. She is wondering if maybe they should postpone this decision until they have time to put an ordinance in place regulating towers in residential areas, rather than all of a sudden they have towers every other block.

Mr. Carlin said to follow up on her question about the distance to the residential homes, the house to the south is approximately 76 feet from the tower and the house to the east is approximately 126 feet from the tower.

Commissioner Coke asked how tall is the tower?

Mr. Yazzie said 150 feet.

Commissioner Coke said so if it fell over, either one of those houses could be gone.

Mr. Recio said the tower is designed so that it falls within 50 feet. It has an internal collapsing design, that is the way it is structurally engineered. Just to clarify a couple of other points. The tower itself is on a commercial parcel, zoned C-3. It is designed so that it will fall within a 50-foot factor, they see the ring on the plans in front of them.

Commissioner Coke said oftentimes theory and reality are two different things.

Mayor Benton said it is a perfect scenario, but he has seen a lot of perfect scenarios go the other way.

Mr. Carlin said he would point out that the review standards for site plans for towers are as follows, that the application may or may not be approved in the event that the public health, safety, and general welfare are not provided for. That is the review standard before them tonight.

Commissioner Alexander said he did meet with this gentleman (Mr. Recio) about a year ago. Did they go into the neighborhood to see how the neighbors felt about this?

Mr. Recio said they did send out notices to everyone within 500 feet. The Planning Department staff actually prepared a list and sent out notices. They sent a copy of the notice sent out, inviting everybody to a community meeting. They held a community meeting on November 12th at God Divine Ministry, which is actually on this site. They attempted to let people know about this.

Commissioner Alexander said they have space for four different...?

Mr. Recio said four different providers.

Commissioner Alexander asked each one of those providers will be paying for a business license to the City of Fort Pierce as long as they are there?

Mr. Recio said yes, they have to in order to operate. Then the tower operator will also have to pay a business tax. Also, the property value will be adjusted accordingly, because this is a structure on the property.

Mr. Carlin said the Code requires when they have a new antenna support structure, that at least two carriers are allowed to be placed on the actual antenna. The reason behind that is to ensure that they don't have a proliferation of antennas all over to accommodate additional cell carriers. They are providing four additional. That is helpful to know if they do get other applicants that are interested in providing cell service, they know there is a tower available that can provide coverage. That is what the Code requires.

Commissioner Coke asked can Ms. Steele tell her how much that business tax is approximately.

City Clerk Steele said no, she does not have the book with her. These are so rare, she just does not remember.

Commissioner Coke asked a few hundred dollars a year?

City Clerk Steele said probably.

Commissioner Alexander asked don't they have a tower at Avenue M and U.S. #1? Is it vacant, not being used?

Mayor Benton said it is a vacant lot. It is probably some other company. He would imagine it is being used.

Commissioner Alexander asked do they see that that property is maintained?

Mayor Benton said when he drives by, if it looks like it needs some help, he makes a phone call.

Commissioner Sessions said he did meet with the applicant and he had some reservations then and proposed some other things. He sees they have come back to square one with regards to this site. He somewhat has some reservations about it because it is in a residential area. They are working very hard in this area in terms of trying to revamp and revitalize the Lincoln Park area. The last thing in the world they need is an eyesore. So he commends the applicant for making it, at least from a camouflage standpoint, a flagpole with a flag. But then again, being in a residential area in a city such as this with all their height restrictions, to put this right in the backyard of an individual, even though it is on commercial property. There is the Housing Authority, there is the project about a block away from there, there are residents surrounding this site. He just has some reservations about it in terms of what it would do. He does not think it is going to complement. Certainly an antenna of the nature they see up on Avenue M and U.S. #1 would certainly be an eyesore. In light of the sacrifice perhaps and the contribution the applicant is asking the community to make, he is sure they see they have a whole lot of children here in the City of Fort Pierce in terms of their recreation, maybe the applicant would be interested in making a financial and/or in-kind contribution other than a flag and a plaque towards their recreation. He is just a compromising individual here. At any rate, that neighborhood having something of that nature, he does not see where it is going to enhance what they are trying to do to improve that area aesthetically.

Mayor Benton said he is not much willing to compromise. This is the first he had heard about this tower when he got his Agenda packet. Since he has been on the Commission, he believes they have approved a tower at the College and one at Dave's Communications and one over on the beach for the Fire District. Because that was for public safety, that was a priority. But in this case... His cell phone works very well in that area and he has had several different brands. Just a few blocks to the north is a canal and what used to be a transformer yard, it is adjacent to a school, but there is enough open space there. If he lived next door to this in that residential buffer and saw this go up, he would be pretty well offended for the aesthetic purposes. Also, they said it would fall within 50 feet; but what they say should happen, doesn't always happen. He can't guarantee to the neighbors that it won't fall on their house in a hurricane. He just thinks there is a better place for this. That is his opinion.

Commissioner Alexander asked did he understand them to say the tower is going to be white?

Mr. Recio said the other towers that Florida Tower Partners maintains in the State are a white pole.

Commissioner Alexander said so it is not aluminum. They would have to maintain a white pole. Who is going to be at the top of that tower painting it? If they have aluminum, they don't have to bother with it.

Mr. Buggeln said they way the pole is designed, the top 50 feet of it is actually plastic panels that can be replaced with the help of a crane if those become discolored. The rest of the pole, they periodically every several years pressure wash it and paint it is needed at that time.

Commissioner Alexander asked what is the life expectancy of this tower? It is plastic, right? What is the life expectancy of plastic?

Mr. Buggeln said the top 50 feet is plastic. It is replaced as needed. They have towers that are five years old that are perfectly fine.

Commissioner Alexander said he is sure the City of Fort Pierce has a wind gauge on that. That would be what? How many miles per hour would that handle?

Mr. Buggeln said they have designed it to meet or exceed the Florida Building Code and the TIA/EIA (Telecommunications Industry Association and Electronic Industries Alliance) standards. That is 140 miles per hour.

Commissioner Alexander asked does that suffice?

Mr. Yazzie said the applicant has submitted engineer certified documentation showing that the tower is structurally engineered for 140 miles per hour. The Building Official would have to make sure that is adequate.

City Manager Recor said he is getting a nod from their Building Official that it meets the requirements of the Code.

Commissioner Becht asked the tower on South Beach at the Fire Station, can anybody tell him how tall that one is? The nets at the Golf Course, does anybody know how tall those are? Just to get some perspective. As proposed, the inclusion of the flag and the lights and the width of the pole and the lighting, those all trouble him. It is a question of aesthetics for him. The other Commissioners have expressed concerns about other issues. He will not be able to support the Site Plan based on those reasons tonight, he wanted to get that in the record. What is proposed - the flag, the lighting, the color of the pole is white - he is not in agreement with that. He thinks there is a great wisdom generally speaking in having the City's ordinance revisited for the impact that cell towers will have on residential neighborhoods; but that is secondary for him.

Commissioner Alexander asked will there be any benefit for the residents?

Mr. Recio said the tower itself is intended to serve the immediate area, to address the coverage gap.

Commissioner Alexander asked will it reduce the cost for them?

Mr. Recio said in terms of their use of the wireless carrier, there won't be a special reduction.

Commissioner Alexander said he is asking on the same lines as Commissioner Sessions. Is there any kind of concession for the public in that area? Because Lincoln Park has been overlooked for quite many years. He thinks them coming in with a money-making idea is fine. But can something go to the community, to let them appreciate that they are coming into their neighborhood?

Mr. Buggeln said as a company, they have made charitable contributions to eligible groups in the State of Florida before in connection with their development activities.

Commissioner Alexander asked so they are willing to go along with that?

Commissioner Sessions said he sees they have the right frame of mind, instead of a plaque and a flag. But Jesus Christ, if they are asking a community to make a sacrifice such as this, it would appear that they would be willing to make a contribution as well. He can't reiterate enough, that is an area that is well needed of some basketball courts, some form of recreation. There is a lot of things - in-kind/financial - that he could see this being sacrificed for from the standpoint of giving back to the community. They are in the money-making business. Metro PCS is doing real well right now, making a lot of money. Again, this is not something that is going to benefit the public. So it would appear they would be more in a spirit along the lines of what Commissioner Alexander is trying to say, give back to the community - this community specifically.

Mr. Carlin said the Fire Station on Avenue D, the tower that was approved was 120-feet. He believes the tower on Seaway Drive is approximately the same height.

Motion was made by Commissioner Coke, seconded by Commissioner Becht, to deny the Site Plan for the Avenue I Wireless Flagpole at 910 North 25th Street based on the proximity to residences and concerns over the health and safety of the residents in the neighborhood.

Mayor Benton said he agrees. He has concerns about public safety, this being next door to a residence. He can't assure those folks that they are going to be safe if something happens.

Commissioner Coke said they don't actually know the long-term effects of living that close to a cell tower either.

Mayor Benton said with their history of storms, that bothers him more than anything else. He has seen engineered cranes that were supposed withstand a lot stronger winds come down.

Commissioner Alexander said he is not in defense of these gentlemen, but he just thinks of the other towers. He has one right across the street from his business, so he is in jeopardy every day, he guesses. But he is not in qualms with that. He did meet with these gentlemen, they showed him what they wanted to present to the City of Fort Pierce. If they have it in writing that it is collapsible, he thinks that would assure all their neighbors that when they have these towers that tower above them, they collapse. A piece of airplane can fall out of the sky and hit someone, that is the kind of ratio he is thinking of, the safety and well-being of a community. He would not dare put his

community in harm's way, he stays right down the street from that. He was looking forward to that, but he guesses it won't be happening.

Mayor Benton said he supported the towers at the Fire Stations because those were for the 900 MHz system. But that was the way for them to communicate with the Police Department, the Sheriff's Department, and 911, that is about saving lives. This is a public convenience when it comes to cell phones, not public safety, so he is looking at it in a different way.

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

Mayor Benton said the request has been denied; but he would ask them, there are other areas, to please take a look at those to see if they can work.

Commissioner Coke asked do they have a consensus that, rather than reinvent the wheel, borrow the County's wheel regarding the 1,000 foot limit to residences, to perhaps bring that forward to a City ordinance?

Commissioner Becht said he would like to reconsider what they have now. But he is not sure 1,000 feet from a residence is going to work within the City. In the County, there is much agricultural land where they have the ability to do more there than they do within the City. What he would like is for Staff to get back with some recommendations for bringing them into the 21st century.

