

MINUTES OF A REGULAR POSTPONED MEETING OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, HELD IN THE CITY HALL COMMISSION CHAMBERS, 100 NORTH U.S. #1, FORT PIERCE, FLORIDA, AT 7:00 P.M. ON TUESDAY, JULY 5, 2005.

Mayor Benton called the meeting to order.

Reverend John Lee, Mount Olive Missionary Baptist Church, gave the invocation.

The Pledge of Allegiance was recited.

Upon Roll Call, those present were: Mayor Robert J. Benton; Commissioners Rufus Alexander, Christine Coke, and R. Duke Nelson; City Manager Dennis Beach; City Attorney Robert Schwerer; and City Clerk Cassandra Steele. Those absent: Commissioner Edward Becht.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to excuse Commissioner Becht from this meeting.

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

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

Letter from Col. Alan Weierman, Victory Forge Military Academy & Boot Camp, thanking Public Works Director Gary Ferch and Deputy Director Bob Hood and Public Works employees for their assistance, and commending Eddie Keane and Robert Dale for their help.

Letter from Camille Yates commending Fort Pierce Police Officer Damian Spotts for his professionalism.

Letter from Lorraine Snyder, Governor's Grill, commending Fort Pierce Police Officer Atilano Garcia for his professionalism.

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

Commissioner Coke said she would like Item 6g, (Comprehensive Plan Update), 6i (Code Enforcement Lien against 1220 Avenue B), and 6j (Code Enforcement Fine against 617 South 17th Street) removed for discussion.

Commissioner Alexander said he would like Item 6f (Independent Contractor Agreement) removed for discussion.

Commissioner Nelson said he would like Item 6e (Contract for Streetscape Construction) and 6g (Comprehensive Plan Update) removed for discussion.

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

- a. Approve the Minutes of the Regular Meeting on June 20, 2005.
- b. Authorize contribution of \$250 from the **Police Department Law Enforcement Trust Fund** to the Missing Children's information Clearinghouse Advisory Board for the Florida Missing Children's Day ceremony on September 12, 2005.
- c. Approve increase to Blanket Purchase Order with St. Lucie County Balefill for **Landfill Charges** to Public Works Streets & Drainage in an amount not to exceed \$7,500.

- d. Approve increase to Blanket Purchase Order with Smith Services, Inc. for **Air Conditioning Maintenance** Citywide for Public Works Facilities Maintenance in an amount not to exceed \$5,000.
- h. Rescind Code Enforcement Fine or Lien in the amount of \$23,250 against **407 North 8th Street**, owned by Joyce Davis Woods, upon payment of \$720.02 in Administrative Costs within 90 days.
- k. Rescind Code Enforcement Lien in the amount of \$42,600 against **119 North 11th Street**, owned by Wadson Charles, upon payment of \$875.50 in Administrative Costs within 90 days.
- l. Rescind Code Enforcement Lien in the amount of \$1,000 against **119 North 11th Street**, owned by Wadson Charles, upon payment of \$999.22 in Administrative Costs within 90 days.
- m. Rescind Code Enforcement Lien in the amount of \$25,700 against **1119 South 7th Street**, owned by Walford & Georgette Campbell (previously owned by Velmae Coker), upon payment of \$487.84 in Administrative Costs within 90 days.
- n. Rescind Code Enforcement Lien in the amount of \$7,100 against **807 Avenue G**, owned by Latisha Edwards, upon payment of \$1,120.42 in Administrative Costs within 90 days.

The next item considered was Item 6e, which had previously been removed from the consent Agenda: Award contract for **Streetscape Construction** to Burkhardt Construction, Inc. RFQ No. 5516

Commissioner Nelson said the thing that didn't step out to him was the amount of monies that were involved in this unless they read the whole package. He is wondering, to what extent is this going to facilitate in specific terms the moving forward with the construction of some of the capital projects they have outstanding?

Mr. Hector Arias, City Engineer, said this is only unit prices. If they award this tonight, it will not be for any quantity or for any project. The projects will be coming to the Commission to be approving the projects based on these prices.

City Manager Beach said as the City Engineer was describing, this is a unit price contract and it is applicable to any contract that the Commission may award in the future. The effect this has on the projects they are trying to get underway is, this contractor will be the one that fulfills those contracts. He will give them an example. They have the 7th Street project that is pending, they have Depot Drive, 14th Street, and others. Those contracts will be awarded to this contractor under these unit prices with the approval of the City Commission. In other words, if the Commission says lets move forward with the 14th Street project, staff will bring a contract with this company back to the Commission with the unit prices approved in this agreement for their consideration.

Commissioner Nelson said that answers part of his question. This does not represent a sole source type action? This is through the competitive bid process?

Mr. Arias said they went for the Request for Qualifications before and they brought the ranking to the City Commission for approval and Burkhardt was ranked number one. The City Commission

instructed him to negotiate a contract with Burkhardt and this is the result.

Commissioner Nelson asked this company has the capacity to do this?

Mr. Arias said yes. They have been working for the City for several years.

Commissioner Nelson said he saw a price in the memo for 7th Street, Avenue D to Moore's Creek, one phase of it for \$187,976 as an example. But he is sure there are others. How soon does Mr. Arias think he will be able to bring back to the Commission or prioritize those units which the Commission has already approved for construction as capital improvements?

Mr. Arias said they are fixing to bring the 7th Street project, especially Phase II from Avenue D to Moore's Creek, to either the next Commission meeting or the following Commission meeting.

Commissioner Nelson said it is important that they get some other projects in all due respect to what they are doing downtown. He is getting a lot of flack about the only place they are having some things done is downtown. They would like to have downtown squared away. It is a good investment. But the people out in the community are saying let them have something too.

Mr. Arias said they are getting the contract ready for Phase II 7th Street Project and they should be bringing that at the next Commission meeting or the following Commission meeting.

Commissioner Nelson said he certainly hopes that be the case and commends him for moving forward on a very needed effort.

Motion was made by Commissioner Nelson, seconded by Commissioner Coke, to award contract for Streetscape Construction to Burkhardt Construction, Inc.

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

The next item considered was Item 6f, which had previously been removed from the consent Agenda: Approve Independent Contractor Agreement between City and Jeffrey Handley for services in relation to the inspection of structures and buildings damaged as a result of hurricanes in September 2004 and other permitting and inspection issues.

Commissioner Alexander said he guesses his question will be going to Mr. Schwerer because he signed off on this. Maybe that is his first question. Why wasn't this signed off in Mr. Beach's office first?

City Manager Beach said this is an Independent Contractor Agreement that they have been entering into with a number of building inspectors and building officials since the hurricanes. He thinks this is either their third or fourth one. The reason this is brought before the City Commission is that the value of it exceeds the authority of the City Manager to approve. The City Attorney has signed off on it as to form and content. It is necessary for the Commission to approve it simply because of the value of the contract.

Commissioner Alexander asked Mr. Beach wouldn't have signed off on it before it came before the Commission? What his concern about it was the first thing he read on the agreement that this agreement was from the first day of June. Has this individual been working for the City of Fort Pierce since June 1st?

City Manager Beach said he will let their Building Official address that.

Mr. John Alcorn, Director of Building & Community Response, said yes, he had been working under a previous contract that was within the limits the City Manager could authorize. This goes beyond that, so he can continue working with the City.

Commissioner Alexander asked he has been working?

Mr. Alcorn said he has been working. He is a Fort Pierce resident, has been for some time, and is well qualified and is doing a fine job.

Commissioner Alexander he is wholeheartedly in agreement. But his concern is this individual working for the City without a contract.

Mr. Alcorn said no, he is working under a previous contract with the City.

Commissioner Alexander asked does he have a previous contract?

Mr. Alcorn said the City Manager is authorized to sign a contract up to the amount of \$10,000. This exceeds that, so it has to have Commission approval.

Commissioner Alexander said he is aware of that. But Mr. Alcorn is saying he is working under a previous contract.

Mr. Alcorn said that is his understanding.

City Manager Beach said that would be correct. The Charter allows the City Manager to approve agreements up to...

Commissioner Alexander said that was the question he had. Mr. Beach did not sign off on this and it is as though it is coming from Mr. Alcorn's office. He doesn't think Mr. Alcorn hires and fires, does he? That is Mr. Beach's job, right?

City Manager Beach said he signs off on those agreements; but if it exceeds the authority that is granted to the City Manager, then they bring those to the City Commission for action.

Commissioner Alexander said it is just something that caught his eye when he saw June 1st. He was trying to figure out how could this young man be working. He doesn't have a problem with him working for the City of Fort Pierce. But it says the contractor shall supply and maintain his own vehicles in the first paragraph, and then the second paragraph is saying it includes a vehicle. So what is that? His third question is, he is looking at a minimum of \$100,000/\$200,000 for bodily injury. Does the City staff have that type of insurance?

City Attorney Schwerer said the City has its own level of insurance for its own employees. This is an independent contractor, he is not an employee of the City. He is going to be using his vehicle

in the performance of his duties for which the City is paying him that hourly wage, \$28.00 per hour. He is required however to keep in effect insurance at that minimum level on his own vehicle while he is performing duties for the City. This is a standard contract they have seen in the past on a number of instances because they have had to hire these type building inspectors or building folks because of the overload of work that is there. The City is doing it on an independent contractor basis as opposed to putting them on as full time employees. Once the contract is up, they will decide whether the volume of work justifies keeping the person on for any additional time. That is his own vehicle there that he is supplying the coverage for.

Commissioner Alexander said his last question on this. Did they not in the past hire a group of independent contractors? How many independent contractors does the City have?

City Attorney Schwerer said due to the hurricanes and due to the increase in the permitting and inspection process, Mr. Alcorn has brought on a number of individuals as independent contractors whose contracts are expiring and being brought back for the Commission for renewal, depending upon the work load.

Commissioner Alexander asked they don't see the sense of hiring a full time City employee?

Mr. Alcorn said this is actually more cost effective for the City, although it works out for both. On the other hand, if long range they don't need to keep the inspectors, they can terminate the contract, which is a little more difficult if they become permanent City employees. Fort Pierce is in a growth period now. They will see how things go within the next few months. But to answer the other question, they did have a firm that supplied the City with contractors. The rate was \$65.00 an hour. This is a lot more cost effective, being less than half that. Actually per employee, when they get the benefits and all, it costs the City more than this rate that is before the Commission.

Commissioner Nelson said he is not sure he follows Mr. Beach with regards to Charter authorization for signing off. He thinks that was a Commission action wherein they authorized to enter into agreements not in excess of \$10,000. It is not a Charter provision as he recalls.

City Manager Beach said he may be correct about that. It may be something that the Commission authorizes as opposed to the Charter.

Commissioner Nelson said in the area of representation of the City, not wearing uniforms and all that and not being responsible is causing the City to be responsible for and liable. Are they clear on that in that respect and comfortable with that? Does he wear a uniform, does he have a car, does he carry a badge?

City Attorney Schwerer said Mr. Alcorn can answer how Mr. Handley performs his duties. His duties, as he understands them, are highly technical and for which a person has to possess the required licensure even to begin to perform the services.

Mr. Alcorn said that is right, from the State. To answer part of his question, they do get a photo I.D. from the Human Resource Department that they hang around their neck and they also have a badge when they go into the field so they are identified and they

do have some business cards made up so they are representing the City even though they are independent contractors.

Commissioner Nelson said their police officers, they defend lawsuits involving them all the time, and clearly they represent the City. In times they have had people go in to people's homes and do all sorts of things under the guise of the City. The City's Risk Manager, has he looked at this in any way and insurance people? Have they thoroughly checked this out?

Mr. Alcorn said to answer that question, Le Thomas was the one who required that amount of insurance for the vehicle to be inserted into that contract, so that was his recommendation.

Commissioner Nelson asked who?

Mr. Alcorn said the insurance dollar amount that Commissioner Alexander mentioned was a requirement of the Risk Manager when he reviewed the contract, so he has reviewed it thoroughly and made a recommendation of change, which is in there.

Commissioner Nelson asked are these monies available from the present budget with Finance Director approving it?

Mr. Alcorn said yes. They are not asking for any funding. The funding is in the budget. It is funded. The money is there.

Commissioner Nelson said this line says - Director of Finance Approval. He has the money. Is Mr. Alcorn going to take this from his pocket or take it from Mr. Beach? Where is he going to get the money from?

Mr. Alcorn said he would have to approve it saying the money is there, yes.

Commissioner Nelson asked who?

Mr. Alcorn said the Finance Director.

Commissioner Nelson asked has he said anything?

Mr. Alcorn said he has not signed yet, but he will sign that.

Commissioner Nelson said it has not been signed.

Mr. Alcorn said that is true.

Commissioner Nelson asked has he coordinated with him?

Mr. Alcorn said on a regular basis.

City Manager Beach said the process is that it goes through all of these individuals. If it hits the Finance Director's office and the funds are not available, he won't execute it.

Commissioner Nelson asked why do they take his time up?

City Manager Beach said because they know the resources are there for him to execute it. They already know that. It simply hasn't been presented to him.

Commissioner Nelson said Mr. Bergalis has a lot of money over there. They need to stamp these things more thoroughly and make notes. Mr. Bergalis has the money, right?

Mr. George Bergalis, Director of Finance, said yes.

Motion was made by Commissioner Coke, seconded by Commissioner Nelson, to approve Independent Contractor Agreement between the City and Jeffrey Handley for services in relation to the inspection of structures and buildings damaged as a result of hurricanes in September 2004 and other permitting and inspection issues.

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

The next item considered was Item 6g, which had previously been removed from the Consent Agenda: Award Contract for **Comprehensive Plan Update** for the City of Fort Pierce to Calvin, Giordano & Associates, Inc. in an amount not to exceed \$225,100. RFP No. 5519

Commissioner Coke said she brings this up every time they have one of these contracts in front of them that is not actual physical work. She thinks the City should at some point in time begin to learn from their past mistakes. For example, they had a study on what was best to do with some land, and by the time they got around to completing the study a year later, it was beyond the City's capability of buying it. They had an agreement for architectural design on a parking garage that is now way beyond its due date. Every time she brings this up, she is assured that these people don't get paid until they complete certain sections of their project. Her concern has always been and remains that these people really don't care. They know what they are going to get paid for the project and it is not in their best interest, since there is no penalty if they are late, for them to perform as they state up front that they can perform. The City therefore gets put on the back burner, and these projects are done two months, six months, eight months, or a year late. She thinks this puts them at a big disadvantage to serve the citizens to the Commission's best capability. She would once again ask this Commission to have this contract revised to time of the essence clause put in there, with penalties.

Commissioner Nelson said he certainly endorses Commissioner Coke's comments. He has similar ones, but she has a much more civil tongue than he has. But to invest up front here some \$225,000 in the face of their taking a look at the Comprehensive Plan and the new mandates set forth by the Legislature in Senate Bill 360, saying that all new construction of any sort must be pay as they go type thing. They are proposing to have a workshop on or about July 13th where they get citizen input. He doesn't want to see them to go ahead and come up with a contract as such delineating what they want a contractor to do for them and not addressing and incorporating therein some of the possible input they might get from their citizens. In short, he thinks what they are doing is putting the cart before the horse. He must commend the draft of this document. It is fairly comprehensive and it gives certain tasks, time frames, and specifics; but it does not include those time of essence things, penalties, and the key input that he thinks they as a Commission would need from both the Commission at a workshop and the general input from the citizenry. He thinks a couple of weeks or so at perhaps at their next Commission meeting following the workshop, it would allow them time to get a much more

comprehensive document. That is his position he would take on this issue at this time.

Motion was made by Commissioner Coke, seconded by Commissioner Nelson, to refer the Contract for the Comprehensive Plan Update back to staff to expand on this scope of services and negotiate a time of the essence clause including penalties prior to presenting the final contract.

Commissioner Nelson said also include input from the Commission and citizens too.

Commissioner Alexander said he would also be in agreement with that. But he does have a question on the basis for the compensation. He sees Task 2 giving a date of April 2005. What is that in reference to?

Mayor Benton said he can just tell him when he was on the Planning Board when they developed their Comprehensive Plan, this takes time. There is nothing simple about it. It has to go through hours and hours and hours and then to the Planning Board and then to the Commission and then the DCA and sometimes it goes back and forth.

Commissioner Alexander said his question is April 2005 is in the past. Were some monies paid out concerning this?

Mayor Benton said he doesn't believe so. He thinks they haven't been hired yet.

Commissioner Alexander asked is that a typo there?

Mayor Benton said probably.

Commissioner Alexander asked is it a reference to 2006?

Commissioner Coke said yes. She thinks it is a typo.

Commissioner Alexander said no problem. He just wanted to be sure.

Commissioner Nelson said they are coming up to looking at the budget too. The \$250,000 certainly should be addressed as to where they are going to get those kinds of monies from as soon as possible.

City Manager Beach said this is a Commission driven issue. The update of their Comprehensive Plan is something that all of the Commissioners are insisting on.

Mayor Benton said they have been asking for this for a year now.

City Manager Beach said they can do this in the time frame that the Commission is comfortable with.

Commissioner Nelson said they will find the money, but lets not drive themselves into the poor house.

Mr. David Recor, Deputy City Manager, said he just wanted to point out that they did go to a great length to identify the deliverables, the expectations of this contract, and then tied the compensation schedule to those deliverables, so he is glad they recognize that. In addition, he has had conversations with the

contractor regarding the impact of Senate Bill 360 in making sure that any revisions they undertook in the Comprehensive Plan were consistent with the legislation that actually went into effect July 1st. Just so they are aware of that.

City Manager Beach said they may want to articulate that in the contract as well as trying to develop some type of penalty clause for the timing of the performance. That is what he hears the Commission saying.

Mr. Recor said he also mentioned to the contractor as they were negotiating this contract the possibility of a penalty provision. However, they simply wanted to introduce it to the Commission tonight with the schedule of deliverables and the basis for compensation based out on those tasks. If the Commission would like Staff to attempt to negotiate a time of the essence provision and a penalty provision, they can certainly do that in the next two weeks as well.

Commissioner Nelson asked they won't have much trouble getting this back to the contractor and getting the input after the workshop and bringing this back by the next Commission meeting of July 18th?

Mr. Recor said not at all. The contractor has been very responsive with staff. They will have it back to the Commission meeting of July 18th.

Mayor Benton said this is very important for the Commission to have ground to stand on for the future.

Commissioner Coke said to send this back to staff to negotiate a time of the essence clause and penalties and include public input.

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

The next item considered was Item 6i, which had previously been removed from the Consent Agenda: Rescind Code Enforcement Lien in the amount of \$67,650 against 1220 Avenue B, owned by Equity Trust Co. (previously owned by Verdell Floyd), upon payment of \$434.56 in Administrative Costs within 90 days.

Commissioner Coke said she noticed there was a lot of discussion at the Code Enforcement Board meeting (June 8, 2005). This property was purchased with a lot of liens against it and the people purchased title insurance. At some point in time when property is purchased for a speculative purpose and people buy title insurance, that is supposed to mean they have clear title. If they don't... There was discussion at the Code Enforcement Board meeting that they shouldn't collect the entire lien but they should collect something out of that lien. That is what people purchase title insurance for.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to reduce the lien against 1220 Avenue B, owned by Equity Trust Co., from \$67,650 to \$62,650, conditioned upon payment of \$5,000 of the lien and \$434.56 for the administrative costs in 90 days.

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

The next item considered was Item 6i, which had previously been removed from the Consent Agenda: Reduce Code Enforcement Fine against 617 South 17th Street, owned by Troy Hannon, to \$5,000; and upon payment of \$5,000 fine and Administrative Costs of \$1,173.63 within 90 days, the Lien in the amount of \$37,800 be released.

Commissioner Coke said she had some concerns here because these are out of town people who purchased the property. They have actually done nothing to move forward on getting rid of the lien until now since they have a contract to sell the property and now it has become a concern of theirs. Again, she has concerns when people are out of state invest in property here in Fort Pierce, they allow the property to be maintained poorly and do nothing about it until they have the opportunity to make a profit. Although this lien isn't a lot of money and she doesn't think the Commission should require that they pay all of that, she thinks the owner should be liable for part of it. She would like to make a recommendation that they agree to rescind the lien to \$5,000. The lien was \$37,800.

Commissioner Alexander said that is the recommendation.

Commissioner Coke said no, it says the lien in the amount of \$37,800 be released.

Commissioner Alexander said it says reduced to \$5,000 and they collect the administrative cost.

City Attorney Schwerer said regardless of what it says, the Commission can make a motion. As he understands it, there is a motion to have the lien reduced to \$5,000 plus administrative costs to be paid within how long?

Mayor Benton said 90 days.

City Attorney Schwerer said that is probably what was part of the recommendation.

City Clerk Steele said the total will be \$6,173.00.

Commissioner Coke said that wasn't how it was on the Consent Agenda so she had a concern.

City Clerk Steele said it was difficult to understand because of what the Code Board recommendation was, that it be a fine of \$5,000 and not a lien, so that is the way it was worded on the Consent Agenda.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to reduce the lien against 617 South 17th Street, owned by Troy Hannon, from \$37,800 to \$5,000, conditioned upon payment of \$5,000 of the lien and \$1,173.63 for the administrative costs in 90 days.

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

The next item on the Agenda was Public Hearing on application for Site Plan Review submitted by Fort Pierce Taylor Creek LLC to construct a **CVS Pharmacy** retail building at the Taylor Creek Commons Shopping Center at **1889 North U.S. #1**; said property zoned C-3, General Commercial Zone.

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

Mr. George Kleier said he is with the Southern Management Development. They are the developers for Fort Pierce Taylor Creek LLC.

Mr. Russell Morrison said he is with Kimley-Horne and Associates, Inc., the civil engineering firm working on this project.

Mayor Benton asked what is he presenting?

Mr. Morrison said they have presentation materials that they are more than happy to provide, but basically they are here to answer any questions by the Commission.

Commissioner Nelson asked does he know whether or not any alcoholic beverages will be sold in this drug store?

Mr. Morrison said he is not sure.

Mr. Kleier said they are making application for beer and wine license, no hard liquor. It is a beer and wine license they will be applying for.

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

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

Mr. Travis Gibbons, City Planner, said Staff and Planning Board recommend approval.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve the Site Plan submitted by Fort Pierce Taylor Creek LLC to construct a CVS Pharmacy retail building at the Taylor Creek Commons Shopping Center at 1889 North U.S. #1.

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

The next item on the Agenda was Public Hearing on Applications for Conditional Use & Site Plan Review submitted by Suntrust Bank and/or Boca Ven Land, Inc. to construct **Renaissance** (multi-family residential, office, retail, bank drive-thru project) at the southeast corner of Indian River Drive and Orange Avenue, at **111 Orange Avenue**; said property zoned C-4, Central Business Zone.

Mr. George Powell said he is with Powell Design Group, Architect Planning Interiors Designers, Orlando, Florida.

Mr. Leo Henriquez said he represents Boca Ven Land, the developer. His address is 347 Riverway Drive in Vero Beach.

Mr. Powell said they are here to answer any questions the Commission may have on the project. He will be glad to go over a brief synopsis of the scope of the project if they would like. (Mr Powell displayed a drawing.) This site is currently occupied by the old SunTrust Bank drive-thru. The property is bordered on the north by Orange Avenue, on the south by Atlantic Avenue, on the west by Indian River Drive, and by Melody Lane on the east fronting the Indian River. It is approximately 1.25 acres. Their proposal is to put a mixed-use project on this property. It will contain 38 residential units; approximately 5,300 square feet in a SunTrust Bank which will be relocated from its current location; approximately 9,600 square feet of retail fronting both Indian River Drive and Melody Lane; and approximately 29,500 square feet of office space on the west end of the property. The project includes approximately 130 parking spaces within the structure plus there is another 32 on-street parking spaces around the perimeter, giving a total of 162 spaces. The civil engineer, Stef Matthes from Culpepper & Terpening, is here to address any issues they may have with traffic or engineering. They have previously gone through the Historic Preservation Board and the Planning Board process and received unanimous approval from both. The project consists of three, four, and five story structures. The office structure facing the west end of the property is four stories in height. Approximately one-third of the building is five stories and that contains the residential units, primarily on the Orange Avenue and Melody Lane faces of the building. The balance of the building is three, three and a half stories, and probably 40% of the structure is that height. Although there are some five story areas, it is consistent with other developments that have been approved, the Clerk of the Court building and the parking structure. They have worked hand in hand with the City as far as preserving the historic components of the building of the surrounding area to be used in the building. They have a recreation deck which is basically in the center of the structure and is kind of open to the south. The rendering they have is the view from the plaza, the northeast view of the property.

Commissioner Coke said first of all, she wants to tell them she thinks the project is beautiful. Now, of course, they have to listen to the problems she has with it. Can he tell her what the height is on the buildings?

Mr. Powell said as he stated, the height varies. The very highest point, he doesn't have that number off the top of his head. He thinks it was in the Planning Board report. The measurement used was the eave of the fifth floor. He thinks that was approximately 61 feet or 63 feet, which fell under the 65 foot limit.

Commissioner Coke said when he says fifth floor, they have downtown very recently established what she thought when they passed it was four stories, 65 feet, that has since been adapted by everybody to be four stories over a story of parking and retail.

Mr. Powell said that is essentially what they have.

Commissioner Coke asked when he says five stories, the ground floor is parking and retail?

Mr. Powell said that is correct - parking, retail, and the SunTrust Bank. Then above that, on the west end of the property there are three levels of office; and on the north and east end of the properties there are four levels of residential.

Commissioner Coke said she just was concerned because if he was talking five floors of residential or five floors of office, that isn't what they have all agreed on. But if he was talking four floors - and she wants to clarify for the record, four floors over one level of parking and retail - and 65 feet should be around the height.

Mr. Powell said that is correct. Actually their second floor level only has four residential units on it and the majority of the second floor level is parking as well.

Commissioner Nelson said he wants to hone in on that parking issue somewhat. Specifically where are they proposing to have this 133 parking spaces?

Mr. Powell said they have two entrances to the ground floor parking area. One is ground floor parking reserved for retail and office. The access to that is Orange Avenue. They also have an entrance and exit in another location which comes in and goes up around to the second floor. That is the residents parking lot.

Commissioner Nelson asked how many are they going to have on the second floor? How many are they going to have on all levels total?

Mr. Powell said 130 total with first and second floor.