City Manager Recor said both he and Mr. Margotta have some experience in dealing with some pretty sophisticated cell tower ordinances requiring the equivalent distance between the radius of the fall versus the proximity to structures. They can come back with something, there is no need to reinvent the wheel. There is certainly provisions out there that can address a lot of what they have heard tonight.

Commissioner Becht said this tower at 120 feet instead of 150 feet, the base becomes narrower and the top becomes narrower, the flag disappears, the color disappears, and his vote may change. But as presented by the applicant, he could not support it.

City Attorney Schwerer said while they are having this discussion, he would encourage all of them to review the standards found in Section 22-159(d). There is eight different factors there. He believes the way it was drafted and phrased was to give them some leeway to be looking at various different things concerning the height and the proximity to residential districts, the nature of the uses, the surrounding topography, vegetation and large trees near it. So it gives them some flexibility, rather than staying with a hard and fast number like 1,000 feet or 500 feet. This was intentionally designed to give the Commission some flexibility in looking at it. So before they embark on getting more specific, perhaps they might want to look at this and determine if that is the way they really want to go, given what they have under the Code right now to work with, which does give them a lot of flexibility, especially in the aesthetic area and the residential area. He would encourage them to look at that before they pin themselves down to a specific number.

Mayor Benton said he is sure the City Manager will take that into consideration.

Commissioner Coke said her only concern with that is then it becomes a subjective measurement rather than an objective measurement.

Certainly if they had the proper rules and regulations in place or something more objective when these gentlemen first approached, they would know exactly what was expected of them and they would not have wasted their time, effort, and energy in bringing forth something without a full consensus.

The next item on the Agenda was Public Hearing on Amendment to Development Agreement with IDI Inc. for Crossroads Commerce Park Building A to be located within the Commerce Park south of Okeechobee Road (SR 70) and between Interstate 95 and the Florida Turnpike.

Commissioner Becht said what he thinks he needs to do is make a motion to reconsider the motion he made at the last meeting in terms of the extension of the Site Plan for IDI. He needs feedback from Mr. Schwerer and Mr. Recor if that is the appropriate tool.

City Attorney Schwerer said correct, he should first move to reconsider the action. Once that motion to reconsider is approved, they can get into the debate of when they will consider the matter of the conditions for extending the Site Plan, and they can continue or postpone that discussion for subsequent meetings.

Commissioner Becht said at their last meeting (November 16, 2009), IDI came before the Commission and requested an extension of their Site Plan approval. There was a motion and second that it would be extended subject to IDI giving the City an easement for a 10-foot pedestrian way within 30 days. In discussions after that, what he has been told is that the applicant has proposed not granting a 10-foot easement, but deeding 47 acres instead. This land is very special, it is native and natural. It is in an odd location, but it is a beautiful piece of land. It would be 47 acres they might have deeded to the City. He asked Mr. Recor to task Staff with giving them the pros and cons of whether the City wants to own it or whether they want the County to own it. If the County owns it, then the City would get an easement from the County. The County has access to the inmates at the jail for maintenance and upkeep of properties. The City does not have that benefit. He is going to make a motion to reconsider the motion at the last meeting, on the basis that if they give IDI a little more time, they may end up with a lot more than an easement, they may end up with 47 acres either in the hands of the City or in the hands of the County.

Motion was made by Commissioner Becht, seconded by Commissioner Coke, to reconsider the motion made on November 16, 2009 (to approve a two (2) year extension to the approved Site Plan for construction of a 141,200 square foot Warehouse to be known as Crossroads Commerce Park Building A in the Commerce Park off Crossroads Parkway, south of Okeechobee Road and between I-95 and the Florida Turnpike, subject to the 20-foot pedestrian easement along Ten Mile Creek being recorded within 30 days).

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

Commissioner Becht asked do they need 30 or 60 more days for decisions to be made and the land deeded?

City Manager Recor said at a minimum, they need 30 days to complete the evaluation.

Mayor Benton asked with the holidays, why don't they say 60 to 90 days?

City Manager Recor said it may be best to go to the second meeting in January. They can continue their dialog with the applicant. Staff has been in communication and are in the midst of the evaluation requested. He thinks they can have it wrapped up by that time and the applicant will have a better idea of what is involved in actually dedicating the property to the City.

Commissioner Becht asked what is the correct motion that needs to be made?

City Attorney Schwerer said they need to postpone a decision on what condition, if any, they are going to impose on this applicant for dedication or deeding of the property for a 60 or 90 day period.

Commissioner Becht asked why can't he modify the approval of the Site Plan extension conditioned upon the applicant either granting them the 10-foot easement or deeding the property by the second meeting in January?

City Attorney Schwerer said he can do that, but he is limiting the options to just those two, and there might be some additional options that may be available that might surface based on discussions with them. He does not know if deeding all of the property or part of it... He is just suggesting they might want to keep their options open. Commissioner Becht can certainly do what he is proposing, but he might want to keep his options open.

Commissioner Becht said IDI may need certainty that they have an extension of the Site Plan for bank financing or some other reason.

Mayor Benton said he would like to at least give them 90 days, knowing they have attorneys involved and holidays. So far, IDI has dealt with them in good faith, and he would like to do that back. He knows it could take longer and he would hate to put pressure on it and it fall through the cracks.

Mr. Travis Walker, Law Firm of Weiss, Handler, Angelos & Cornwell P.A., said he is here on behalf of the applicant, IDI Inc. Commissioner Becht has exactly told what the situation is. They had discussions with South Florida Water Management District (SFWMD) regarding whether or not the pedestrian easement could be provided within 30 days. The discussions with SFWMD concluded that there was no way, regarding modifying the easement and the permits, that 30 days would be a viable opportunity to provide this walkway. In the alternative, the client has agreed to convey and deed the conservation easement over to the City with certain reservations. That would provide this 47 acres to the City of Fort Pierce. However, SFWMD did say it would take 3 to 12 months for them to get through the process and modify it. Fortunately, they are working with Staff, which has been very helpful in working through a modification to the Developers Agreement for the same exact project. What they propose to do, if the Commission prefers, is to provide the new language conveying this entire property, with the appropriate language being included in the Developers Agreement which is already in the process of being modified.

Commissioner Becht said so he needs to make a motion to postpone something for 90 days.

City Attorney Schwerer said he has options. He can extend the Site Plan subject to the Developer agreeing in writing through the Developers Agreement to terms and conditions acceptable to the City on that easement, which might include deeding the entire property or

which might include a time frame for the actual deeding of the easement. If he is looking for a motion to give them an extension, then the extension would be conditioned upon them entering into an acceptable agreement with the City through the Developers Agreement or otherwise within a specified time frame. That is one option. Or they can postpone the entire decision of granting the extension of the Site Plan for a later day. But he thinks Commissioner Becht is tending to want to exercise the first option.

Commissioner Alexander said he hears Commissioner Becht saying a 10-foot easement, but the memo says 20 feet. Which is it?

Commissioner Becht said there are multiple easements. There is a conservation easement which he thinks is actually on 20 acres, not 20 feet, or maybe on the 47 acres. Actually the Site Plan was approved contingent upon them deeding a 10 foot pedestrian easement to the City. They did not do that within the 12 months. So at the meeting where IDI requested an extension, this Commission granted that extension, but wanted that 10 foot pedestrian easement within 30 days. That precipitated discussions. But because of the conservation easement that is held by SFWMD on the property, there are problems with SFWMD agreeing to pedestrian access to the property with a private property owner owning the property. He does not know if there is a simple solution when dealing with SFWMD, but at this juncture the best solution is to deed it to a governmental entity - either the City or the County - and then SFWMD has said they would allow a pedestrian easement across the property because the property would then be owned by a governmental entity. He would move to extend the Site Plan by IDI for up to 90 days contingent upon the City and IDI entering into an acceptable agreement, perhaps through modifications to the Developers Agreement.

Commissioner Coke asked with the specification they are extending the Site Plan for 90 days subject to the Developers Agreement modifications, is that going to tie their hands financially or as far as anything they need to do to move forward? Or is that enough of a commitment, that the Site Plan is being extended?

Mr. Walker said if the motion is made to reflect that within 90 days they will provide the appropriate language and come to an agreement and the Commission adopt the modifications to the Developers Agreement providing for the conveyance, then his client is in agreement with that.

Commissioner Becht said he could modify the motion that the extension be for a full year, but conditioned upon the Developers Agreement being entered into in the next 90 days.

Mr. Carlin said he wanted to point out that the original request for Site Plan extension was for two years.

Commissioner Becht asked what did they approve?

Mr. Carlin said two years, with the condition that within 30 days the pedestrian easement would be recorded.

Motion was made by Commissioner Becht, seconded by Commissioner Coke, to extend the Site Plan approval for the Crossroad Commerce Park Building A for two years (to expire November 17, 2011) contingent upon the City and IDI Inc. entering into an acceptable agreement, through modifications to the Developers Agreement, in the next 90 days.

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

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

Mayor Benton declared a Public Hearing on Ordinance No. L-95 in session and asked if anyone in the audience wished to be heard.

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

Motion was made by Commissioner Coke, seconded by Commissioner Sessions, that Ordinance No. L-95 be passed on second and final reading.

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

Ordinance No. L-98 entitled, "AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, **AMENDING THE ZONING CLASSIFICATIONS FOR FOUR PARCELS TOTALING 27.30 ACRES GENERALLY LOCATED ON SAVANNAH ROAD EAST OF U.S. HIGHWAY #1 AND WEST OF INDIAN RIVER DRIVE**; REZONING SAID PROPERTY FROM I-1, R-3, AND R-4, TO OS-1, GENERAL & RECREATIONAL OPEN SPACE ZONE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE." was placed on second and final reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. L-98 in session and asked if anyone in the audience wished to be heard.

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

Motion was made by Commissioner Coke, seconded by Commissioner Becht, that Ordinance No. L-98 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. L-98 on second and final reading were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

City Clerk Steele introduced the following Resolution by title only:

RESOLUTION NO. 09-65

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, SUPPORTING **MAIN STREET FORT PIERCE'S** ENTRY INTO THE GREAT AMERICAN MAIN STREET AWARDS COMPETITION."

Motion was made by Commissioner Becht, seconded by Commissioner Coke, that Resolution No. 09-65 be adopted.

Mayor Benton said he thinks they are going to win this. This is a real honor that Main Street has been recognized. They all know it is the best Main Street in the United States. It is very impressive.