Commissioner Nelson said he guesses he can get into the next question. On the site itself he has some concern about... They will talk about that later. He joins Commissioner Coke in saying it is truly a handsome, beautiful project and he certainly hopes they all can pull it off. Does he have it guesstimate what they think it is going to cost?

Mr. Powell said he thinks the budget number they are looking at right now is about \$25 million.

Commissioner Alexander asked what level will this pool area be?

Mr. Powell said it is on the third level. It is right over the second level parking area.

Commissioner Alexander asked is he looking at the pool area? What are the umbrellas for?

Mr. Powell said those are just umbrellas around the pool deck.

Commissioner Alexander asked so the pool deck is going to be exposed on the third level?

Mr. Powell said the pool is at the third level. The pool sinks in above the parking ramp.

Commissioner Alexander said this is going to be exposed to the elements.

Mr. Powell said yes. That is why he was speaking before that approximately 40% of the overall structure is this third level, so it is not like the whole building is a five story building. It is varied in height. The office space is here and the residences wrap around.

Commissioner Coke said she assumes they have seen the recommendations from the Historic Preservation Board. Is he in agreement with all of those?

Mr. Powell said yes; they have already addressed those recommendations and the Board has approved it.

Commissioner Coke said she would like to see those incorporated as part of the motion.

Mr. Powell said they have already submitted revised drawings to the Historic Preservation Board and they have given their approval.

Mr. Michael Jacquin, 7348 Commercial Circle, Fort Pierce, said he just wanted to make sure he heard properly - 38 units is what he is looking at as far as the condos?

Mayor Benton said he believes that is what they were told.

Mr. Jacquin asked are they strictly a condo basis; or are they doing like some kind of condo/hotel?

Commissioner Coke said this has been presented as a condo.

Mr. Jacquin asked just strictly condo?

Mayor Benton said that is what they have been told.

Mr. Jacquin asked does anyone know what size is the parcel?

Mayor Benton said 1.25 acres.

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

Mayor Benton asked Staff and Planning Board recommendations?

Mr. Travis Gibbons, City Planner, said Staff recommends approval along with the Planning Board. Also, they did receive their Certificate of Appropriateness on June 15th from the Historic Preservation Board.

Mayor Benton said he would like to, for the record, let everyone know that he has met with Mr. Henriquez. It has to have been almost a year ago. This project has been in the works for a long time. Hopefully this is one they will see construction soon.

Mr. Henriquez said it has been a long time to get to this point.

Commissioner Nelson said he has another question, but it is going to deal with the next item primarily. Is the applicant ready to move forward on this if everything falls into place? What is the time schedule for starting this effort?

Mr. Henriquez said yes. They are planning to complete their construction drawings in November. They will work with Planning Department and with Engineering Department to get the approvals maybe by December. And they are planning to break ground by January or February 2006.

City Attorney Schwerer said just as a minor technicality. Any approval would be conditioned upon the disposition of the next

Agenda item, which is the abandonment of the right-of-way on this property. In other words, the site plan could not be approved. He is just making sure for the record that it is not the intent of the Commission to approve.

Commissioner Coke asked should they have done the abandonment first?

City Attorney Schwerer said no. They are fine with the site plan, but it is just going to be conditioned upon their dealing satisfactorily with that.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve the Conditional Use & Site Plan submitted by Suntrust Bank and/or Boca Ven Land, Inc. to construct Renaissance (multi-family residential, office, retail, bank drive-thru project) at the southeast corner of Indian River Drive and Orange Avenue incorporating the recommendations of the Historic Preservation Board and conditioned upon the disposition of the abandonment of the City-owned right-of-way located on the property.

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

The next item on the Agenda was Request by Leo Henriquez, Boca Ven Land, Inc., that the City **abandon** a 10-foot x 110-foot portion of City **right-of-way** (which runs north/south) generally located east of Indian River Drive between Orange Avenue and Atlantic Avenue. (Postponed from November 1, 2004, to allow applicant to submit Site Plan for review.)

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

Mr. George Powell, Powell Design Group, Architect Planning Interiors Designers, Orlando, said he is here to answer any questions. (Mr. Powell displayed a drawing.) That easement is right here and runs up a portion of the way into the site (proposed location for the Renaissance multi-use project to be located at the southeast corner of Orange Avenue and Indian River Drive).

Commissioner Nelson asked did he propose to build over that 10' x 110', right?

Mr. Powell said right.

Commissioner Nelson said so the footprint of the building is going to be over that.

Mr. Powell said yes.

Commissioner Nelson asked was he talking about abandonment? To what extent? An abandon means they are supposed to give it to him? He is not asking that, is he? Is he willing to have it appraised and have an appraised market value on it or something?

Mr. Powell said that would be a question for his client. But the fact of the matter is, it is an easement that doesn't go anywhere. It is not through road situation, in other words.

Commissioner Nelson said but he might want to take it and run a dog track down there during the noon hour or something. In short, he thinks it is a piece of property that has some value. To the Commissioners, who have been entrusted as City stewards on waterfront property and all, it might have some significant value.

Mr. Powell is talking about building a \$25 million project down there. It is going to greatly enhance the City in every respect, so they want to work with him.

Mr. Powell said if it bears on his opinion at all, the developer has agreed to negotiate with the City to help fund the streetscape going around this property.

Commissioner Nelson said he thinks they are going to require the developer to do a certain amount of landscaping in and around that building anyhow by way of a landscape plan. The Commission certainly appreciates all the help they can get. But they are sort of locked in their mode with respect to how they want the streets and sort of the petitioner should fund those. Any help would be appreciated. What he is leading to, his thought is whether or not they should go out and have that property appraised and try to get him to buy it for a fair market value.

Mr. Leo Henriquez, Boca Ven Land, Inc., said that property has been owned by SunTrust Bank for over 45 years.

Commissioner Coke said she thinks it has been used by SunTrust Bank. It has not been owned by SunTrust Bank.

Mr. Henriquez said no, he means the whole property around it.

Commissioner Alexander asked did Suntrust sell it to Mr. Henriquez?

Mr. Henriquez said this specific alley has been there for 40 years and SunTrust parking for the last... Since 1950? The whole idea of that alley, it was to be used when the property there is owned by different people. Those alleys are service alleys to put the garbage and things like that when they have different owners along the property. In this case, this whole property was bought by SunTrust 50 plus years ago and sold to them and it has always been inside the parking lot. Basically, if they do an appraisal, it is a waste of time because he thinks it has very little value. Think about setbacks. If they have a 50 foot setback each way, they can build maybe a road the size of a piece of paper in the middle.

Commissioner Nelson said they aren't going to build anything there because they want that pretty building to go there. But from this Commissioner's standpoint, he is trying to get Mr. Henriquez to recognize that the Commissioners are custodians of this public property; and rather than abandon and give it away for someone to make a profit on it, perhaps they ought to ask him please let the City go through and appraise it, and he agree to defray some cost for it. That is what he is leading to, to tell the truth.

Mr. Hector Arias, City Engineer, said Ms. Steele said this issue was addressed last November. Mr. Trias recommended that the easement be abandoned after the site plan was approved and the requester should have an appraisal made. And it has been the policy of this Commission that anybody who wants an abandonment is going to have to pay for it. That means they have to make an appraisal and bring it to the City and they will have to go through an ordinance to abandon the easement and then it will go to them.

But the policy has been at least for the last five or six years that the abandonment documentation has to be provided by the requester and also a price had to be provided by the requester and then they have to purchase the easement for an amount decided by the Commission.

Commissioner Coke said she will put her nickel's worth in. She thinks one of the things that has to be considered when they are saying what the City could or could not do with that piece of property, the reverse is also true - what the developer can or cannot do without the City's piece of property. Therefore, the City's piece of property is worth way more now. But the Commissioners are actually public stewards and the public owns that land. And she doesn't care if it is 10' x 10' or 10' x 100', it is land that is owned by the City of Fort Pierce and the citizens of Fort Pierce; and therefore, they need to be compensated for it. The City has done that with every other right-of-way that has come along. They have required fair compensation for the citizens. Because although they are not doing anything with that easement at the moment, who is to say what - if Mr. Henriquez does not develop that property - the City would do with that easement later on. Also, what monies they get from that could go back into doing some public good someplace else. It is not that they don't want to be good partners with him and work with him on this, but she thinks it is very important he understand that they have held other developers feet to the fire and required that they get appraisals and pay a fair market value. It is not that they are changing the rules for him, they are doing it for everybody. She just thinks it is very important that they follow the procedure they set up and continue along those paths.

Commissioner Alexander asked back in November when this came up, did they not request someone to go out and get them a value on that property?

City Clerk Steele said no.

Commissioner Alexander said Commissioner Becht is not here to answer for himself, but he knows it came up with him speaking about it. But he just wants to re-emphasize in the Planning Board meeting, the Minutes said that the actual layout of the site plan almost keeps the alley there for access. They are not showing him access or anything. They are showing him all parking garage, right? Was the Planning Board on the wrong track? Because he reads from their Minutes that is what they were thinking that for whatever reason.

Mr. Henriquez said when they discussed this with Planning, they basically told them the property, in their opinion, has not a very big value for the City. And the revenue the City will get with this project will be much more than the possible value of that property. It is the value what the City will get with the development of the whole process. If they put that property for sale, nobody will buy it. Maybe they will never build a building.

Commissioner Alexander said he heard two other Commissioner's concerns about fair market price and he has a third one speaking. So that is just letting him know how they feel about that now.

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

Motion was made by Commissioner Nelson, seconded by Commissioner Coke, to have the 10' x 110' portion of City-owned right-of-way (which runs north/south) east of Indian River Drive between Orange Avenue and Atlantic Avenue appraised, to be sold at fair market value to Boca Ven Land, Inc.

Commissioner Nelson said he just wants to emphasize the fact that again this is an excellent project for that site. He commends the developer and the owner for moving forward on this. He certainly hopes they can come to an agreement to see this come to full fruition for the betterment for all concerned.

Mayor Benton said he would hope a small piece of property like this wouldn't hold up a \$26 million project. He is sure they can straighten this out. Hopefully they can come to terms on this.

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

Commissioner Nelson said they give staff specific directions relative to working with these people, so they can work this out and come up with some type of plan on this. Keep the Commission informed on how they are coming along and lets make this happen in the timetable he told them.

The next item on the Agenda was Public Hearing on Applications for Conditional Use & Site Plan Review submitted by **Accurate Septic Services, Inc.** to construct a sewage receiving facility, warehouse, and office building at **800 Barrel Avenue**; said property zoned I-1, Light Industrial Zone.

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

Mayor Benton said he has some real problems with this one.

Mr. David Whiteside, said he is co-owner of Accurate Septic Services.

Mr. John Baker said he is the owner of Accurate Septic Services at 800 Barrel Avenue. They are here to answer any questions or concerns they may have.

Mayor Benton said he has several. First of all, he doesn't like the idea. In Fort Pierce they have a sewer system for their City, they don't have septic tanks. His understanding is they are going to be bringing sewage into Fort Pierce from outside of Fort Pierce?

Mr. Baker said in most of the areas, yes.

Mayor Benton said he has a problem with that. To him, this should be located somewhere where they are getting it from. He doesn't know if they are getting it from Indian River County, Martin County, or from the un-annexed area of St. Lucie County. But to bring it into Fort Pierce... They have been dumped on for years by the three counties around them; and to him, this is just one more dumping. He has been down there. He knows a lot of people who work in that area all around them. He knows there are some nice housing developments close by. The information he gets from the Utilities Authority this afternoon, and he thinks the City Manager can back him up, is the smell associated with this can be forty

times worse than their wastewater treatment plant which they can smell across the river and all over South Beach. So if they would like to address those concerns. He knows they are going to tell him he can't smell it, but his experts tell him he can.

Mr. Baker said this facility is going to be a state of the art facility. It is going to be totally enclosed and self-contained. So the odor, if any, is going to be kept to a minimum. It is an architecturally designed building. Everything is going to be held in-house. It is mainly for their use to bring it in, de-water it, and the water is going to go to the Fort Pierce Utilities Authority, and the solid dry cake is going to be transported to the landfill. As far as the geographical area as far as the City of Fort Pierce, they do maintain St. Lucie County, Fort Pierce, the Tri-County area, and they do take care of the citizens of Fort Pierce also. They also reside in Fort Pierce.

Mayor Benton said unless it is a project being developed with some port-o-lets out front, there shouldn't be septic tanks in Fort Pierce with the exception of maybe on Indian River Drive.

Mr. Baker said except a few, yes.

Commissioner Coke said she has a myriad of problems with this, starting with the outdoor storage and working up to the fact that she doesn't think this Commission should do anything to encourage sewage being brought into the City. She thinks that diametrically opposed to the reason the Commissioners were elected. They were elected to keep the City clean and good industry. And to do something to encourage bringing sewage in here is not her idea of what her job is up here. She has concerns. She read everything very carefully. They talked about part of it coming from Fort Pierce and St. Lucie County, and then to help cover or defer their cost, to bring in sewage from Indian River County, Martin County, and Okeechobee County. It is just beyond her comprehension that the Commission could vote and think that is a good thing for their City. So she can't support their project.