Those voting in favor of the adoption of Resolution No. 09-65 were: Commissioners Alexander, Becht, Coke, Sessions, and Benton. Those opposed: None.

The next item on the Agenda was Discussion on addition of Jaycee Park to the Revocable License Agreement for Vendor Services with **Lisa's Kayaks**.

City Manager Recor said the only difference in the Revocable License Agreement in their packet and what was originally approved is the inclusion of Jaycee Park. The original terms and conditions are identical. The only addition is Jaycee Park.

Mayor Benton said he believes there was a question about the Youth Sailing League having a concern about this. He brought it to their Board and the Board had no problem at all with kayaks, because mainly it is just on the weekends in the summer.

Commissioner Coke said last year they talked about a vendor ordinance. Can somebody tell her where they are at with that?

City Manager Recor said the park rules that were recommended by the Citizens Parks Advisory Committee, as well as the vendor recommendations, have been forwarded to the City Attorney's office.

Commissioner Coke said she was glad last year they had the foresight to form a committee to look at all these different things. They heard from Arden Peck earlier this evening (under Comments from the Public) a recommendation to not move forward with this until the vendor ordinance takes place. She thinks that will entail a lot more public hearings. Her concern becomes, her phone has been ringing off the hook and she has been inundated with emails from people saying Jaycee Park is already too busy, they can't put anything else there. So she has a lot of the public complaining about it and she thinks there is concern about it cutting down on the public being able to use the park. She is glad Lisa has the capability of renting kayaks from any place and launching it from Jaycee Park, because she does not think that takes up space in the park. But she has some concerns if they formed a Citizens Parks Advisory Committee which comes to the Commission with a recommendation and they don't follow it. So from the amount of concern she has heard from the public, the emails, the phone calls, and the recommendation of the Committee, she can support Lisa being able to launch her kayaks from there, but she cannot support taking up space and setting up in that park. On Saturdays and Sundays, that park is absolutely crazy with people. So she won't be able to support this.

Commissioner Sessions said with regard to the setup, if she operates out of Jaycee Park, she is going to need a permanent staging area. How much space is she going to actually occupy?

Ms. Lisa Fasnacht said she needs a total of 14 feet by 14 feet. She has a 10 foot by 10 foot quick shade canopy which is portable, it comes with her and leaves with her, so there is no structure to maintain.

Commissioner Alexander asked are the kayaks attached to her vehicle or on the ground?

Ms. Fasnacht said the kayaks will be on the ground. Take the 10 foot by 10 foot canopy and add two kayaks to each side, it becomes 14 foot by 14 foot.

Commissioner Becht said it seems to him that if they give Ms. Fasnacht 180 days or less... The Revocable License Agreement has already been signed, so they have burned 30 days of the 180 days, right?

City Attorney Schwerer said presumably that is correct, it is already effective.

City Clerk Steele said it was effective December 5th.

Commissioner Becht said then they haven't burned 30 days. He thinks they learned some things while Ms. Fasnacht was operating under her prior Revocable License. The thought occurs to him they could learn, if they set her up in Jaycee Park on a temporary basis, that if it doesn't work in 180 days or less, they are going to know that. Then when they do get the vendor ordinance, they will know to either exclude Jaycee Park or they will know to put such restrictions on it that it does work on the limited beach frontage they have there with the sailing school and the watercraft being launched and the little area where they aren't supposed to have motorized vehicles in there. But he is also concerned why this doesn't work for her at Bear Point. If he was going to go kayaking, he would go down to Bear Point before he would launch at Jaycee Park.

Ms. Fasnacht said Bear Point is a good launch spot. But Jaycee Park is more of a local hangout, which on the financial end of this business, she needs one sport where everybody is there. She actually does not foresee additional traffic coming to Jaycee Park specifically to kayak. But people who have rented the pavilions that are having parties or corporate events just renting kayaks in addition to their already existing event.

Commissioner Becht said Bear Point is a lot nicer, they don't have jet skis zipping all around.

Ms. Fasnacht said that is true. But there are no bathrooms at Bear Point.

Mayor Benton said this is for 180 days. At least they have an opportunity to try it out in a time when it has been warm. But if they have a cold winter, there won't be that many people in the water at Jaycee Park except for jet skis and boats. If there were going to try a test time, he does not think they could pick a better time. But he would ask maybe they consider holiday weekends, in the summertime he would be concerned with the 4th of July and Memorial Day when the park is packed. He does not know in the wintertime if that is the case.

Commissioner Coke said her other concern becomes, she knows that the Police Department has made people take down little tents and umbrella things that people use for children. She is a firm believer that they need to treat everybody with an equal standard. So she does not understand how the Commission can say Ms. Fasnacht can put up a tent, but tell a mom and dad who is there with their little kid that they can't. That becomes a concern. She knows the Police have made them take down those little pup tents and umbrellas before. Also, she has heard a lot from the public about private enterprise making money on public land. So she kind of felt like the launch thing was better. If she sets up closer to A1A, she is more visible and she is not taking away from public use. Also, within the City they have a Request for Proposals (RFP) system. So then her concern becomes they are carte blanche handing Ms. Fasnacht a license and saying go make money on public property without going through the RFP system and affording the same opportunity to other citizens. There may be no one else that

wants to do it. But she thinks they need to treat everybody equally. So if they are going to offer public land for private enterprise, they need to do it across the board and they need to put it out for a Request for Proposals. She thinks if they are going to allow one person to set up a tent there, then citizens using the park need to be able to set up a tent there.

Commissioner Becht said he shares her concerns. He just thinks they can use Ms. Fasnacht as a guinea pig here and learn from this experience. What minimum conditions would she like to see in a motion to allow her some use for the next 180 days at Jaycee Park? He did not clearly understand what she was saying. Did she say she did not want Ms. Fasnacht there at all? Or did she want to allow some use?

Commissioner Coke said her concern becomes that she does not know if they have clarification yet, because they haven't moved forward with the parks ordinances. If they are going to allow Ms. Fasnacht to set up a tent there, then they have to suspend the Police Department from stopping John Q. Citizen from setting up a tent there to keep their kids out of the sun, they don't want to sit in the broiling sun all day. So they have to be uniform in what they are requesting of people.

Commissioner Becht said he is prepared to make a motion to let Ms. Fasnacht have whatever use she wants for the next six months. And at the end of six months, they will have a vendor ordinance and they will know how to draft an RFP so that it meets the requirements of the vendor ordinance. If this doesn't work well, it may completely preclude somebody from doing what Ms. Fasnacht is proposing to do in Jaycee Park. The question to Commissioner Coke is, is there a minimum set of restrictions...?

Commissioner Coke said she thinks the Committee's second choice, if they are not going to hold off until all the rules and regulations were passed, was to do a Monday through Friday and leave the weekends open, which are the most crowded times at Jaycee Park. That kind of covers the holiday situation also. She thinks they have more tourists out looking to do that kind of thing during the week anyway.

Commissioner Sessions asked is that true, business is from Mondays through Fridays?

Commissioner Coke said the Citizens Parks Advisory Committee's recommendation was, if they were not going to wait until the parks ordinance went through, that they allow her to operate Monday through Friday and that they allow full public access on the weekends.

Commissioner Sessions asked are they setting her up to fail? Is she even interested in doing it Monday through Friday?

Ms. Fasnacht said the prime days are Saturdays and Sundays. But she is asking for their approval, so what they recommend is what she will go with. She would prefer not to have any limits at all for financial reasons. Saturdays and Sundays are the two prime days. She has been keeping about three eyes on Jaycee Park for about six weeks now. She makes a point to go down there on her bike on Saturday and Sunday afternoons and she has yet to see an overcrowding problem. She knows the holidays kind of get a little crazy. But this time of year, she hasn't seen a parking problem. She has seen more people in the pavilions versus the beachgoers. They get 30 or 40 people in each pavilion. That seems to be where 9/10ths of the parking is coming from.

Commissioner Sessions said he is willing to look at it for 180 days on a trial basis. But by the same token, he does not want to set her up to fail. He would like to see it notwithstanding holidays, a Monday through Sunday type of operation. He feels this is a specialized area of recreation, that is wouldn't hurt to allow her to do this for that limited period of time. They will see what the outcome is afterwards and make a determination in terms of going out for RFP's the next time around. At Jaycee Park, they have a lot going on. They have heard from the public how they are enticing and bringing people into this area. He thinks this is going to be an added asset in the form of recreation that will benefit the parks.

Commissioner Alexander asked they have an ordinance that doesn't allow tents or umbrellas?

Mayor Benton said he would ask the Chief if he would maybe suspend any type of enforcement, if they have officers going up to little pup tents with kids. He sees those over on the Causeway quite a bit. Maybe they need to change that, they need to have common sense. He does not think the ordinance was set up for that, he thinks the ordinance was set up for the big tents.

Commissioner Alexander said if their Police Officers don't have anything else to do, then he thinks he can find something for them to do besides pup tents.

Chief of Police Sean Baldwin said he does not think they are talking about little umbrellas, he thinks they are talking about tents that people are putting up. The ordinance does prohibit that. These are 10-foot by 10-foot or 12-foot by 12-foot or bigger. Their ordinance does clearly prohibit it. They have people complaining, they call the officers and complain about the tents being up in the parks because it does inhibit others using the parks. The Citizens Parks Advisory Committee has addressed this so it will be clearer. It is one of those tough issues where they try to reach a balance, they do try to use some discretion.

Commissioner Alexander said he was not aware of it and he does not want to debate it tonight. It is just these little portable things they have now just pop right up and don't occupy no more space than a person. They can lay down and use at least six feet.

Motion was made by Commissioner Sessions, seconded by Commissioner Alexander, to include Jaycee Park to the existing Revocable License for Vendor Services for Lisa's Kayaks, Inc. to the extent of 180 days (excluding legal holidays).

Mayor Benton asked does that include holidays?

Commissioner Sessions asked how many holidays do they have in the next 180 days?

Mayor Benton said Easter would be the biggest. He does not know how many folks would be out there during Christmas.

Commissioner Coke said Memorial Day.

Mayor Benton said he does not know if Memorial Day fits in the six months when this started. They would have a lot of folks in the beginning of Spring for spring break.

Commissioner Sessions said as maker of the motion, he would include legal holidays to be excluded.

Commissioner Alexander asked this started December 1st?

City Clerk Steele said December 5th.

Mayor Benton asked does the second agree?

Commissioner Alexander said he agrees.

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

Mayor Benton said this is a test case. They will see how it goes for the next six months.

The next item considered was City Manager discussion regarding the 2002 Parks MSTU.

Mayor Benton said County Commissioner Dzadovsky asked them earlier tonight (under Comments from the Public) to put this off for two weeks. Mr. Recor put it on the Agenda.

Mr. Recor said if they would like to postpone it, they can. But he believes they have sufficient information tonight to move forward. He is not lacking any information from the County that he believes is going to change his position or his recommendation to the Commission. He thinks the background information is self-explanatory.

Commissioner Sessions said he had an opportunity to look at Mr. Recor's memo. Mr. Recor has done his homework. But by the same token, a County Commissioner is here tonight who seems to think perhaps he can come back with something that would be acceptable to both parties. If it is amenable to everybody involved, then he is willing to continue it, putting the burden on that particular County Commissioner who thinks he can put his weight on it and make it a reality to benefit all the parties involved. The County Administrator is here too.

Commissioner Becht said this issue, in fairness to Commissioner Coke, she has been pushing this not for two weeks, not for two months, but for years. Ms. Outlaw has had the ability to talk to all of her County Commissioners in private and at their meetings. If all he is going to get back from the County Commission in two weeks is the same regurgitation of information they have gotten... Has she seen Mr. Recor's packet of information? It is very thorough.

Ms. Faye Outlaw, St. Lucie County Administrator, said yes, she has.

Commissioner Becht said if all he is going to get is a regurgitation of the facts, then he does not see any need to postpone this. What they got was a fairly simple "No" from the County. That was County action, the County Commissioners gave them a flat "No", there was no interest in modifying this, or even any interest in following up on the discussion they had in February 2009, where he thought there was some very clear discussion that there was going to be a modification of it and there was going to be additional cash flows to the City of Fort Pierce. He is willing to give Ms. Outlaw more time to come back with a different position than just a flat "No"; but he needs her truthful answer that she believes there is enough leeway with her Board that they are going to get something. Because if all he is going to get in two weeks is the same, her talking to him and saying he didn't understand the facts and they are not going to modify the agreement,

then he does not want to wait two weeks. So does she think she has the ability to move her Commission in a direction where there will be some proposal for modifying this, where the City does reap a little bit more money?

Ms. Outlaw said first of all, she wants to thank the Commission for even considering the County's request at this point. To Commissioner Becht's comments, just in particular about her truthful answer, she thinks that they can always depend on what she tells them is what she knows to be the truth and she will continue to do so. Her Board is still at the point of being agreeable to what they expressed to this Commission back when they had the joint meeting. She thinks it has also been crafted in writing. That is, after the debt service is covered from the MSTU funds, that whatever that balance is, they are agreeable to having that go to the City. And based on the written communication, that was the \$49,000. In her opinion and after talking to the Board - certainly Commissioner Dzadoovsky is here and can verify this from the Board's perspective - the Board is still of that position to have the excess money after the debt service is covered to go to the City of Fort Pierce. She thinks where the major wrinkle came into this equation is that when City Manager Recor's last letter was sent to the County, it changed the formula in terms of the debt service. The County's position, rightfully or wrongfully - and apparently wrongfully at this point based on the letter - was that the City's pro rata share of that debt service was the 37% and that is how the calculation was done. Mr. Recor came back with his calculation being 16%. Therein lies the crux of the issue. If she can just bottom line it from the County's perspective, anything that will cause the County to be in violation of the bond covenants in making the debt service payment on that Parks MSTU, then she will tell Commissioner Becht truthfully that she does not think her Board is going to agree to it, because it is not going to put the County in a legal position where they violate the bonds. She will still ask that the Commission consider deferring this matter and allow them to go back...

Commissioner Becht asked what he is looking for is, what is going to happen in the next two weeks? What different from the last seven years? He thinks through the pushing, they are really at a point where something different might happen. Tell him what that something different is in the next two weeks, in her estimation.

Ms. Outlaw said in her estimation, quite frankly she does not think her Board is in a legal position to agree to put the County in a position where it violates bond covenants and they can't make the debt service payment. She is not the Board's attorney, but she oftentimes gets maybe accused of providing legal advice when that is clearly not her intent.

Commissioner Becht said so it is her position that Bond Counsel has or will render an opinion that the County cannot agree to a distribution of the MSTU funds other than the current distribution? Ms. Outlaw said she thinks her County Attorney, who is the Board's County Attorney, would tell the Board that the debt service has to be paid, they have to cover that.

Commissioner Becht said that is different from the bond covenants requiring that the MSTU Interlocal Agreement stay the same way. What they are looking for is a renegotiation of the MSTU... He is not sure it is a renegotiation, he thinks what they are looking for is that the intent of the MSTU from the City's perspective. He does not mean to steal Commissioner Coke's thunder here, but for seven years she has been saying the City is not getting its fair share and the money

got diverted to a regional park, albeit a regional park inside the city limits of Fort Pierce. And the expectation was that part of that money would go to regional parks for the County, but part of that money would go to County parks that aren't regional parks inside the City. During his term up here, the City has taken over County park after County park, because the County just was not committing the resources that the City thought were appropriate to those. So back to his question, what is going to happen different in the next two weeks? She may have answered his question, because her response was that the County Attorney has opined that they can't do anything different than what they are doing now. And if that is the answer, there is no need to wait two weeks.

Commissioner Coke said she spoke with two County Commissioners this evening and she joked with both of them that it is amazing after 14 months of this being batted around, that between 5:20 and 6:00 o'clock all of a sudden everybody wanted to talk. The last thing in the world she wants to do is have them all be in an adversarial position. She has kind of been on the adversarial position on this for seven years. She did not vote for the Interlocal Agreement as it was proposed originally and she can't support it now. She doesn't have a problem waiting two weeks, but she will tell them what she fully expects. She fully expects that the County and the City have to compromise. And by compromise, she is looking at Lawnwood Stadium takes in in excess of \$100,000 a year, and that money should go directly towards debt service. But that money is not going towards debt service. Unincorporated County pays into this MSTU. They haven't got those figures yet. How much of that money goes towards this debt service? Her concern has always been for all these years that this is a County facility that is located in the City. Yes, the City benefits to a degree by having it here. But the other side of the coin is, it is not like their kids can go play football there. There is a cost involved in it. So it is not the same as when they open up basketball courts for the kids. She understands the County is in dire need financially, because the City is in dire need financially. They have severe recreational deficiencies within their City limits. They recently on two hours notice took over the Community Center downtown, all of a sudden the County gave them the keys. Thank goodness, Staff has done a fabulous job with that. But her concern is, they have made a commitment to their veterans to re-do Veterans Memorial Park. They don't have the money. They have made a commitment to their children to provide other forms of recreation for them. She is not asking that the City of Fort Pierce not pay their fair share of Lawnwood Stadium. But what she is asking is that the City of Fort Pierce does not bear the entire cost of that. When the County says they are willing to give them \$49,000 while they are generating she does not know how many hundreds of thousands of dollars a year in MSTU funds that are going to the County, part of which... Mr. Recor's figure of \$378,000 may be high, but that is why they said come back with an alternative. Because what she does not want to do - but if she has to, she will - is vote to withdraw; and that would definitely put the County in a bad position. She does not want to sound like she is threatening, but in her mind it would be a whole lot smarter for everybody involved if the County would say this \$100,000 that comes in from Lawnwood, instead of going into the general fund, they are going to use that for debt service, and that can offset what Fort Pierce was paying, or 50% of it can, that they are going to pay this out of unincorporated County towards debt service. She is not really looking to put the pins to them to the point where their back is up against the wall. But Fort Pierce's back is up against the wall. All she is asking for is what is fair, right, and reasonable for their citizens. So like Commissioner Becht, if they think in two weeks they can come back with a legitimate compromise - and \$49,000 is not going to cut it - she

is willing to wait two weeks. If they can't come back with a legitimate compromise, then they probably don't need to talk about it again in two weeks.

City Manager Recor said he didn't mean to suggest that the County had made a mistake in any of the information they had provided. He used that information however to determine the amount in dollars that have been spent at Lawnwood Recreation Area as well as the football stadium, and then used those dollars as the basis for the renegotiation. As Ms. Outlaw pointed out, the City's share of the debt service under the County's calculation was almost 38%. But if they revisit the terms of the Interlocal Agreement and agree that the City will split the cost of those two regional facilities that happen to be located in the City, it has a significant financial impact both to the County and to the City. He recalculated using the County's figures through Fiscal Year 2022. He thinks therein lies the issue - what is fair and reasonable in terms of the City's proportionate share of that debt service? He did not intend for this to be a used car deal. He looked at the information, he determined in his mind what was fair and reasonable based on the discussions they have had to date, and he articulated the City's best position. So he agrees, if the County tonight says that in two weeks they can reconsider their position and they are willing to talk about some other alternatives, then he thinks it would behoove them to grant the request and meet with them. If they don't agree fundamentally on how they arrive at the City's prorated share of the debt service, he doesn't know that there is much to talk about aside from whether the City wants to continue its participation in the MSTU.

Mayor Benton said he thinks he has heard from the majority up here saying they would be willing to give the County two weeks, so they don't have to have this same discussion twice. He is going to thank Commissioner Dzadoovsky for a meeting last week where he really went to bat for the City of Fort Pierce, the City appreciates everything he has been doing for them, that is why they are listening.

Mr. Christopher Dzadoovsky, St. Lucie County Commissioner, said what he had anticipated in asking them to postpone this for two weeks was, he was hearing that there was information they didn't have. He wanted to insure that they had all the information that they absolutely positively needed - how the breakdowns went, what the income was for Lawnwood Stadium. Also, he thinks they probably need to go back and look at the Interlocal Agreement, the referendum, and the public meetings that were associated with the referendum that was approved by the voters. A lot of that education was done in those charrettes basically before the referendum went to the voters. The constituents he represents also are the same that they represent largely across the board. So when they talk about this being in Fort Pierce or being in the County, in his particular situation being District I County Commissioner, it affects all the people he represents. When they talk about it being a benefit to Fort Pierce, he has to represent the people of the County as well. So when they get into a situation where this may affect the financial arrangements through the MSTU for the bond, he has a concern. What he would like to do is provide them with all the information they possibly need to go back and deliberate over these next couple of weeks, to discuss some of the issue. He will make himself available to meet with each of them one-on-one in addition, because he thinks this is a very important issue for Fort Pierce. He has a concern, should this go in the other direction and they withdraw from the MSTU, it will be up to the County to try to find out how to fund that bond payment. He has a concern that other issues in the County - the part he represents, District I - might be affected for future opportunities for capital improvements, whether

it be roadways or bridges or any other funding for parks and recreational opportunities. So he does not want them to make a decision that may have unintended consequences. So what he is asking them to do, he will make himself available and get them the information for all the questions they had, to make sure they have all the information. And should they decide to make that decision to move out of the MSTU, then certainly the County will have to evaluate how they are going to deal with that issue.