Mr. Baker said one of the driving forces also, in light of the recent hurricanes that occurred, all their citizenry in the counties were affected including the City of Fort Pierce. That was one of the driving forces which enacted them to move in this direction because the citizens were in such dire straits with all the effluent not being able to go anywhere. That is why they decided to go this way, to help the citizenry out and help all the utilities in the area.

Commissioner Coke asked how come they didn't pick Vero Beach or Port St. Lucie or Stuart?

Mayor Benton said where they should go is where the problem was. In Port St. Lucie, FP&L couldn't run power to their lift stations. So to him, this facility should be built where the problem is in Port St. Lucie. Fort Pierce did not have that problem here. Their system worked the whole time.

Mr. Baker said what they did with their property was they wanted to annex. It was the County parcel of land that they purchased and they annexed it into the City of Fort Pierce. It is going to be well landscaped, it is going to be well lit, it is going to be paved, and it will enhance the community. It will not be a detriment to the community.

Commissioner Nelson said he cannot fathom seeing Fort Pierce being called the dumping ground for other people's sewage being brought into the City of Fort Pierce. He thinks his citizenry will cut him in pieces if he allowed it to happen. He did see with some degree of appreciation the lifting of the sewage from their septic tanks, somehow lift stations or catch basins over on the beach being trucked away which he thought was good. But to have a facility of this nature established within the confines of the City of Fort Pierce is totally unacceptable to him. Somebody mentioned before about a station right down here across the beach that smells. He has had people sit in the audience and talk so loudly and so forcefully about the smells they get from the plant over here in the lagoon out there. Are they allowed to have this facility in the area specified? He knows they are talking about a conditional use, but is this allowable under conditional use?

City Attorney Schwerer said as he understands it, it is allowable as a conditional use; and of course, as a conditional use it must get the blessing of this Commission. In order to get the blessing of this Commission, this Commission must find that it is in the best interest of the public welfare, health, and safety to approve it and any number of other considerations that they must debate and decide on. If they decide this is not in the best interest of the public health, safety, and welfare, it can be denied regardless of whether it meets technical codes.

Mayor Benton said that is simple.

Mr. Baker said there also are two other prior factors - the impact fees that they will be paying to enact this building and also it is the most environmentally friendly disposal method that is out there now. It goes far beyond what is in practice right now. What they do now is they lime stabilize it and they land apply it. This is the most environmentally friendly method to dispose of it.

Commissioner Alexander asked are there any existing operations such as this anywhere in the State?

Mr. Whiteside said American Waterworks right on Selvitz Road had an RMF (Residual Management Facility) and they would take the sewage and sludge coming from adjacent counties, including their own, and they treat right on site with lime stabilization. They take that out to cattle farms and land apply it directly to the ground. This is the way of the past. They are trying to do something new and improved. They don't want to land apply it all except to the Okeechobee Solid Waste facility. Their treatment process is not really anything like the Fort Pierce Utilities Authority, how they operate the wastewater treatment plant. What they are going to bring in is their own septic they generate daily on their own and it is going to be a 30,000 gallon per day cap agreement that they had with the Fort Pierce Utilities Authority. The water that is going to be taken to the Utilities Authority is through transmission lines of a lift station and it is not really technically high BOD (Biochemical Oxygen Demand), high TSS (Total Suspended Silage), it is actually the same equivalent to being discharged from their City plant currently. So it is not a real impact as far as process, it is just a means of getting the treated effluent from their facility to the FPUA facility. And then they are going to take what is called a cake, in layman's terms, out to Okeechobee Landfill.

Mayor Benton said in his opinion it should be built where it originated and it is not originating in Fort Pierce.

Commissioner Nelson asked do they have another plant at some other location?

Mr. Whiteside said no.

Commissioner Nelson asked is this their first plant and they have never done it before?

Mr. Whiteside said this is their first plant. They have done a lot of research. The Alar Engineering Corporation is out of Illinois, the United States throughout. It is a filter drum cake process. He doesn't know if they have seen the rendering of the facility. They offload inside of a warehouse, self-contained; and they are going to strip out all the particulate, paper products, and stuff like that. It is a state of the art. It is not just what they see over there when they drive over the bridge and they look down and see poop in a tank.

Mayor Benton said that has been a nightmare for the City. And hopefully within ten years at the longest, they will leave that site. In fact they just approved engineering and everything today for a consultant to come in to build their new facility out on Glades Cut Off Road next to the power plant.

Commissioner Coke said they talk about the trucks unloading inside the building. But they all read about accidents that happen on the streets every day. And another health and safety concern she would have is, do they want to encourage trucks full of sewage to be driving down their streets? Because she guarantees at some point there is going to be an accident; and where do they go from there?

Mr. Whiteside said currently there are seven to eight different businesses that haul septic and sludge currently now.

Commissioner Coke said but Fort Pierce is not encouraging them to come here. They may come here to perform services here, but Fort Pierce is not inviting everybody to come from the tri-county area and bring their sewage.

Mr. Whiteside said currently all their wastewater right now is being trafficked over the bridge and all the way out to the farms right now and land applied.

Commissioner Coke said but it is Fort Pierce's, not Martin County's or Indian River County's.

Mayor Benton said it originates here.

Mr. Whiteside said 30% or 40% of their business is generated in St. Lucie County.

Mayor Benton said then St. Lucie County needs to build this facility somewhere in unincorporated St. Lucie County where they have their septic tanks. If they don't want to be part of Fort Pierce, that is where this should go and stay.

Mr. Whiteside said their parcel was in the County and they decided to annex over to help the City out. They are going to be paying over \$150,000 in impact fees to the City of Fort Pierce.

Mayor Benton asked is anyone in the public who would like to address the Commission on this item?

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

Mayor Benton asked what was Staff and the Planning Board recommendations? This really concerns him.

Mr. Travis Gibbons, City Planner, said Staff recommended approval and the Planning Board was unanimous approval as well, and that was based on the technological advances made.

Mr. David Recor, Deputy City Manager, said he will simply point out for the Commission's information and to respond directly to Commissioner Nelson's inquiry about whether or not the use is permitted in the district. The use is permitted in the district as a conditional use; and the very nature of a conditional use is there are certain characteristics about that use that warrant additional review. In this instance, if the Commission is not satisfied that it could impose conditions to mitigate the uses impact, then they could find that it is inconsistent with the requirements for location in that district. But if the Commission feels that the characteristics of this use could be mitigated by the imposition of certain conditions, i.e. limiting the number of gallons processed per day and/or additional standards to protect against odor beyond the limits of the property, then Staff would encourage the Commission to consider that above and beyond the recommendation for approval that was presented to the Planning Board.

Motion was made by Commissioner Coke, seconded by Commissioner Nelson, to deny the Conditional Use & Site Plan submitted by Accurate Septic Services, Inc. to construct a sewage receiving facility, warehouse, and office building at 800 Barrel Avenue in that it is not in the best interest of public health and safety.

Commissioner Alexander said he knows the gentlemen were here before, but why wasn't the decision made then? Does anybody recall?

Commissioner Nelson asked have they appeared before this Commission before?

City Clerk Steele said they were here for the annexation.

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

The next item on the Agenda was Public Hearing on Applications for Conditional Use & Site Plan Review submitted by Joseph Godfrey to construct an extension to an existing **Private Dock** at **1604 Seaway Drive**; said property zoned C-5, Tourist Commercial Zone.

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

Ms. Marcia Baker said she lives on Seaway Drive quite close to the subject property. First of all she is sorry the Godfreys are not here because she wanted to commend them on the lovely job they did in restoration from the hurricane damage and also to congratulate

them on being one of the few single family private homeowners on Seaway Drive. This is a single family residence, a lovely home on the water, and there was or still probably is a dock there; but the property is zoned commercial. She has two questions. It is zoned C-5. If this extension is granted and if at some time in the future the property is sold for its proper zoning use, C-5 for a motel or hotel or whatever, would that dock then be allowed to be used as for whatever commercial facility is built there? That is her first question. Second question. That whole area is kind of weird because people do not own to the water line. The United States government Army Corps of Engineers owns the waterfront there actually. On this particular property it is just kind of a sliver.

As far as she could tell it is probably somewhere around five feet to maybe eight feet wide from their property line to the water. She doesn't know whether or not the City is allowed to extend docks on Army Corps of Engineer property; and if they are, is this going to set a precedence for other property owners extending their docks or building docks which are going to..., without getting the Army Corps of Engineers approval in advance?

Mayor Benton said on her second question, they base their approval on the approval of the Army Corps of Engineers and DEP (Florida Department of Environmental Protection), especially on the inlet. Isn't that true?

City Attorney Schwerer said any approval of this would be conditioned upon approval of the DEP and the Corps of Engineers. He understands the DEP, through some inter-governmental agreement, reviews for the Corps of Engineers these type of private dock agreements. But the City's jurisdiction would be solely to approve the conditional use. Before they are allowed to build, they must obtain approval of DEP and Corps of Engineer. The City's approval is not superceding nor does it pre-empt the DEP or the Corps of Engineers from making their own independent decisions. Should they deny it, the dock won't be built.

Mayor Benton asked could Mr. Schwerer answer the first question about the zoning?

Ms. Baker said if the dock is built with the approval and it is now a single family private residence, but it is zoned commercial, if the property is later on sold, will that dock be allowed to be used for commercial property?

City Manager Beach said let him try to address that. To convert the use from residential to commercial use, it would require a reconstruction of the building to conform with whatever codes are required for public access to property. If a new commercial structure were proposed there, then yes the docking facilities could be used for commercial purposes if they met all of the codes and requirements of the code. But in its existing configuration, the existing building? No, it could not be used for commercial purposes.

Ms. Baker asked is there any way of having a restriction in this permitting process to limit it to use for a single family residence?

Mayor Benton said he would ask their Planning staff, Mr. Recor or Mr. Gibbons.

Mr. Travis Gibbons, City Planner, said the recommendation is based on the approval of it being used for private purpose only for the residential.

Mayor Benton said if it was ever built on to commercial, he thinks they would probably be asking for more dock space for more boats other than what could be allowed now. Hopefully it will stay residential for a long time.

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

Commissioner Coke asked could they tell her how many boats they are looking to dock there?

Mr. Gibbons said based on what he is looking at, it looks like it is a 24-foot extension, so it looks to him as if it could hold about two boats on this dock.

Commissioner Coke said this is 159-foot dock.

Mr. Gibbons said right. They have to understand the mean high water line extends a little bit farther out there. The way it looks, they had an existing boat lift that it looks like they want to move. He hasn't talked to the actual applicant on this one. But the condition of limiting it to private use? He doesn't know anybody who has four or five boats.

Commissioner Coke said neither does she. But her concern is, when she is looking at this, it looks like they have a place to tie up a boat here, they have a boat lift there and a boat lift here, and so there are three boats there. And then they are looking to add on, so it looks like it would facilitate them having four or five boats.

Mr. Gibbons said the smaller boat lift looks like it would be more for like a Sea-doo, the personal watercraft type of use. It is a small 6-foot by 8-foot...

Commissioner Coke said she wasn't even looking at that. Now they have three boat lifts there.

Mr. Gibbons said if they look at Sheet 3 of 4, it shows the 6-foot by 8-foot existing elevator lift, which would be the smaller lift, the 12-foot by 12-foot existing boat lift, and then the 16-foot by 16-foot existing boat lift existing. Then the proposed access addition and a proposed terminal platform. There are no other boat lifts put on. It just looks like it is an extension of the actual dock. That is it.

Commissioner Coke said she wishes Mr. Godfrey was here to answer these questions, because she does have concerns. Because it looks to her, when they put this addition on they are going to have three boat lifts and room for one, two, or three more boats. So she is looking at a facility for six boats for a single-family home.

Mr. David Recor, Deputy City Manager, said keep in mind it is a conditional use. The Commission has the opportunity to...

Commissioner Coke said they conditional use all the time all these boat lifts or boat docks are for that resident only and are not supposed to be rented out, and they all know better.

Mr. Recor said they can limit the number of boats as part of the conditional use process.

Commissioner Coke asked does the City have the manpower, and who is going to go around and check on it on a daily basis? That doesn't happen.

Commissioner Alexander said he is just looking at the adjacent boat docks. One boat dock is 190-feet long and one is 170-feet long. This one is a grand total of 159-feet. He understands what she is saying; but believe him, the neighbors would not allow that if they are now allowed to do such. He just doesn't see it. If it is a conditional use, then they put the condition on that. Other than that, he doesn't see why they can't build 159-feet when the neighbors already have existing 190-feet and 170-feet.

Mayor Benton said as somebody who spends a lot of time around those docks fishing, he doesn't know why they want to go out a little further. But once they get one out to 170-feet or 190-feet... The one at 190-feet now, that building has been taken down, so who knows what will go in there.

Commissioner Coke said that is shallow water.

Mayor Benton said the next thing they know, all of them along there will want to go out that far, because when they take one out then they limit the next guy's ability, because of the current, to bring in... If he has a decent size boat, unless the conditions are perfect, it creates a navigation hazard. The further they go, the worse it is.

Commissioner Nelson said the Commission has had these before and he always has asked staff to give him some indication of what is the average or normal length of the docks in the area by the neighbors. Is this going to be comparable to what is already there or greater than or what?

Mr. Gibbons said if they look at the aerial photo, it is consistent. Actually the dock to the west of the property is 170-feet in approximate length, where this dock is going to have a grand total of 159-feet. All the docks extend out well past 150-feet in that general area, so it is consistent. The DEP or the Army Corps of Engineers has given approval for this dock.