Commissioner Coke said she and Commissioner Dzadovsky talked about some pieces of information she felt were vital and she appreciates what he is saying. However, what she didn't hear from him was yes, he would be willing to work out a compromise other than the \$49,000 the County already offered the City out of the \$600,000-something that the City of Fort Pierce brings in. She understands his not so veiled threat that nothing will happen in the City of Fort Pierce with County dollars ever again should they remove themselves from this. But she is here to tell them, Boardwalk Park, the County was in charge of that. The County gave it to the City. A day later, someone fell through. The County was in charge of maintaining the Amphitheater. The day the City took it back, she does not know how many hundreds of thousands of dollars they had to spend to make it liveable. Causeway Park was an absolute disgrace. The City partnered with FPRA money, now it is a great park. Pioneer Park. The City is moving forward on all these things. So although she heard him telling her loud and clear that the County won't do anything else with parks in the City, other than the couple of parks the County did with MSTU funds, she does not know that the County has done an awful lot for parks in the City in the last 20 years.

Mr. Dzadovsky said he would suggest first of all, his statement wasn't a threat. He was simply saying that when the County has to figure out what pots of money are going to pay the MSTU, the County is going to decide where those dollars are going to come from. So as District I Commissioner, it makes it harder for him to fight for issues within District I, which is largely the City of Fort Pierce. And those dollars are going to come from the General Fund or some other pot of money, so that is a concern for him. It is not a threat. Simply, it is just where the money is going to come from. Ilous Ellis Park was over \$1 million...

Commissioner Coke said which was paid for from the City of Fort Pierce MSTU funding.

Mr. Dzadovsky said right. Then also the Skate Park, which was largely requested by the City of Fort Pierce, at over \$600,000. Again a benefit to the regional park. They even put the Fenn Center in Lawnwood Park, which is a benefit. It has an MBA style basketball court situation.

Commissioner Coke asked can their kids go in there free and play whenever they want?

Mr. Dzadovsky said let him explain the benefit. The benefit is, when any regional event comes to the City of Fort Pierce through the regional park, Lawnwood, there is a huge economic benefit to the City of Fort Pierce. For instance, the baseball tournaments that were here this summer, the Treasure Coast Sports Commission indicated almost \$5 million was spent in the City of Fort Pierce or surrounding areas. So when they are looking at these types of economic offshoots, he wants them to look at the bigger picture as to what the benefit of the regional park is.

Commissioner Coke said she is not going to argue, but she is going to make two points. Number one, when they talk about the Treasure Coast Sports Commission and the money that is brought in, she will tell them that the vast majority of that is tourist development money, it comes in because Fort Pierce has 52% of the hotels in the County, hotel rooms are located in the City of Fort Pierce. The City of Fort Pierce charges the same 7% bed tax as everyone else in the County does. Out of that 7-cents on every single dollar, one-third of one penny is spent north of Midway Road. So the City also helps generate funds for the Tourist Development Council, the vast majority of which gets spent on Mets Stadium and south of Midway Road. And now that there is a little pot of money, it is not being spent on a City of Fort Pierce project. For the first time in the Tourist Development Council's history, they are opening it up to 501(c)(3)'s to apply for this funding. Instead of saying here it is for the City of Fort Pierce's tourist development project, which they had in place. Now the TDC is expecting the City to compete. So number one, he can talk about it is a benefit to the City; but also the \$5 benefitted right back to the County and Port St. Lucie because of the tourism tax that was brought in from here. Her question is, if they wait two more weeks, is Ms. Outlaw and Mr. Dzadoovsky and the other County Commissioners going to make an honest attempt at finding a more equitable solution of the division of these MST funds?

Mr. Dzadoovsky said he can tell her simply that if they are in a legal position as to default on the bond, he does not think the County will approve that. That said, his position was to try to give them an opportunity to get all the information they need over these next two weeks. Should there be an opportunity to have that discussion, certainly he will make himself available. He thinks he heard the Board of County Commissioners say they would be happy to meet each of them individually to discuss this scenario. But he does not believe the County would be in a position legally to default on that bond.

Commissioner Coke said she wasn't asking about defaulting on the bond. She is talking about, if they are generating \$100,000 from Lawnwood Stadium, why should that not go to retire the debt service of Lawnwood Stadium?

Mr. Dzadoovsky said that is a question he was going to try to have answered for her, as well as what are the funds are coming in and the debt service. They also asked about the line item, they wanted a better breakout of where the dollars from the MSTU were going.

Commissioner Coke said yes, that is part of the Interlocal Agreement and they haven't got it in six years.

Mr. Dzadoovsky said that is what he is going to try to get to them in the next two weeks.

City Manager Recor said he is not optimistic that they are going to be able to reach an agreement over the next two weeks in particular. The timing of this issue is rather critical. Any renegotiation of the terms is going to have a financial impact to the County. How the County pays the debt service? The County has a \$500 million budget. How the County pays the debt service on the loan for the MSTU for these improvements, that is the County's decision. That doesn't change the City's position and the basis for which the City has expressed a desire to renegotiate the terms. Again, he thinks the basis he outlined in the communication with the County is fair, reasonable, and equitable. Clearly there is a need in the City for those parks dollars for the various improvements that he articulated in the letter.

Motion was made by Commissioner Becht, seconded by Commissioner Sessions, to postpone further discussion on the 2002 Parks MSTU Interlocal Agreement to the December 21st City Commission meeting.

Commissioner Sessions said he is going to support the motion made, but he is somewhat reluctant to do so. After hearing Mr. Dzadoovsky come forward earlier, he was under the impression that he was in a position to try to renegotiate so that it would be amicable from both the County's and the City's standpoint. But to be honest, he thinks they are getting shortchanged, they are not receiving their pro rata share of what they should be, notwithstanding the debt service. He hears Mr. Dzadoovsky say the postponement is just for them to receive more information? He has about two inches worth of information here. He does not know whether or not he can comprehend any more information. He thinks the City Manager has done a good job. But he is expecting, hoping, and anticipating that Mr. Dzadoovsky came make this work for both entities involved.

Ms. Outlaw said she would like to respond to Commissioner Coke's comment about the revenue that is generated from Lawnwood. That is a legitimate point of concern. When the request came in from Mr. Recor about how the County uses the revenue on Lawnwood, she thought what they told him was that they needed to get back the full report on those expenditures. When they look at the budget, it shows that... And she is probably maybe causing maybe less than clarity on how those funds are used in that for this year. Being in the saddle as County Administrator, part of what she has put in place with the budget is a truing up of the cost. When they look at just the revenue side of Lawnwood, it didn't back into the expenditure in terms of maintenance and the staff, all of that was in another fund. But as she committed to Mr. Recor, through the Budget Director they are pulling all of that out, and she certainly will provide that. If there is an opportunity to look at that revenue stream at the end of the day to recommend that a portion of that be utilized toward the debt service, she thinks that is something that can be considered by the Board. She is committed to finalizing the details on the revenue stream that is generated off of Lawnwood. She will do that in spite of what action the Commission feels that it needs to take at the end of the day, because those are legitimate questions and they are certainly entitled to have that information.

Commissioner Coke said she appreciates that. Her concern with all of that at Lawnwood is that the operating expenses of Lawnwood as far as maintenance and things... Actually, maintenance should be a little bit less now that it is a newer stadium and has been renovated. But those were always County expenditures, those were things that were in the County's Parks & Recreation budget from day one. So she has concerns about those expenses actually being absorbed by the City's portion of an MSTU paying the debt service. In her mind, she is not as concerned about what it costs them to operate Lawnwood. Her theory is, it cost them that to begin with. So now they have a bigger and better stadium and a bigger and better facility that can generate more revenue. They have it thanks in part to the residents of the City of Fort Pierce. All she is asking for as far as that goes is that relief be given to those residents as far as other recreational facilities, rather than having them pay more and then the County gets to cut their budget and utilize part of that money instead of going to that to subsidize the operation of that facility.

Ms. Outlaw said so noted.

Mayor Benton said for the record, he has been very supportive of the MSTU the way it was up until a year and a half or two years ago when

the City started taking over a lot of the parks that the County operated in the City. The burden is now off the County's shoulders, but on the City's, and the maintenance costs are now the City's. So somehow they have to have some revenue. That is why he thinks there needs to be some revised way they are paying, a new way of looking at it anyway. He is willing to take a look at it. In the past he was very supportive of what they have done with Lawnwood and he thanks them for the Skate Park. But now the City has several parks and he has a Commission that wants to get into the recreation business. That is a concern to him.

Mr. Dzadoovsky said he personally had a position before he became a County Commissioner and as a County Commissioner. They are all trying to cut expenses. For the City of Fort Pierce to create another division, another level of maintenance... Personally he thinks the County should be taking care of the parks and should be providing the services necessary, utilizing the benefits countywide north of Midway Road, because Port St. Lucie has their own Parks & Recreation Division. He has always supported the fact that he thought the County should be handling the parks and not making it an economic burden to the City. However, other Commissioners have a different view, they think the City should be handling it. He thanks them for the time and opportunity to get them the information, so whenever they do make a decision they have got all the information available. He will make himself available to each of them. If any kind of compromise might be available... He knows the Board has also extended themselves to meet with them and discuss things individually to see if there is anything they can do to help out.

Mayor Benton said he thanks Mr. Dzadoovsky and Ms. Outlaw for coming to their meeting and spending the evening with them. Hopefully when they get this information they can make reasonable decisions.

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

The next item on the Agenda was Mayor Benton discussion on request from Senator Nathaniel K. Innis of Liberia, West Africa, that **Buchanan City** become a Sister City to Fort Pierce.

Mayor Benton said he wanted to bring this request to the attention of the Commission. He believes they already have a Sister City. He doesn't know whether they have had much correspondence with that Sister City in the years he has been here. But these folks have been here several years in a row.

Commissioner Coke asked can't they have more than one Sister City?

Mayor Benton said he is sure they can.

Commissioner Sessions said make them a Brother City.

Mayor Benton said he brought it to the Commission to get their thoughts. Do they want to take a look at moving this forward?

Commissioner Sessions said he is in favor.

Commissioner Coke said sure.

The next item on the Agenda was (a) Submittal of Applications for Appointment to the **Historic Preservation Board**; and (b) Report on Attendance on the Historic Preservation Board.

City Clerk Steele said they have two applications in front of them and there will be a Resolution for appointment at their next meeting. In addition, there is a report on attendance on the Historic Preservation Board for the Commissioners to consider.

Mayor Benton said they had asked for this attendance information because he knows there were one or two meetings or more where they didn't have a quorum, or with Board members abstaining they didn't have the ability to vote and make a decision.

Ms. Leslie Olson, Historic Preservation Officer, said yes, they have had some issues with a quorum. Especially on controversial items, they have had a hard time reaching consensus. The Historic Preservation Board is unusual - there are seven members, it is a quasi-judicial board, and therefore it requires four affirmative votes on every issue in order for any motion to pass. For example, if there are only four members present at a meeting, they must reach unanimous consensus on each issue in order to come to a vote.

Mayor Benton asked how come a majority doesn't rule? If they can reach a quorum, which is four, if it was a three to one vote, that would not move something forward?

Ms. Olson said it is a part of the Code. She thinks it is done that way because of the sensitive nature of the kinds of things they determine. It is causing some problems.

Mayor Benton said in his opinion, they need to look at changing that. If there is a quorum, on most Boards he ever sat on, the majority rules. In this case, if it is a big issue and somebody doesn't show up or a board member recuses himself... They are going to have to change that. They are going to now have two alternates, so they can make a decision. But he thinks the majority should rule.

Commissioner Alexander said he brought that issue before this Commission several weeks ago and requested that it be brought back.

Mayor Benton said no, that is a separate item, it has to do with the Utilities Authority.

Commissioner Alexander said the point raised that night was this is not the only board that comes under those circumstances. They were speaking about the Commission; but again, there were other boards inclusive. So this would be one of the other boards.

Mayor Benton said it is the only board other than the U.A. Board that he knows of.

Ms. Joyce Calvert said the Board of Adjustment requires four votes.

Commissioner Coke said they should have some uniformity between all these boards. And she thinks all of those should have alternates.

Ms. Olson said she believes both the Board of Adjustment and the Historic Preservation Board have the authority to grant variances from the Code. It is a quasi-judicial board and that may be the reason. But she will look into it.

Commissioner Coke said if they only have three Commissioners here, they can operate and do business. They don't need to reach a unanimous verdict, they can have a two to one vote and it passes. The Commission does things that are kind of like legal. So if they are doing that with three of them here and all they need is two positive

votes, she doesn't understand why the Historic Preservation Board or the Board of Adjustment would need more. So long as they have a quorum, then a majority of the people present.

Commissioner Becht said he thinks they are going about the cure in the wrong way. He thinks what they need to do is, they need to have more responsible people showing up for the meetings. The business of the Historic Preservation Board has been stopped because of no attendance there. He thinks with the magnitude of the issues that the Board of Adjustment and the Historic Preservation Board are required to consider, he is very comfortable with the requirement of four votes, but they just need to get enough people there to have the four votes. He thinks tinkering with that is the wrong direction. They need to get more people at the meetings so they do have four bodies there to create that vote.

Mayor Benton said he agrees.

Commissioner Sessions said he thinks the majority should rule. They probably need to look at all the boards. At any rate, it may be a situation that a lot of these issues are very controversial; and in light of that, these members may be avoiding attending these boards. He just has the idea that is probably what is going on. And in light of that, then they don't want business to stop because someone is trying to avoid making a determination on the issues. So if they have that rule in place, then they don't have to worry about it. But he just has a gut feeling that a lot of people are avoiding these meetings because they are trying to avoid a lot of these controversial issues. He would be the first to say, these are some very hot issues. Just from his position on this dias, it is very controversial.

Commissioner Alexander said he knows a couple of occasions when he and the Mayor both attended Planning Board meetings. How were they able to do that? Is there a difference between the Planning Board and the Board of Adjustment?

Ms. Olson said yes. It is because the Planning Board is under the City Charter. The Historic Preservation Board is under Chapter 23 and it does not allow a provision for Commissioners to sit in.

Commissioner Alexander said that Board meets once a month. Once a month they can't get a person to obligate themselves at the beginning of the week that they are going to meet on a Wednesday or a Thursday, is that what they are saying?

Ms. Olson said they have had issues. It is the same time every month, the fourth Monday of every month. One of the issues they have - and she tried to address this earlier this year - is that the rules governing the Historic Preservation Board are very lenient as far as absence goes. The procedures say that if a board member is unexcused three times in a row, they may be removed from the board. It doesn't say who removes them from the board. Speaking as a former board member herself, it puts other board in a very awkward position to unexcuse their fellow board members. It was her contention to the Historic Preservation Board, when she brought this item to them last Spring, that it would be best to remove the excused and unexcused portion and simply relate it to the total number of absences in a year. Because the bottom line is, it doesn't matter if someone has a good excuse, the problem is they are not there. If they are too busy to be there, then they shouldn't be on the board. However - another thought would be - if they have three or four absences, excused or unexcused, that be simply forwarded to the City Commission for review.

Mayor Benton said his contention is, who should remove somebody from these boards is this Commission. The Commission makes the appointments. And when there is no quorum and decisions can't be made, it costs people lots of money and it is an embarrassment to the Commission. His suggestion is that they get a letter out to every Historic Preservation Board member that if the attendance doesn't improve... As far as he is concerned, he is ready to remove people right now. It appears one person hasn't been to a meeting in the last several months; and then when they are there, they were late. That is what he is seeing on the attendance record. He knows people are busy and have other things to do; but if they can't find the time, then let somebody take their place who has the time.

Mr. David Carlin, Assistant Planning Director, said that is why they came up with the idea to have the alternates, not only consistency with the other boards, but to keep business moving. It does create a burden on the applicant and on staff, who show up for the meetings, which can't go forward or gets postponed. It creates a backlog for staff because they have to readvertise and they have to figure out where they are in the process, so it creates some problems. It is an issue. That is why, as part of the alternate strategy, this was brought for their consideration.

Commissioner Alexander said if they had problems last year or a year ago, why wasn't the alternate idea brought before them before now, before they have a dilemma?

Ms. Olson said she brought an agenda item to the Historic Preservation Board last spring when they started having problems, suggesting they remove the excused/unexcused concept; but they said, let's just try enforcing our own rules. But that puts people in a difficult position.

Commissioner Alexander said he is speaking of the alternates.

Ms. Olson said right, but that Board wanted a chance to deal with it. After that didn't work, she brought the alternates proposal forward.

Commissioner Coke said for a lot of the boards, staff calls or emails the day prior to the meeting to confirm attendance. Does she do that?

Ms. Olson said they have started doing it, but it hasn't really changed anything.

Commissioner Coke asked the rule for removing people from the Board is...?

Ms. Olson said if they have three unexcused absences in a row, they may be removed from the Board; but it doesn't say who does the removal.

Commissioner Coke said she would suggest they ought to consider if someone misses three meetings in a six month time frame, they shall be removed from the Board automatically. And after they miss their second meeting, staff can send a letter warning if they miss another meeting in the six month, they will unfortunately have to remove their name as a member of the Board and promote an alternate, and then the Commission can find another alternate.

Mayor Benton said excused or not, they have made a commitment. As somebody who has sat on boards for over twenty years, he thinks he might have missed three or four meetings since he has been on the Commission. But he sees that in just over half a year on this Board. It doesn't sit well with him, because it reflects on the Commission.

He has heard loud and clear from some applicants what it has cost them, because some people fly in from out of state for these meetings. It is an embarrassment. He hopes they get that letter out as soon as possible. If there is no change, he is ready to address it.

Commissioner Alexander said it goes back to the direction that the City of Fort Pierce has been going in for the last few years, they don't have policies and procedures in place, and they want to debate everything instead of putting policies and procedures in place and let it be. This discussion should have happened last year.

Ms. Olson asked is she understanding it is the direction of the Commission that she would do what she needs to do in order to change the policies and procedures that govern the Board to create something like if a board member misses three meetings, excused or unexcused, in six months, they shall be removed from the Board?

Commissioner Coke said that was her suggestion, but they didn't necessarily get a consensus.

Commissioner Alexander said he thinks it should come from the City Manager, these policies and procedures.

City Manager Recor said he will take care of it.

Mayor Benton said something has to be done, excused or not excused. If that means all the City boards, so be it. But this one appears to be the one that there is a real problem with. Does everyone agree? (No one disagreed.)

Commissioner Sessions asked before they leave this issue, are they going to deal with the super-majority vote? It is something they need to consider as well.

Ms. Olson said she would like to have the City Attorney weigh in on that, because she thinks it has something to do with the quasi-judicial nature of the Board.

City Attorney Schwerer said he would like some time to study it, if the Commission also would like to look at that super-majority vote. There are legal reasons why that applies to the Historic Preservation Board as well as the Board of Adjustment. If that is something they want his office to look at, they certainly can look at it at the same time these policies on absences are being handled.

Commissioner Coke said let's not hold up this for that. She would like to look at that too, but she does not want to hold this up.

Mayor Benton said he agrees.

City Attorney Schwerer said they are totally separate issues, but they certainly can handle it at one time.

Mayor Benton said also, a firm letter to the Board members that the City Commission finds this unacceptable. They supported these folks when nominated and put them on the Board, they expect them to represent them very well; and if they can't for some reason, please step down.

City Manager Recor said the letter will go out under his signature.

Mayor Benton said it can be nice. But he thinks these folks should also understand, because most of them are businesspeople, when they

don't allow business to be conducted, it is costing time and money and makes them look bad.

Ms. Olson said she does appreciate her Board members. She has a lot of long time very committed Board members. It is just that they need to fix the problem.

Mayor Benton said several of them have come to see him about this. He told them they understand the problem and they are addressing it.

The next item on the Agenda was Director of Finance and Director of Human Resources to present **Employee Benefit Comparison** to other municipalities/counties.