Commissioner Nelson asked so this won't be too far out of the ordinary then, would it?

Mr. Gibbons said no.

Commissioner Nelson said the big problem they would have there is trying to conditionally indicate and place some limits on the number of boats they could have docked there at any one time.

Commissioner Alexander asked did Ms. Baker get a letter from the City of Fort Pierce concerning this?

Ms. Baker said no.

Commissioner Alexander said that is where his concern is, because he sees 44 letters that were sent out. Only 9 came back in favor and no one opposed this. Is there a reason why the neighborhood didn't get it?

Mayor Benton said Ms. Baker might live outside the distance. How many feet?

Mr. Gibbons said it is 500 feet.

Mayor Benton said he thinks she is past 500 feet.

Commissioner Alexander said they had 44 individuals within 500 feet of that?

Ms. Baker said there are very few single family...

Mayor Benton said he doesn't know how they came up with that many people, unless it was in Sea Pointe Towers. In that building right there they have quite a few.

Commissioner Alexander said he just observed that there was no one opposing that.

Motion was made by Commissioner Coke, seconded by Commissioner Nelson, to approve the Conditional Use & Site Plan submitted by Joseph Godfrey to construct an extension to an existing private dock at 1604 Seaway Drive, conditioned upon the docks being used for boats owned by that residence only on a permanent basis.

Commissioner Nelson asked how about the number of boats?

Commissioner Coke said they are not going to buy six or seven boats.

Commissioner Nelson said they should limit the number of boats and boat sizes. He would like to amend the motion to say no more than one boat.

Mayor Benton asked should they postpone this until maybe the next meeting and see if the applicants could come in and answer some questions? Would they all feel more comfortable? He knows in his case, if it is somebody who deals with fishing tournaments and they have friends, there are times in his back yard they might have four or five.

Commissioner Coke said she is saying permanently. Nobody can stop somebody coming over for the night or over the weekend and tying up their boat there. What she wants to look to avoid is having somebody have five boat slips on their dock and renting two of them out on a permanent basis and then there is no parking facilities and...

Mayor Benton said he understands what she is saying now.

Commissioner Nelson said Mayor Benton's point is well taken. They ought to get the petitioner on record saying what he agrees to do and impose the conditions on him in writing and to his face.

COMMISSIONER COKE WITHDREW HER MOTION. COMMISSIONER NELSON WITHDREW HIS SECOND.

Motion was made by Commissioner Coke, seconded by Commissioner Nelson, to postpone action on the Application for Conditional Use & Site Plan submitted by Joseph Godfrey to construct an extension to an existing Private Dock at 1604 Seaway Drive until the July 18th meeting and ask that the petitioner be present.

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

The next item on the Agenda was Public Hearing on Applications for Conditional Use & Site Plan Review submitted by J. David Richeson to construct a **Private Dock at 2021 South River Drive**; said property zoned E-1, Single Family Estate Zone.

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

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

Mayor Benton asked what was Staff and Planning Board recommendation?

Mr. Travis Gibbons, City Planner, said Staff and Planning Board recommend approval.

Motion was made by Commissioner Coke, seconded by Commissioner Nelson, to approve the Conditional Use & Site Plan submitted by J. David Richeson to construct a private dock at 2021 South Indian River Drive.

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

The next item on the Agenda was Public Hearing on Final Site Plan for a Planned Unit Redevelopment submitted by Seaside Housing Corporation LLC to construct **Coconut Cove Marina** residential project at **443 Fernandina Street**; said property zoned PUR, Planned Unit Redevelopment Zone.

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

Mayor Benton said he has some questions. They approved 20 units and he keeps getting information that says 18 plus the 2 historic units, but the Site Plan/PUR Report says it is a Final PUR for 28 units. So can they clarify that? It is 20 units.

Mr. Robert Miller said he is here on behalf of the applicant and is here to answer questions. It is 20 units. The plans in front of them now show it is 20 units.

Mayor Benton asked there will be one dock space per unit, right?

Mr. Miller said absolutely. The plans have been revised to reflect that. He knows Mayor Benton has some of their advertisements that didn't have the newer media on it, but the plans in the Planning Department have 20 units.

Mayor Benton said he knows they can finagle more boats in there if they wanted to, the way it is set up.

Mr. Miller said he is not interested in it. He doesn't want to be caring for them, he doesn't want to be in trouble with the land owners. It is 20 boats, 20 units.

Mayor Benton said when they are selling them for that price, he is glad to hear that.

Mr. Miller said it should be exclusive.

Mayor Benton said that is right.

Commissioner Nelson said he would verify, Mr. Miller did say it is going to be 20 units, not 28 units.

Mr. Miller said absolutely 20 units.

Commissioner Nelson asked what is the size of the units?

Mr. Miller said 2,500 square feet. There is one smaller in the historic structure.

Commissioner Nelson asked how high?

Mr. Miller said it is 36 feet to the peak, he believes.

Commissioner Nelson asked how many stories?

Mr. Miller said three stories.

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

Mayor Benton asked what were Staff and Planning Board recommendations?

Mr. Travis Gibbons, City Planner, said Staff and Planning Board recommend approval.

Mayor Benton said he has a question of the Engineering Department. He knows there are some drainage issues out front. He doesn't think this site is going to create any more problems. But he believes it is in the City's plans to deal with the drainage issues in front of this place. Because during the hurricanes and every time it rains or if the tide is high, they have some real problems with the neighbors across the street. This isn't Mr. Miller's problem, this is something for the City. But he just wanted to make sure he knows where the retention area is. Hopefully they will catch everything that normally would run off.

Mr. David Recor, Deputy City Manager, said they will be presenting the Stormwater CIP at their workshop.

Mr. Miller said he is not going to commit to that; but he will tell them that this problem was addressed by the Utilities Authority in the predecessor meeting to the Planning Board. They discussed it among themselves and requested that they issue a 5-foot easement on the southern edge of the property to solve this problem. How that solves it, he is not skilled to tell them. But they did grant that easement; and it did in fact show on the previous site plan that they approved, and the one that they hold in their hand tonight is a little more detailed. So they have given the Commission the means to solve that problem.

Mayor Benton said he knows they have had a major drainage problem for years there. When they get a high tide and a lot of rain, the ditches across the street fill up with saltwater. When it rains it

has been a nightmare for the people who live there. It is just something that the City needs to address. He knows they are dealing with it on the next street with pumping it out of there; but he thinks it is something that has to be addressed on Fernandina Street.

Mr. Miller said the City is planning on it. They gave an easement and the City is going to put in larger pipes. They put in a temporary fence on that south side. They wanted a masonry fence on the south side, but they are using a wood fence because of the easement.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve the Final Site Plan for a Planned Unit Redevelopment submitted by Seaside Housing Corporation, LLC to construct Coconut Cove Marina residential project at 443 Fernandina Street, with the following conditions: One dock per unit, no live-aboards, 18 new units plus refurbishing the two historical units for a total of 20 units, and that there will be an extensive landscape buffer to the adjacent properties on both sides.

Mayor Benton said he knows Paul Williams (Urban Forester) is not here. He knows there are some trees that have been on that site forever. He is sure those probably won't be able to be saved. If Mr. Miller would like to address that. He knows there is a nice plan in here with all the landscaping he believes he saw the other day.

Mr. Miller said there are some fantastic trees on that site. They have managed to save almost every one. They will relocate some of the trees. But they went out of their way to save some of the palms within the strangler vines. They re-did their site plan just to accept those trees and they have been marked. The majority of the trees that are on that site right now that are of value will be saved. The trash trees, the ones the City wants them to get rid of, will be gone.

Mayor Benton said he knows they had one other project (Harbour Isle) that promised Royal Palms; that is, the picture showed Royal Palms, but the Royal Palms didn't make it. He knows with what they are selling this for, he expects and he is sure it will be from what he has seen, top notch.

Mr. Miller said they will see a lot of coconut palms.

Mayor Benton said he thinks Mr. Miller and the owner for compromising, because he knows when this started, it started at 36 units and it came down. He thanks them for working with the City. He thinks it was a compromise that they can all live with.

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

The next item on the Agenda was Public Hearing on Application for Subdivision Review submitted by City of Fort Pierce, Department of Community Services, for Pioneer Park Subdivision, creating 20 single family lots generally located between North 29th Street and North 31st Street on the north side of Pioneer Park; said property zoned R-4, Medium Density Residential Zone.

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

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

Mayor Benton asked is anyone from Staff here to make a presentation on this?

Mr. Hector Arias, City Engineer, said the Preliminary Plat has been approved by the Engineering Department for the stormwater. All the projects they approve, the site plans will have to comply with the stormwater regulations of the City, which means they are going to have to retain the water they make by the new and impervious surfaces. If they don't meet with that, they won't be able to build.

City Manager Beach said if anyone has any questions regarding this Pioneer Park Subdivision, there are two or three people here who can respond to those questions.

Commissioner Nelson asked he is not going to make a presentation?

Mayor Benton said it doesn't appear that way. He thinks all the Commissioners have been talking and hearing about this for a couple of years now.

Commissioner Nelson said somebody needs to stand up there.

Commissioner Alexander said he was just looking at the Planning Board conditions, but that is going to be included in the motion so he doesn't have any concerns about it.

Commissioner Nelson said he has watched many projects come along and one he had an increment part in was Palm Walk and was fairly pleased with that project. He saw as of late the Live Oak Villas on 25th Street and was extremely pleased with that project. Those two projects set a standard for him that, if Commissioner Becht was here he would say it sort of raises the bar. To what extent does Ms. Jenkins visualize these 20 homes are going to raise the bar and not look like public subsidized housing?

Ms. Dorina Jenkins, Assistant Director of Community Services, said she has a copy of the house plans if they would like to see it. (Ms. Jenkins displayed drawings.)

City Manager Beach asked does Ms. Jenkins have a set of landscape plans along with this subdivision plan? Have those been submitted, the landscape plans for the subdivision? That is just a yes or no. Do they have landscape plans? That has a lot to do with the quality of what they wind up with.

Commissioner Coke said the house elevation plans need to be Ramonized.

Commissioner Nelson said he is very much concerned. Those are public housing, but he doesn't want it to look like that. There is in the middle of that property an easement, a road that has never been cut going southward from Avenue Q. It is about a 50 foot right-of-way or something like that, he believes, from his historical days. Is the City planning to make that a paved road coming off 31st Street so as to make sure that is a viable subdivision that has accessibility by fire trucks and all those vehicles? What are the proposed exits and entrances to that project?

Ms. Jenkins said the only exit and entrance is from 29th Street.

Commissioner Nelson asked what do they plan to do with that right-of-way that the City owns there coming from Avenue Q going south?

City Manager Beach asked would that be 33rd Street?

Commissioner Nelson said no, it would be about 31st Street.

City Manager Beach asked which is currently a dedicated public right-of-way?

Commissioner Nelson said yes.

City Manager Beach said he doesn't know that there are any plans to do anything with that. The construction of that street is not part of this project.

Mr. Travis Gibbons, City Planner, said the actual property surrounding that right-of-way, there have been some conceptual plans that have been submitted to the Planning Department for multi-family development that could tie in to this development. But those projects are in the works right now.

Commissioner Nelson asked is the development going to be east and west of that right-of-way?

Mr. Gibbons said yes. It would incorporate both sides of that right-of-way. Actually, if the developer wanted to, he could apply for an abandonment. He is not sure what options they are going to take right at this moment. The talks have been very preliminary with the developer of the property north and northwest of Pioneer Park.

Commissioner Nelson said what he is trying to do is get a first class development there that is going to be safe for emergency vehicles, and exits and entrances by the residents of the area, and it turns out to be a very fine establishment there. In addition, if they go further to the west side of the property, they go back to a canal in back of that church area - past the church area over to the County across that canal which they cleaned out some time ago - there might be some sort of inducement they can throw out there for the County to either put some pedestrian walkways through there so as to make sure that place is a viable community, not being an enclave in there that fosters and promotes all sorts of unworthy and unsavory conditions.

Commissioner Coke said she has concerns. Go back to the word, multi-family. She thought that one of the major goals the City has, or maybe she didn't hear Mr. Beach properly for the last three and a half years, was to reduce the number of multi-family dwellings and encourage single family residents. Now here they are talking about this whole subdivision and she is hearing the word multi-family.

City Manager Beach said what Mr. Gibbons was referring to are projects that are in the discussion phases and in the presentation phase. If they will recall, the Commission recently turned down a multi-family housing development. The fact that they discourage that doesn't stop individuals from applying for it and from discussing it with staff; but it does have to come through the Commission.

Commissioner Coke said the reason she brought it out is so that staff is very aware; so when these people came to them, they didn't say they could probably do that, and then they are going to come here and the Commission is going to say, go away. It is much better they should tell them up front than have people go through all the time, effort, and money of drawing plans and bringing things to the Commission, only to be told no.

Commissioner Nelson asked did they say multi-family or single-family?

Commissioner Coke said this subdivision is single-family. But there was talk about that other parcel, about putting multi-family.

Commissioner Nelson said anyway, those are his concerns. Does Commissioner Alexander want to talk about the corner lot variance?

Commissioner Alexander said he just wants to incorporate that in the motion.