City Manager Recor said he would like to make an introductory remark before he turns it over to Ms. Johnson and Ms. Smith. It probably has not escaped the Commissioners that they were not able to obtain private sector information. In his original task to both the Director of Finance as well as the Director of Administrative Services, he had asked that they not only canvass the public jurisdictions along the Treasure Coast to develop a standard data set, but that they look at some private sector employers as well, given the attention that the local government benefit programs have been receiving in the media as of late. Unfortunately, the private sector organizations were not very cooperative; and in fact, indicated that it would be upwards to 60 days before a corporate office would respond. That said, he thinks this should be looked at as an introductory discussion and a dialog they should plan on continuing at their strategic planning session in January in preparation for their Fiscal Year 2010 budget.

Mayor Benton said this is just for informational purposes tonight, because he can see they are going to need a lot more information, and some of these numbers can't possibly be right.

Ms. Gloria Johnson, Director of Finance, said this really is just a status report. There is still information missing from all the organizations. It is just to let the Commission know that staff is working on this, they have information they have not put in the chart and they still have questions they have to ask some of the municipalities. But they are working on it and will have a completed report. They are trying to get more information from the private section, which they have not gotten yet, but hopefully will have something within the next few weeks.

Commissioner Coke said under the Benefit Comparisons for Vacation Leave, it shows the City of Fort Pierce under 5-10 years is 1,120 hours per year, and 10+ years is 1,360 hours per year. Can she assume that is a misprint?

Ms. Johnson said yes, definitely. She has not gone through this schedule and updated everything like it should be.

City Manager Recor said that is a typo.

Commissioner Alexander said under Benefit Comparisons for Vacation Leave, the City of Fort Pierce pays 240 hours and other cities pay 100%. What do they mean by that?

Ms. Johnson said upon retirement, certain cities will let employees convert retirement to actually be calculated into their benefits, so they will allow up to a certain amount of hours that they can use towards their retirement benefit.

Commissioner Alexander asked they give more than 240 hours, right?

Ms. Johnson said they are able to convert 240 hours of vacation time and 720 hours of sick leave, which is 960 hours together.

Commissioner Alexander asked where is the sick leave?

Ms. Johnson said it is on a different chart.

Commissioner Alexander asked so when a person gets ready to retire, he can calculate however many hours he needs to take at that moment to be assured that he gets all his hours?

Ms. Johnson said that is the maximum amount they can convert. If they don't have 720 hours, they can't convert it. If they have over 720 hours sick leave, if they have 800 hours, they can only convert 720 hours.

Commissioner Alexander asked why would their employees take the chance of not having a job next week with 1,400 or 1,500 hours of time? Then if they take away from the job and don't show up, saying they are taking sick time or whatever leave they have, that is not going to jeopardize their job?

Ms. Johnson said no. Actually the sick time is a benefit, something that the City pays them for actually coming to work. It is not saying that it is mandatory that they pay them for it, it is just saying they do have that benefit. However, the City will pay them if someone has been a good employee and haven't used their sick leave, they will then convert 720 hours. There is another provision in the Personnel Rules & Regulations that states if they have over 720 hours, they can use some of those hours for early retirement. So that means they don't have to come to work and can use up to 720 hours away from the job and the City will still pay them.

Commissioner Alexander asked then they can retire with 720 that they could be paid for also?

Ms. Johnson said they can only use the 720 in their calculation as far as additional benefit.

Commissioner Alexander asked so that will assure that all their employees receive all the hours they have available, right?

Ms. Johnson said no, they don't receive all. It is just based on the policy. Some people may have 1,600 hours; but they can't take it all, they can't be paid for it all, they can only get 720 hours.

Commissioner Alexander asked if he plans to retire in July, she is telling him he can't take that many hours between now and July if he has them available to him?

Ms. Johnson said no, he can't.

Commissioner Becht said he thinks Ms. Johnson misunderstood him. What he thinks Commissioner Alexander is talking about is, if he is planning on retiring in July, he would not come to work and he would burn those hours down to 720, and then would cash out at 720.

Commissioner Alexander said yes, that is what he is asking.

Ms. Johnson said right, he can do that. He can take them all the way down to 720 and then cash in. But he can't use no more than 720 hours, that is the maximum he can be away from the job and still get paid.

Commissioner Alexander asked she is telling him they have good employees and are going to punish them because they can't use up all the hours they have in reserve? If they have 1,600 hours, they can use 720...

Ms. Johnson said then they can cash in an additional 720.

Commissioner Alexander said that makes it 1,440. So he is going to have to give up to the City of Fort Pierce 100 and some odd hours?

Ms. Johnson said that is correct.

Commissioner Alexander asked so no employees are up to that number anyway, is there?

Ms. Johnson said they have had a couple.

Commissioner Alexander asked there is nothing they can do about that? What does the City do with the money they save from that individual, does it go back into the General Fund?

Ms. Johnson said they are not really saving anything.

City Manager Recor said it is an unbooked liability.

Ms. Johnson said yes. Technically they really aren't saving anything, because when they do the liability calculations, they do not include those extra hours because the City is not responsible for paying it. So it is never calculated in the liability anyway.

Mayor Benton said in the private sector, it is use it or lose it a lot of times, they don't get to add that time up and save it for retirement.

Commissioner Alexander asked why can't they do that?

Mayor Benton said with the unions, they probably couldn't. But it probably would be a good policy. They have talked about paying the difference... When someone has been working for the City for 25 years, if they acquired that time, what were they making versus 25 years from now? That is what they are paying out. It could be a lot of money there. It needs to be looked at. They talked about that as far as paying them those years at what their pay was during the years they acquired this time. Didn't they look at changing that, so when somebody retired, over the period of their employment, add this time up dealing with the lower pay they started with versus cashing out at the top dollar?

City Manager Recor said yes.

Commissioner Coke said they talked about doing it on an annual basis, not letting them collect more than they would be able to utilize at the end.

City Manager Recor said he and Ms. Johnson have talked about a methodology for the payout upon separation based on a cost factor, based on accruing at their annual earnings; and as their annual earnings change, the accrual changes, as does the payout when they would separate. That is all part of this discussion. Again, this

is intended to be an on-going dialog. They have made some progress in putting together the Benefit Comparisons table. He really wants to get the private sector information. It is his belief that the government benefit packages are out of line with some of the area's largest employers. He believes that is what they are going to find.

Mayor Benton said at a big company he worked for years ago down the road, he hadn't called in sick. He had sick days and they said they weren't going to pay him, use it or lose it. So he used it. Commissioner Alexander said he is just saying be fair to the employees, because they want a person at that desk.

City Manager Recor said yes. It is an incentive for their employees to come to work and not use that sick time. But if they convert it to use it or lose it, he guarantees that they will use it.

Mayor Benton said but they have sick people coming to work because they want to save that time and then they pass that illness around. He hears those complaints all the time.

Commissioner Sessions asked where do they rank with dependent coverage for health care as far as these entities are concerned.

Ms. Johnson said as far as the municipalities, the premiums aren't too far out of line between most of the organizations. However, the portion that the employer/employee pays varies quite a bit. Most of the plans are within the same lines as far as the premiums.

Commissioner Sessions said that is always a hot issue for unions, so he was just wondering.

Ms. Johnson said the percentage that the employee pays, the City pays quite a bit more than most of the other organizations.

Commissioner Becht asked the numbers she got from Port St. Lucie, do those include the multi-million dollars they are paying for their health clinic?

Ms. Johnson said these are just the numbers Port St. Lucie gave her as far as the premium. Probably the premium includes their clinic and probably their...

Commissioner Becht said don't say that if she doesn't know that.

Ms. Johnson said she does not know for sure. Those are the numbers they gave her. They didn't say it, but she is assuming it includes their entire health package.

Commissioner Becht said the numbers between Fort Pierce and Port St. Lucie for what the employer pays is comparable. But PSL has a million dollar clinic on top of that. So when she comes back with this, he would like to know whether these numbers do or do not include the health clinic.

Ms. Johnson said okay, she sure will find out.

The next item was the **Consent Agenda**. Mayor Benton asked does any Commissioner have an item they would like to pull for discussion? He would like to pull Item 18i (Code Enforcement lien against 1232 Easter Avenue).

Commissioner Alexander said he would like to pull Item 18b (Public Funds for St. Lucie Ballet).

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

- a. Approve request by Bob Burdge for \$1,000 in **Public Funds** to advertise Raid on Fort Pierce **Civil War Reenactment** on December 11-13, 2009, at the Savannas Recreation Area.
- c. Approve **Consent Decree** to be entered in United States v. City Federal Lawsuit (Case No. 08-14309-CIV-Moore, Southern District).
- d. Accept Florida Department of Law Enforcement (FDLE) **Edward Byrne Memorial Justice Assistance Grant** in the amount of \$71,365 for Improving Local Law Enforcement Technology Project.
- e. Approve expenditure of \$23,438 from the Law Enforcement Trust Fund to Strive for purchase of **Fitness Equipment** for the Police Department gym to support employee physical fitness program. Sole Source
- f. Approve expenditure of \$10,005 from the Law Enforcement Trust Fund to Life Fitness for purchase of **Treadmills and Recumbent Bicycle** for the Police Department gym to support employee physical fitness program. GSA Contract #GS-07F-9380G
- g. Approve **Vacation Leave for City Manager Recor** from December 23 through December 30, 2009.
- h. Approve request by Yolanda Emory & John Durant for a six month extension to pay previously reduced Code Enforcement Lien of \$800 against **118 Maple Avenue**.
- j. Reduce Code Enforcement Lien in the amount of \$23,250 against **1404 Edgewood Terrace**, owned by Rosa Mae Henry, to \$250, contingent upon payment in six months.
- k. Reduce Code Enforcement Lien in the amount of \$23,250 against **1402 Edgewood Terrace**, requested by Rosa Mae Henry (owned by Willie Mae Whattley, Deceased), to \$0.00.

The next item considered was Item 18b, which had previously been removed from the Consent Agenda: Request by Lydia Oquendo for \$1,000 in **Public Funds** to pay for use of the Sunrise Theatre for the **St. Lucie Ballet** Performance of The Nutcracker on December 12, 2009.

Commissioner Alexander said he was thinking they offer the \$1,000 for advertisement, but not give \$1,000 for rental of the Sunrise Theatre.

Mayor Benton said she had come to him at Coffee with the Mayor and they talked. He told her that her organization had the ability to apply for advertising funds.

Commissioner Coke said the application doesn't say she is using it for advertising.

Commissioner Alexander asked are they saying they are going to pay the rental for the Sunrise Theatre?

City Manager Recor said that is what the request is for.

Commissioner Alexander asked is this a first?

City Manager Recor said yes. It would on its face appear to be an inappropriate use of the dollars that have been allocated for advertising. This doesn't appear to be related to advertising, but to pay the fee for the use of the Sunrise Theatre.

Commissioner Alexander said he is sure they could use that \$1,000 for advertising.

City Manager Recor said he would encourage the Commission to condition it that it be used for advertising, so they don't subsidize the use of the Sunrise Theatre for every private organization.

Commissioner Alexander said he is not going in that direction. He is just saying in the future if they have a viable entity that wants to utilize that Sunrise Theatre, they can say yes - can they not?

Mayor Benton said he thinks the lady misunderstood him. He told her they could help out with advertising.

Commissioner Alexander said they subsidize the Sunrise Theatre, so...

Mayor Benton said they have rules on this money. He would ask if there is a motion, that it be conditioned on advertising. It sounds like a good program, because it is young people throughout St. Lucie County.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve the request by Lydia Oquendo for \$1,000 in Public Funds conditioned upon the funds being used for advertising the St. Lucie Ballet Performance of The Nutcracker at the Sunrise Theatre on December 12, 2009.

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

The next item considered was Item 18i, which had previously been removed from the Consent Agenda: Reduce Code Enforcement Lien in the amount of \$51,750 against 1232 Easter Avenue, owned by Juan Titherington, to \$1,250, contingent upon payment in one year.

Mayor Benton said Mr. Titherington came in front of them earlier (under Comments from the Public). Seeing that the house had come into compliance, and knowing the cost of premature babies and their care, and it is Christmastime, he just felt for him and thought maybe they could possibly reduce this.

Motion was made by Commissioner Alexander, seconded by Commissioner Becht, that the Code Enforcement Lien in the amount of \$51,750 against 1232 Easter Avenue, owned by Juan Titherington, be waived, leaving a balance of \$0.00.

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

City Manager Recor said he hopes the Commissioners found the **Department Activity Report** included in their Agenda package helpful. He thanks all the Departments for their participation. He will provide this with their Agenda to give them a snapshot of what happens in this building in between their meetings.

City Manager Recor said the forensic auditors (**Kessler International**) were here last week and began their inquiry into the programs and

activities in the Community Services Division. They left with a lot of information and they left with a lot of questions, so it may involve a return visit. But he expects some additional follow-up this week.

City Manager Recor said at the end of December they will be wrapping up the First Quarter of Fiscal Year 2009-2010. There are a number of projected revenues they really need to be cognizant of. One is the Red Light Camera initiative. Staff will be providing the First Quarter Financial Report at the second meeting in January. There are a number of revenue projections they need to keep their eyes on. If they recall, it was the second quarter of the last fiscal year where they had to make the decision to make adjustments in the current year's budget to keep themselves on track.

Commissioner Alexander asked Mr. Recor is saying these red light cameras are already in place?

City Manager Recor said no. He is saying they have projected \$400,000 in revenue from the red light camera initiative. They are coming to the end of the first quarter of this fiscal year and they haven't implemented the contract yet, so they need to be cognizant of that.

Commissioner Alexander asked they are supposed to give the public a warning, right?

City Manager Recor said the Chief of Police put together a contract which has been reviewed by the City Attorney's office. It is their hope to have it on the next Agenda. The City Attorney did some additional research and has examples where ATS made considerable concessions with other municipalities. He does not see any reason why Fort Pierce shouldn't be able to obtain the same type of deal. They are going to be following up on that in short order.

Commissioner Sessions asked the only hold-up is moving it through staff and the legal department? He thought Mr. Recor was giving the Commission a fair warning, but there is nothing they can do. So if Mr. Schwerer doesn't speed up the process, then maybe they need to deduct that from his...

City Attorney Schwerer said no, let him correct the Commissioner, that is a mistake of fact. The City Attorney's office has reviewed the original contract presented by ATS. This Commission placed two additional conditions on that contract. One was, they wanted some cost sharing. Commissioner Becht primarily advocated for that position. Staff looked at that contract and found it to be deficient, and suggested other language to the Chief. But in the process of looking at that contract, they surveyed the entire State and found there were contracts entered into by ATS all over the State, so they looked for the most favorable contracts. He sent a memo to the Chief, with copies to the Commissioners, saying while they approve of the basic model used, which parroted the Vero Beach model, they did not find that the original contract met the City of Fort Pierce's specifications. But in the meantime, they found the City of Pembroke Pines contract to be totally acceptable. He is prepared to sign off on the City of Pembroke Pines contract if ATS will give that to Fort Pierce; or the Vero Beach model, which is more basic, on the condition that ATS meets the two conditions that this Commission approved. So the contract review is done, it is going to go to the Commission. Hopefully the Chief can convince ATS to agree to give Fort Pierce the same deal they gave Pembroke Pines. The Commission will have an opportunity to look at that package, it should be in the mail to them already, because he delivered it to the Chief the other day.

Commissioner Becht said the point he wanted in the contract was complete indemnification from ATS to Fort Pierce for any loses they may sustain if a citizen challenges the ordinance and prevails.

City Attorney Schwerer said they also wanted certain cost contributions for defense costs as well. This is pointed out in his memo. They will get him memo and will see the differences in the two contracts. The Commissioners are the ones to make the decision. His office is done. He is sure the Chief can get it on their December 21st Agenda, provided he talks to ATS quickly.

Commissioner Coke said she is assuming the Chief has a money tree in his back yard to make up for the first quarter's worth of revenue stream that is missing from this \$400,000 that was included in the budget?

Chief of Police Sean Baldwin said he just wants to clarify - with all due respect to Mr. Schwerer, whose office has been extremely busy - he just got a copy of all this this morning. He will work as quickly as he can. He intends to put it on their next Agenda, as long as he can get what he needs in order to do that.

Commissioner Sessions asked so between the Chief's budget and Mr. Schwerer's budget, they will be able to make up the \$400,000?

Commissioner Alexander asked what was the legislation on that?

Mr. Schwerer said he hasn't seen the Legislature act on this as of yet, so he doesn't have any information on that; but he will check to see if there are any proposals that...

Commissioner Alexander asked when do they go to Tallahassee, in January or February?

Commissioner Coke said they want to do this before then, because if they have this in place before then, they can't take their money. If they wait until afterwards, the State gets to decide how much money they get.

Mayor Benton said usually they go at the end of February.

City Manager Recor said he would like to get the Commissioners thinking about the **Citizens Budget Review Committee**. They had hoped to have the appointments made by the end of this calendar year, he thinks they can still do that. He can't emphasize enough the importance of this appointment. It is probably one of the most critical appointments they will make. The City Attorney has provided some background information from several organizations on how those operate. He would like to encourage them to limit the appointments to one individual and that each individual is either a CPA or have a strong background in financial administration. He would ask them to make their appointments at their next meeting. And staff will concurrently define the scope of the Citizens Budget Review Committee and develop some policies for their review as they are tasked with certain activities.

Commissioner Alexander asked have they made it publicly known, so anyone that may be interested...?

City Manager Recor said he has had many inquiries from individuals.

Commissioner Alexander asked so is Mr. Recor going to make an appointment?

City Manager Recor said if the Commissioner would like him to, he can.

Commissioner Alexander said no.

City Manager Recor said no, he is not making an appointment. However, in Daytona Beach the City Manager does make the appointments. That is not what he is recommending because he thought the Commissioners wanted to be responsible for making the appointments.

Commissioner Alexander said Mr. Recor heard from a vast number of people, but he needs to hear from them.

City Manager Recor said he will make those names available to him.

Mayor Benton said maybe they can put the information on their television channel so the public knows they are looking for CPAs. Good CPAs are hard to find.

City Manager Recor asked would they like to make the appointments on December 21st? Or would they like to make the announcement that they are taking names?

Commissioner Coke said make the announcement.

City Manager Recor said okay, because he will guarantee that he will get additional inquiries based on this conversation tonight. Every time they talk about the matter, he gets an email from someone that would like to participate.

Mayor Benton said they have to be a resident of Fort Pierce.

City Manager Recor said yes, he would say so. Again, he would like to request that each Commissioner make a single appointment. It would make the group a lot more manageable for the Director of Finance and himself, who will be the primary staff liaisons with this group.

Mayor Benton said the City of Fort Pierce is looking for a few good CPAs. Please contact the City Commission office at 460-2200 Extension 312.

Commissioner Sessions said they are not making it a requirement that they be a CPA, are they?

Commissioner Coke said no.

Commissioner Becht said he has asked the City Attorney to give him a legal report on the consequences of the City getting out of the **Parks MSTU Interlocal Agreement**. He thinks it is more complicated than they may be thinking. He wants to make sure that they intelligently evaluate what the County would do with their course of action and what they really tangibly in terms of money are going to realize from this position. He does think they are going down the right path, he is not second guessing that. He just wants to make sure that he fully understands and that he has had the ramifications fully explained to him by the City Attorney of what it means when they terminate the Interlocal Agreement. What happens to the MSTU dollars, do those still exist or not? Does the County control or does the City control? He just needs that explained to him.

Commissioner Coke said their citizens save money.

Commissioner Becht said that may be the consequences, the County does not get paid. He needs to understand that before he makes a final decision on it.

Mayor Benton said he didn't notice any **Christmas Lights** on the beach, he doesn't see any on the beach at all. They used to put a couple of items out there. He knows there is a lot of construction on A1A and in the past it was hard to find a place. But with their new beach parks, they probably could have done something there.

Mr. Nick Mimms, Director of Public Works & Solid Waste, said there are Christmas decorations on some of the corridors. He received a call today from a former Commissioner about North 25th Street, so he is going to look into that. They did not have Christmas decorations on the beach or on South Bridge last year. They are pretty much constrained to their little central business district because money is tight. But they can look at stretching their decorations, kind of thinning them out a little bit.

Mayor Benton said in the past they did something and they went down some other areas. He heard from some folks who felt a little neglected. He explained that construction work was going on; but next year the construction will be over and they will have nice fancy light poles to hang something from them.

Mr. Mimms said okay, he will look into that.

Commissioner Alexander asked what about the lights downtown?

Mayor Benton said the lights are up downtown, they turned them on last night, right after the tree. They had a great turnout with the Sights & Sounds Parade. The light show is on in Marina Square.

There being no further business, Mayor Benton declared the meeting adjourned at 9:40 p.m.

Adjournment.

ATTEST:

CITY CLERK

MAYOR COMMISSIONER