Commissioner Nelson said he is not ready to make a motion, per se, until he sees staff addressing some of those issues in terms of quality and the street conditions going to Avenue Q. Of course, he would want to see that 50 foot lot on those four corners made standard lot sizes. He can tell the Commission from historical experience that there is a little lot on the corner of Avenue M and 17th Street where it is just horrible the way the houses sit on that lot there. To mess up a corner lot by having it undersized and put a house on it in the wrong way is just bad planning. He would want them to do something to alter that configuration to make sure those lots comply with code to have the normal 75 foot frontage on those lots and have the required setbacks, even if it means cutting out another lot or two on the back side. It is important that they have, as Commissioner Becht would say if he were here, quality and a raising of the bar because they are looking on a situation where they can set higher standard family homes in that area.

Mr. Gibbons said a few months prior, the Board of Adjustment did grant a variance to those corner lots. He believes those are 50 foot lots. Whatever motions they would make, the Board of Adjustment has already granted a variance for those lots before it came to this point.

Mayor Benton said he thinks what he is hearing Commissioner Nelson say is that he would prefer to go back to square one and redefine the size of these lots at 75 feet, which would take out he doesn't know how many lots and cut the number down. He knows in some areas they are very limited of what they can build on a 60 foot wide lot and they only have a couple of feet between them and their neighbors. That happened on the beach when they got done at Beachcomber, it was maybe they should have made these lots bigger. So he thinks that is what he is hearing Commissioner Nelson say.

Commissioner Nelson said that is exactly what he is saying. And he can tell them another example, right there on Dundas Court and Avenue E they allowed the houses to be set real close together, three little houses, over his objections. And today, one of those houses is just going downhill big time in terms of pride in ownership. Looking at the types of people they are going to have utilizing those homes, bringing in their little things to do lawns and build little sheds to store their tools and things, they must

have the separation there to give the clear identity that this is this man's domain, it is his property, and that he is responsible to keep it up at the highest possible standards. He would much rather lose a unit or two to have the quality they need there. He thinks they ought to send this back to the Planning Board or Staff and have them re-work it to address those issues he just mentioned.

City Manager Beach said the width of the lots, there has been a tremendous amount of discussion about that. The thinking has been for many years that the way to get better housing and higher value housing is to have bigger lots and build bigger houses. That is no longer the thinking in the planning world. It is really about the type of house they build and the quality of the structure, not about the size of the lot. They can build a beautiful home on a 50 foot lot or 60 foot lot. They simply have to design it differently and lay it out differently. First of all, their CDBG program is building the infrastructure of this subdivision. What that means is, even though the City has allocated \$500,000 toward it, if they chose to spend more on that infrastructure to beautify it and to make it a higher quality, a quality they are looking for, they can do that, they have the ability to do that. Furthermore, he thinks one suggestion he heard was that the City get more involved in the architectural design of the houses that are going to be built and that is where they can really influence the quality of the subdivision. He doesn't know what they are proposing to build there; but he knows because of the City's involvement in it, they would be very receptive to whatever help the City could provide from a staff standpoint on the architectural features of those properties.

Commissioner Nelson said Live Oak Villas over here. One of the comments made at the grand opening of that was the fact that this is something that they don't think people would mind being in their back yard. Well, Live Oak Villas, he wouldn't mind it being in his front yard. It is quality, it has appearance, it has a managerial staff, and it looks like a decent facility from the get-go. From what he sees with these preliminary plans, he doesn't think they have that in the making.

City Manager Beach said he would encourage the Commission to approve this tonight with conditions. Put some conditions on it that they want to see applied to this subdivision. They all know how long this has been in the mill and how long they have been working at it. He thinks it would be helpful if they would move it forward with the conditions that they have talked about.

Mayor Benton said basically, he thinks what they are trying to do here is, go over to Oleander Park and...

Commissioner Nelson said he saw that and he doesn't like that either.

Mayor Benton said he thinks that is what they are looking at, because he believes those were 60 foot lots. The City put some infrastructure in. That was a partnership. But basically there are three or four different homes they built, they set them up different. But also, that is what makes it affordable for people. He thinks when they start talking about aesthetics, unless CDBG is paying for it, they are going to raise the price and some of these people are going to have a difficult time getting in.

Commissioner Nelson said he looked at that subdivision built there in Maravilla in that area.

Mayor Benton said it is not real pretty is it, but it is affordable.

Commissioner Nelson said no, it is not pretty. He guarantees they are going to have the same thing happen here. The problem is, the people who are going to occupy these houses are going to be considerably greater and different from the people they have over there. When they bring in these trailers to do their lawn work or some boat they want to put out and some shed they want to build, they need to have space for them to do those type of things from the get-go. Set the standards high so the people, like over at Live Oak Villas, can in fact have some pride. Those people over there are farm workers, they are not used to that. But look at it, it is a first-class facility. And he thinks that is what they need out here. He wishes they could do it.

Mayor Benton asked the folks who would be applying to live here, are they on set incomes? He means, are there guidelines?

Ms. Jenkins said yes, they have low to moderate income applicants; and they have already been approved.

Mayor Benton asked what are those incomes?

Ms. Jenkins said it varies from the family size. The homes would be 3 bedrooms with 2 baths and 4 bedrooms with 2 baths. Out of the 20 proposed homeowners, three are over the moderate limit.

Mayor Benton said if they were to increase the square footage of the homes and increase the looks of these homes and the landscaping, it would up the price so these people might not be able to get into them. So that is the predicament they are in, because a lot of times today with the market, if they build what they love to see, it might be out of the range that these people could afford or the guidelines set up. True?

Ms. Jenkins said yes. She is quite sure they will be pleased with the homes.

Commissioner Nelson said they just have to up the stakes a little bit and up the expectations of their people and enhance and improve the potential for a better quality of life for everybody. He thinks the home is the basic thing that does this.

Motion was made by Commissioner Nelson, to send the Final Plat of Pioneer Park Subdivision back to Staff and Staff come back with something that is going to at least facsimilate some of the comments made, make it as affordable but as attractive and accessible as they can, and address the corner lot sizes to ensure they have a standard quality community.

MOTION DIED FOR LACK OF A SECOND

Commissioner Alexander asked do they not have 20 homeowners already in line for this?

Ms. Jenkins said yes.

Mayor Benton asked what is the square footage on these homes?

Ms. Jenkins said about 2,000 square feet total. It is about 1,500 square feet living area.

Mayor Benton said a 2,000 square foot home in today's market is probably going to cost at least \$150,000 plus for a home like that. What are they looking at selling these for?

Ms. Jenkins said \$105,000.

Mayor Benton said so if they are looking at sending it back, anything they do is going to raise that price. He doesn't know how they are going to build them for that now.

Commissioner Nelson said Ms. Jenkins was in fact at the grand opening and toured the facilities at Live Oak Villas. Does she recall the prices they had on those houses - one bedroom at \$225 a month and four bedroom at \$700 a month. Did she assess the fact that they were quality and something that she or he or some of their friends would live in? Can't they do the same thing over here?

Ms. Jenkins said but those are apartments. These are going to be single family homes.

Mayor Benton said those are for farm workers and subsidized by the State of Florida.

Ms. Jenkins said she thinks they will be quite pleased with the layout of the house. They set high standards also. She thinks the non-profit organization has gone above and beyond to meet those standards.

Commissioner Coke said she appreciates that and appreciates all the work staff has done. Personally she would like to see it with a bigger lot. That being said, they have 20 people anxiously waiting owning their homes.

Ms. Jenkins said for three years.

Commissioner Coke said they have been anxiously waiting for this for an extended period of time. She thinks this is just the subdivision lot size that they are approving this evening. She thinks they should move forward with this. Perhaps they need to see where the City could generate or where they could redirect some other revenues to help with architectural enhancements to be sure this actually becomes a neighborhood where everybody is proud that they are there and they want to maintain it. And move forward in that direction.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve the Final Plat for Pioneer Park Subdivision.

Mayor Benton said he would agree, because he knows in the three years they have talked about this and tried to put it together, the cost of those homes has probably gone up three times. Putting this off for another half a year, it could go up another \$50,000 a home. He thinks it is very important that they get these people in their homes.

Commissioner Nelson asked how soon can Staff can come back with some architectural enhancements or renderings of some sort? Who is doing this? Do they have a contractor or an architect?

Ms. Jenkins said Easy Build Structures, Inc. are the ones who made up the plans. The plans have pretty much been submitted to Staff for approval, so they have received approval through Staff, but it has not went through the approval process with the Planning Board.

Commissioner Nelson asked can Ms. Jenkins come back before they start moving on it and give a presentation to the Commission on that?

Ms. Jenkins said yes.

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

Ordinance No. K-350 entitled, "AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; **REZONING** PROPERTY GENERALLY LOCATED ON THE **NORTHEAST CORNER OF ORANGE AVENUE AND INDIAN RIVER DRIVE** IN FORT PIERCE, FLORIDA, FROM C-4, CENTRAL COMMERCIAL ZONE, TO PUR, PLANNED UNIT REDEVELOPMENT 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. (Applicant: City of Fort Pierce)

Mayor Benton declared a Public Hearing on Ordinance No. K-350 in session and asked if anyone in the audience wished to be heard.

Mr. Michael Jacquin said he is just trying to clarify where the location of this parcel is at. Is this adjacent to the library?

Mayor Benton said he believes so. It is the northeast corner of Orange Avenue and Indian River Drive.

City Clerk Steele said this is the Marina Square location.

Mr. Jacquin asked has there been a timetable set for the final PUR in conjunction with this? It is not specific with this property, that is why he is asking. It is not on the agenda. He is just wondering if anybody has any idea when the final PUR may be presented.

City Clerk Steele said Mr. Jacquin is referring to the Final Site Plan.

City Manager Beach asked the site plan for Marina Square? Didn't they approve that site plan at the last Commission meeting?

Mr. Travis Gibbons, City Planner, said that was the Preliminary Site Plan. They would have up to one year to get their final.

Mr. Jacquin asked has anybody seen the Developer's Agreement also?

City Manager Beach said they expect that to be presented to the Commission on July 18th, the Developer's Agreement.

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

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, that Ordinance No. K-350 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-350 on second and final reading were: Commissioners Alexander, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-351 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY GENERALLY LOCATED ON THE **EAST SIDE OF JENKINS ROAD, NORTH OF OKEECHOBEE ROAD AND SOUTH OF TEDDER ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2006; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Patrick Langel, Sea Coast Air Conditioning & Sheet Metal, Inc.)

Mayor Benton declared a Public Hearing on Ordinance No. K-351 in session and asked if anyone in the audience wished to be heard.

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

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, that Ordinance No. K-351 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-351 on second and final reading were: Commissioners Alexander, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-352 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **2496 SOUTH KINGS HIGHWAY**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2006; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: James Tufo)

Mayor Benton declared a Public Hearing on Ordinance No. K-352 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 Nelson, that Ordinance No. K-352 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-352 on second and final reading were: Commissioners Alexander, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-353 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS

OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE THREE PARCELS LOCATED **SOUTH OF WEATHERBEE ROAD AND NORTH OF POINSETTIA AVENUE, AND ON THE EAST AND WEST SIDE OF REGINA DRIVE**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2006; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only. (Owned by: Ocean Vue Development Corp., Jerald Wuhrman)

Mayor Benton declared a Public Hearing on Ordinance No. K-353 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 Nelson, seconded by Commissioner Alexander, that Ordinance No. K-353 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-353 on second and final reading were: Commissioners Alexander, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-354 entitled, "AN ORDINANCE OF THE CITY OF FORT PIERCE, FLORIDA; CREATING SECTION 22-143(f) AND SECTION 22-143(g); PROVIDING FOR RULES GOVERNING THE WITHDRAWAL OR POSTPONEMENT OF **APPLICATIONS RELATING TO DEVELOPMENT REVIEW**; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on second and final reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-354 in session and asked if anyone in the audience wished to be heard.

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

Motion was made by Commissioner Alexander, seconded by Commissioner Coke, that Ordinance No. K-354 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. K-354 on second and final reading were: Commissioners Alexander, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-356 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **2144 & 2152 SOUTH JENKINS ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2006; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on first reading and read by title only. (Applicant: Group Three Development, LLC. Owned by: Rose Marie Holtkamp, Robert Baumker, and Andrew Baumker)

Mayor Benton declared a Public Hearing on Ordinance No. K-356 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 Nelson, seconded by Commissioner Alexander, that Ordinance No. K-356 be passed on first reading.

Those voting in favor of the passage of Ordinance No. K-356 on first reading were: Commissioners Alexander, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-357 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE SEVEN PARCELS LOCATED **EAST OF SOUTH 35TH STREET AND AT THE SOUTHERN TERMINUS OF PINEVIEW DRIVE AND AT THE EASTERN TERMINUS OF DOUGLAS AVENUE**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTIES AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2006; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTIES; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on first reading and read by title only. (Applicant: Land Planning Systems, Inc. Owned by: Yale Developers, LLC; Arnold & Sheila Cohen; Georgia Wheeler; and Frederick Burtch)

Mayor Benton declared a Public Hearing on Ordinance No. K-357 in session and asked if anyone in the audience wished to be heard.

Mr. Donald Kelly, 3408 Douglas Street, said his property is bordered on two sides by these parcels they are going to take into the City of Fort Pierce and he already has a flooding problem. The north side of his property is continually under water after heavy rains. Looking at the proposed plan that is going to go on there, with about 80 condominiums and 52 houses, it is going to increase the drainage problems they have in this neighborhood now.

Mayor Benton asked can Mr. Arias assure this man that any development the City will allow will not...

Mr. Hector Arias, City Engineer, asked these parcels are out in the County, right?

Mayor Benton said they are now.

Mr. Arias asked has the County been contacted to help Mr. Kelly in any way? He can answer for the one that is going to be there. The one that is going to be there is going to have to comply with all the stormwater regulations the City has. They will avoid any run off going to his property. But the existing conditions Mr. Kelly has now should be solved by the County.

Mayor Benton said whatever is developed on this site should not multiply his problem. But if he has some drainage problems out there, County Commissioner Hutchinson will listen to him.

Mr. Kelly said they have addressed some of the drainage problems; but every time they get heavy storms, they are flooded. They still

have septic systems out there.

Mayor Benton said it is something that needs to be addressed by the County. But all they can say is, this project will not multiply his problems. If it does, then the City will have to step in. He knows they have had some problems like that on Sunrise Boulevard and they are addressing them with the County now.

Commissioner Coke said they are not approving any site plans this evening. They are just annexing the property.

Mr. Kelly said he is just making the City aware of a drainage problem as it stands. The developer has advertised on the internet sites on these properties.

Commissioner Coke said they haven't gotten any site plan approval.

Mr. Kelly asked can they legally sell these sites?

Commissioner Coke said she doesn't know. She is not a lawyer.

Mayor Benton said all he knows is, they know people who are selling units for condos out on the beach that have not been approved yet. He guesses they can do it. Whether it is ethically legal, he doesn't know. But it hasn't been approved yet. Please come back though when the site plan is advertised. He will see a sign out there.

Mr. Steven Ball, Land Planning Systems, Inc., said he is here to support the application and assure the City that they will address all the drainage issues when they come forward with the master plan in the near future.

Mayor Benton asked if there is a case where he had annexed into the City and he did the development, but the frontage is a County Road with drainage problems, has the County been willing to address those issues? If there is flooding in the neighborhood, it is going to affect the people moving into his development.

Mr. Ball said that is a good question. He thinks someone will need to look into it as they go forward with the project. He believes this project would front on 35th Street. Is that a County maintained road, to their knowledge?

Mr. Arias said yes, it is.

Mr. Ball said he would be glad to talk to the County about it as they move forward and see what the problems are and if there is anything they can do to help improve that, because they will be making improvements to the road system.

Mayor Benton said okay, because it is going to create problems for the people who might be moving into their development.

Mr. Ball said right, and that certainly is not something they want to do, so they want to make sure everything works properly. So he will look into those issues.

Mayor Benton said please; and if there are issues, see what they can do to get the County involved in that. Mr. Ball said he would be glad to do that.

Mr. Arias said they have to be clear that when they annex, they annex properties, they do not annex roads. If they go to the County and they give them this type of information, these are County roads, not City roads.

Commissioner Alexander said the City is now and in the future corresponding with the County with anything they are going forth with now. They do have that understanding, right?

Mr. Travis Gibbons, City Planner, said they have a Joint Planning Agreement.

Mr. Arias said they have a Planning Agreement with the County and they review things, but that has nothing to do with... The County has the responsibility to address the drainage of their roads.

Commissioner Alexander said what he is saying is, the question should be asked, the City is on a daily basis conferring with the County, right?

Mr. Arias said they have been doing that for a long time.

Commissioner Alexander said no, they haven't been doing it for a long time. That is what the County was telling the City. Is he right?

Mr. Arias said he can tell them different, but that is neither here nor there.

Commissioner Alexander said they have not been doing these things.

Mayor Benton said he knows the Engineering Department has done better than the Planning Department.

Commissioner Coke said the City has been, but the County hasn't been.

Mayor Benton said lets forget the past.

Commissioner Alexander said lets attach that to the correspondence.

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

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, that Ordinance No. K-357 be passed on first reading.

Those voting in favor of the passage of Ordinance No. K-357 on first reading were: Commissioners Alexander, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-358 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE 53.64 ACRES LOCATED ON THE **WEST SIDE OF SOUTH 25TH STREET, NORTH OF CANAL #101**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2006; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on first reading and read

by title only. (Owned by: Tastespire Inc.)

Mayor Benton declared a Public Hearing on Ordinance No. K-358 in session and asked if anyone in the audience wished to be heard.

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

Motion was made by Commissioner Alexander, seconded by Commissioner Coke, that Ordinance No. K-358 be passed on first reading.

Those voting in favor of the passage of Ordinance No. K-358 on first reading were: Commissioners Alexander, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-359 entitled, "AN ORDINANCE OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING CHAPTER 2 ADMINISTRATION, ARTICLE V, TRAVEL EXPENSES, SECTION 2-83, MAXIMUM RATES AND LIMITATIONS, RATES PER DIEM; AMENDING CHAPTER 2 ADMINISTRATION, ARTICLE V, TRAVEL EXPENSES, SECTION 2-83, MAXIMUM RATES AND LIMITATIONS, TRANSPORTATION; REPEALING ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH AND PROVIDING FOR AN EFFECTIVE DATE." was placed on first reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-359 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 Nelson, seconded by Commissioner Alexander, that Ordinance No. K-359 be passed on first reading.

Those voting in favor of the passage of Ordinance No. K-359 on first reading were: Commissioners Alexander, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-360 entitled, "AN ORDINANCE AMENDING THE 2003-2004 BUDGET OF THE CITY OF FORT PIERCE, FLORIDA BY INSERTING THEREIN A SCHEDULE CONSISTING OF FOUR (4) PAGES ATTACHED HERETO AND DESIGNATED AS THE 2003-2004 FINAL BUDGET AMENDMENT. THE SAID SCHEDULE PROVIDES FOR THE INCREASES AND/OR DECREASES IN REVENUES AND APPROPRIATIONS IN THE GENERAL FUND; AND PROVIDING FOR AN EFFECTIVE DATE." was placed on first reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-360 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 Nelson, seconded by Commissioner Coke, that Ordinance No. K-360 be passed on first reading.

Commissioner Coke said she just has a question and this has been a concern she has had previously. She understands this year the City has had some increases in several departments that were 100% hurricane related and she appreciates that. Some things can't be avoided. But she does have concerns that they spend a couple of days every year sitting down and working out a budget and she thinks they have to be sure they have very realistic figures in there and they need to be more diligent in adhering to the budget as

passed originally. That is the only comment she will have on that.

Commissioner Nelson said he wishes she was thinking about that when they talked about \$225,000 for a study that was unbudgeted.

Mayor Benton said it shouldn't have been, because they talked about it for a year. They knew it would cost money.

Commissioner Nelson said the fact it wasn't budgeted and the Commission approved the budget. But the point is well taken. He semi-concurs with Commissioner Coke.

Those voting in favor of the passage of Ordinance No. K-360 on first reading were: Commissioners Alexander, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-361 entitled, "AN ORDINANCE AMENDING SECTION 13-24; PROVIDING THAT ELIGIBLE MEMBERS OF THE **RETIREMENT** SYSTEM MAY **PURCHASE CREDIT** AT FULL ACTUARIAL COST FOR MEMBERSHIP TIME OTHERWISE EXCLUDED BY ELECTION; DELETING REFERENCE TO "FORT PIERCE" AND "CONTROL" IN THE NAME OF FIRE DISTRICT; REPEALING ORDINANCES OR PARTS THEREOF IN CONFLICT; PROVIDING AN EFFECTIVE DATE AND FURTHER PROVIDING THAT AMENDMENT TO BE REPEALED WITHOUT FURTHER ACTION 90 DAYS AFTER EFFECTIVE DATE." was placed on first reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-361 in session and asked if anyone in the audience wished to be heard.

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

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, that Ordinance No. K-361 be passed on first reading.

Those voting in favor of the passage of Ordinance No. K-361 on first reading were: Commissioners Alexander, Coke, Nelson, and Benton. Those opposed: None.

Commissioner Nelson said he would like to go back to Ordinance No. K-361 for a moment. He should have caught this before. The ordinance cites some titles of the people who are excluded from the retirement system and they have a variance with the various departments they have. They now have Community Response versus Code Enforcement. He is concerned about consistency. He says this because as Vice Chairman of the Retirement Board, and the lawyer can attest to it, they have some people who challenge certain verbiage where they talk about what the lawyer's responsibility is, who will sit where, and all that. Are they subjecting themselves to attention for that similar criticism when they call people Director of Code Enforcement when they don't have a true Code Enforcement any more? What do they call their Code Enforcement these days?

Mayor Benton said Community Response, he believes.

City Manager Beach said that is correct, Community Response.

Commissioner Nelson asked what does Mr. Schwerer think?

Mayor Benton asked should that be modified before the second reading?

City Attorney Schwerer said he will have to check. Are they on first reading?

City Clerk Steele said it was just passed on first reading.

City Attorney Schwerer said they can do that; but the changes that are addressed by this ordinance are only those that are underlined. So if there is a change in the title... Those titles are just recited there to show they are changing Paragraph 4 to reflect the correct name of the Fire District.

Mayor Benton said if that position no longer exists, maybe while they are updating it, they should eliminate that.

City Attorney Schwerer said the Commission can do that, but he would caution them that they would ask tonight that staff be directed to come back with the proper term, because he doesn't know as they sit here what that position is properly called today.

Commissioner Nelson said with a second reading, they can in fact make those changes.

City Attorney Schwerer said they can correct that.

City Manager Beach said they can do that with the second reading.

City Attorney Schwerer said that is no problem.

Mayor Benton asked do they need a motion?

City Attorney Schwerer said no. They will bring it back on second reading if the City Clerk will make that note so someone can advise them. He doesn't know who drafted this, whether it was Mr. Bergalis's office or his own office; but if they did, they will make the changes.

Ordinance No. K-362 entitled, "AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING SECTION 13-28; PROVIDING THAT MEMBER OF **RETIREMENT** SYSTEM MAY BE CREDITED WITH ONE ADDITIONAL YEAR OF **MILITARY TIME** IF SUCH YEAR PURCHASED AT FULL ACTUARIAL COST; REPEALING ORDINANCES OR PARTS THEREOF IN CONFLICT; PROVIDING FOR AN EFFECTIVE DATE." was placed on first reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-362 in session and asked if anyone in the audience wished to be heard.

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

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, that Ordinance No. K-362 be passed on first reading.

Those voting in favor of the passage of Ordinance No. K-362 on first reading were: Commissioners Alexander, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-363 entitled, "AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING SECTION 13-39(c) OF THE CITY **RETIREMENT** SYSTEM BY CHANGING THE NORMAL RETIREMENT **ANNUITY**

FOR THE GENERAL EMPLOYEES WHO ARE NOT SUBJECT TO COLLECTIVE BARGAINING FROM TWO AND ONE-HALF (2.5) PERCENT TO THREE (3) PERCENT OF FINAL AVERAGE SALARY TIMES CREDITED SERVICE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE." was placed on first reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-363 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 Nelson, that Ordinance No. K-363 be passed on first reading.

Those voting in favor of the passage of Ordinance No. K-363 on first reading were: Commissioners Alexander, Coke, Nelson, and Benton. Those opposed: None.

Ordinance No. K-364 entitled, "AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING SECTION 13-42(c) OF THE CITY **RETIREMENT** SYSTEM BY CHANGING THE NORMAL RETIREMENT **ANNUITY FOR THE POLICE OFFICERS** WHO ARE SUBJECT TO COLLECTIVE BARGAINING FROM TWO AND ONE-HALF (2.5) PERCENT TO THREE (3) PERCENT OF FINAL AVERAGE SALARY TIMES CREDITED SERVICE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE." was placed on first reading and read by title only.

Mayor Benton declared a Public Hearing on Ordinance No. K-364 in session and asked if anyone in the audience wished to be heard.

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

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, that Ordinance No. K-364 be passed on first reading.

Those voting in favor of the passage of Ordinance No. K-364 on first reading were: Commissioners Alexander, Coke, Nelson, and Benton. Those opposed: None.

The next item on the Agenda was Mr. Michael Jacquin, Paul Jacquin & Sons, Inc., request one-year extension to an approved Site Plan for **Broadmoor** Assisted Living Facility at **200 Dixieland Drive.**

Commissioner Coke said she has a hard time with this one. Not that she doesn't want to approve this, but she doesn't have any background information on what they approved a year ago. Is it still consistent with their raising the bar and is it something they would be looking to approve now? She has none of that information. Could Mr. Jacquin refresh her memory on this project, because all she got was his letter.

Mr. Michael Jacquin, Paul Jacquin & Sons, Inc., said basically this project is just a hair over a year old. With some of the transitions, he thinks it got lost in the shuffle. The project is on Dixieland which is where Dale's and Toyota is on South U.S. #1. It is back there. It is Broadmoor Assisted Living Facility. Basically what they are doing is expanding to the west up to the

back side of the Toyota dealership. The reasons they are asking for the extension is, due to the hurricanes and some timing and some funding and other things of that nature that transpired last year, it just made it where it was difficult. All they are doing is asking for an additional year for the site plan.

Commissioner Nelson said he probably won't need a whole year because he is ready to go, right?

Mr. Jacquin said he is asking for a year for himself. That is what the owner has asked him to do.

Commissioner Nelson said he is waiting on that project over by the P.P. Cobb Building.

Mr. Jacquin said he is glad he brought that up. It slipped his mind. They submitted for a building permit today for One Marina Place. It was a long time coming.

Motion was made by Commissioner Alexander, seconded by Commissioner Coke, to approve a one-year extension to an approved Site Plan for Broadmoor Assisted Living Facility at 200 Dixieland Drive.

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

The next item on the Agenda was Ms. Maureen Sullivan, Citizens Against Highrises, to discuss enforcement of ordinances against buildings over four stories and eight units per acre.

City Clerk Steele said Ms. Sullivan called her earlier this afternoon and requested that this be removed from the Agenda, that she had made a mistake.

Mayor Benton said he spoke to her on the phone. She understands now.

The next item on the Agenda was Appointment to the Historic Preservation Board.

City Clerk Steele said the next item is a resolution for an appointment to the Historic Preservation Board. The Commission has two applications for that appointment - Michael Menard and Jerome Young. Someone would need to designate a name and then she can read the resolution with that name in it.

Commissioner Alexander said he will nominate Michael Menard.

Commissioner Coke said she would second the nomination.

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 05-30

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIECE, FLORIDA, APPOINTING **MICHAEL J. MENARD** TO THE **HISTORIC PRESERVATION BOARD**; PROVIDING FOR AN EFFECTIVE DATE."

Motion was made by Commissioner Nelson, seconded by Commissioner Alexander, that Resolution No. 05-30 be adopted.

Those voting in favor of the adoption of Resolution No. 05-30 were: Commissioners Alexander, Coke, Nelson, and Benton. Those opposed: None.

City Clerk Steele introduced the following Resolution by title only:

RESOLUTION NO. 05-31

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, CERTIFYING THE MAYOR'S APPOINTMENT OF **WILLIAM NUNN** AS A COMMISSIONER OF THE **HOUSING AUTHORITY** OF THE CITY OF FORT PIERCE; PROVIDING FOR AN EFFECTIVE DATE."

Motion was made by Commissioner Alexander, seconded by Commissioner Coke, that Resolution No. 05-31 be adopted.

Those voting in favor of the adoption of Resolution No. 05-31 were: Commissioners Alexander, Coke, Nelson, and Benton. Those opposed: None.

The next item on the Agenda was Mayor Benton to discuss new law concerning **noise** distance for "boom boxes", or audio systems, from motor vehicles.

Mayor Benton said he was reading the Palm Beach Post (June 30, 2005) the other day. It didn't specify in there, so he takes it that it was for Palm Beach County. But what they referred to, the distance decreased from 100 feet to 25 feet that boom boxes or audio systems may be heard from a motor vehicle, failure to turn down the volume is a \$30.00 fine. He knows for years they have all heard the complaints about the boom boxes and he continues to get them. They have always heard it has been hard to enforce. It appears they have something they can enforce, he guesses, in Palm Beach County. So if that is the case, could Fort Pierce take a look at it? Is there enough support to take a look at this and maybe they can follow in their footsteps?

Assistant Chief of Police Sean Baldwin said it actually is a State Statute change. The previous State Statutes under the Motor Vehicle Statutes, in order for a violation to occur, an officer would have had to have heard the music - he guesses is what they are complaining about - from a motor vehicle at a distance of 100 feet or less. They have now changed that to 25 feet or less. So volume at any level now is an infraction.

Mayor Benton asked does the Police Department have the ability to enforce this? For years he has heard they need a decibel meter or something.

Assistant Chief Baldwin said no, this is something that obviously any officer can do with just hearing it.

Mayor Benton said his suggestion is to go down behind Sabal Palm and listen to the Tape Deck. Police went right through there several times because he has had more complaints about the music back there.

Commissioner Alexander asked why is this particular type stuff not placed in the Fort Pierce News Tribune? Does Mr. Westberry know?

Mr. Anthony Westberry, The Tribune, said no.

Commissioner Alexander said he supports whatever comes down from the State, but he thinks they should notify the people so when the people stand there saying they don't know.

Mayor Benton said he thinks people have been notified, at least the Police Department and Sheriff's Department. If it came from the State, they should have been notified, right? Because that is who would enforce this.

Commissioner Alexander said he knows. But they have to get it out of the Palm Beach Post?

Commissioner Nelson said he was aware of this. He sits on the Urban Administration Committee and some of these things they throw at them. They have to pick the ones that are most important. For running a red light, for example, now it is a straight \$125.00 fine. The boom boxes and the barking dogs and all of these things are up there. The tightening of their seatbelt is all incorporated in the new legislation that was passed just recently. Like the Mayor, he thinks some of these things that the various departments like the Police Department have a direct linkage and should in fact get this. And probably the Juvenile Justice people. This might be in that area too.

Commissioner Alexander said yes and that is his concern, that they should be able to notify the public. Because the laws come in July 1st, that doesn't mean every John Doe walking around here will know that law.

Commissioner Nelson said they don't.

Commissioner Alexander said he doesn't want to see their police ram-rodging anyone because of a boom box. Again, he thinks the public needs to be...

Mayor Benton said the public should be aware of this.

Commissioner Coke said she thinks the State Legislature, since they are the ones who passed the statute, should be doing something to educate the public.

Commissioner Alexander asked who is going to benefit from the fines?

City Manager Beach said Mayor Benton brought this up with the idea of whether or not the City needed to change its ordinances to do this. Does he understand the law to be now 25 feet? The Commission doesn't need to do anything?

Commissioner Nelson said that is the law.

Assistant Chief Baldwin said the law is a State Statute. There is no reason to change the ordinances. Their officers can enforce it with the powers they have now. They can work with the media to try to spread the word and they will encourage their officers to continue enforcing it.

Mayor Benton said maybe the first 30 days they can explain to people with a warning. When they have a new law, it is hard for \$30.00 sometimes...

City Manager Beach asked does an officer still have to witness it or hear it or see it?

Assistant Chief Baldwin said that is true.

City Manager Beach said in other words, when these boom boxes rattle the office windows on the third floor of this building, that doesn't matter.

Assistant Chief Baldwin said no. The officer is going to have to actually observe it or hear it.

Commissioner Alexander said on the bottom of that little paragraph it says the failure to turn down the volume will come with the fine. What are they going to do? Are they going to write tickets; or are they going to ask them to turn down their boom boxes?

Assistant Chief Baldwin said he is going to ask his officers to use some discretion in enforcing the law. He can tell them 25 feet away from a car, most of them, if they rolled their window down, they would be able to hear the radio 25 feet away from the car.

Commissioner Alexander said sure. At least if they fail to turn the volume down, that is when the citation should be issued.

Mayor Benton said there are repeat offenders. He knows in a case where he asked them to go behind Sabal Palm, he gets complaints almost weekly about that.

Commissioner Alexander said he can imagine.

Mayor Benton said whether it is competition amongst a handful to see who can play louder. But please, if Assistant Chief Baldwin would check out behind Sabal Palm. He is glad to hear it is a Statewide law.

Assistant Chief Baldwin said they will do that.

The next item on the Agenda was City Engineer Report on draft Stormwater Management Utility Capital Improvement Program and proposed Fee increase.

Mr. Hector Arias, City Engineer, said they are proposing to increase the Stormwater Management fees from the present \$30.00 a year to at least \$48.00 a year. By doing this, they will be able to raise a \$10 million bond to continue with their efforts to replace infrastructure. He came back from a Stormwater Association meeting last week and the things that are happening in EPA (Environmental Protection Association) and DEP (Department of Environmental Protection) are very scary. They are quantifying how much pollutants they are supposed to be getting into the Indian River. In order for them to keep with that, it is going to come in a couple of years, they will have to start doing something with their retention and things like that all over the place and that is very expensive. They need a minimum of \$1.50 or a maximum of \$2.00. The \$2.00 would be better. They can raise their \$10.2 million. But they need other things in addition to the ones they see on the chart (Stormwater Capital Improvement Program chart attached to his memorandum dated June 28, 2005). They need to do things for the Pinecrest area, which it floods very often. They might have to buy property in the back of Pinecrest to provide some

alleviation of the flooding. They got other projects that were annexed recently about five years ago they annexed Park Trail. That is causing a lot of water standing in the ditches, people complaining. That needs to be addressed, which is about 90 lots. For instance, they had to replace the pipe along the Open Space Park. He thinks it is a 36 inch pipe which is just beginning to break. They got those things. And he remembers about 15 years ago he proposed to the other Commission that they need to start replacing these pipes. They have been doing that. With the previous bond, the City finished about \$5.2 million in projects in about four or five years with the aid of the bond and some grants they got. So he is trying to propose this to them and see the consensus they have. One thing he would like to explain to them. If they want to start collecting next year to get this bond in process, they need to act before the 20th of July. They need to approve a resolution before the 20th of July so they can notify the County to start collecting the monies. Again, it is very scary with what he learned last week and they are going to be putting more restrictions on it with what they call NPDES (National Pollutant Discharge Elimination System). He understands it is not going to be cheap. He knows that it is difficult sometimes to think about spending millions of dollars for installation that they won't be able to see after it is installed. Believe him, they will see it if it rains.

Mayor Benton said they will see it if they are in Oakland Park and they will see it if they are on Fernandina Street.

Mr. Arias said they have a lot of things they need to do. In that chart is about \$1 million for miscellaneous projects; projects like when they annex an area the City is supposed to maintain, they will use money for these areas. That is the plan for the \$1.50. If they get \$2.00, it will be much better. This way they can do more projects at one time. But \$2.00 a month is half a pack of cigarettes.

Mayor Benton said he is asking because Fort Pierce has had 20 inches of rain in the last two months and they had two hurricanes.

Mr. Arias said the City is experiencing now another thing. They notice he is trying to purchase two trucks for the Public Works Department. He is going to explain it to them. It is two vacuum trucks. They are very expensive. But they need to have one truck dedicated to clean all the pipes in the City which happens to be 72 miles. The other truck is to clean on an emergency basis. He would like to give them a comparison. In Miami/Dade - they know how big that is - they only have three times more length than Fort Pierce does in their storm sewers. Miami/Dade has 250 miles and Fort Pierce has 72 miles, so they can't compare, but their collections a year is \$200 million. So what he is asking is a mere fraction of that; and they need to continue doing this because if they don't, in the next 5 or 6 years... They have storm sewers that are more than 40 years old. They have been pushing their luck. There are roots and they are breaking up. Look what happened on Fairway Drive, the 54 inch pipe is just beginning to fail and that is going to cost \$750,000. Talking about prices. The City used to pay \$35 a foot of 15 foot pipe, now they want to charge between \$60 and \$135 for the same pipe. That is when they had to reject the bid. So the City is facing - it is not a crisis yet - but it is something that has to be addressed. Do they have any questions?

Commissioner Coke asked if they go to the \$1.50 a month increase, where does that put them comparative with other municipalities?

Mr. Arias said right now it is \$2.50. They are under the average. The average is about \$3.88. The significant thing here is the size of the Equivalent Residential Unit (ERU). What that is, is when the utility was formed an average sized house was used as a unit. Then they took all the impervious area, which includes the driveway and things like that, that is 2,186. Look at the chart in their package and they will see other rates that are lower than Fort Pierce, but also the ERU is much more than theirs. Meaning that when they have a commercial project, they just really get a lot of money. So actually Fort Pierce is less than average. Port St. Lucie is \$105.00 a year. Actually Fort Pierce is still low and they need the money to continue working. Actually this money is good to have because they have some time to apply for grants with 50% match and this and that. This is how they spread it in the last few years. He would like to have a consensus from the Commission to see if they can proceed with this. He will present it to the Commission at the workshop. Is it possible to have a resolution approved at the workshop?

Mayor Benton said probably not, because they couldn't have a public hearing. He thinks it would have to be at the next Commission meeting.

City Attorney Schwerer said that is correct. They could declare it an emergency if they needed to do it and there are special rules. But in this particular case, they do have some special notice issues that they have to work through when they are dealing with the increase of stormwater utilities. So the notice requirements will dictate the timing of when this comes back to the Commission. He doesn't think they can comply with those notice requirements in that length of time.

Mayor Benton asked when is the cut-off date to the County?

Mr. Arias said 20th of July.

City Attorney Schwerer said they will certainly look at this in the morning, if the Commission agrees with the increase, and staff will let them know what they can legally do.

Mr. Arias said if they don't have it by 20th of July, they will have to wait for another entire year to collect anything.

City Manager Beach said if that becomes necessary, and the Commission is agreeable that these improvements are needed, and if they are unable for technical reasons to get this on next year's tax rolls... All of them know what is involved in the design time for these projects. They could actually initiate the design of all of this and then do the funding at a different time, if that is necessary.

Commissioner Alexander said he just wants to let them know, he doesn't know if any other Commissioners met with the City Engineer, but he did, and he is in support of it. Looking at the projects they have listed here. He heard Mr. Arias say they annexed some properties in. Is that included in the projects they have? Mr. Arias said no, not in this proposal. This is for \$1.50. What they have there is only \$1.50 additional a month.

Commissioner Alexander asked so the \$2.00 would include everything?

Mr. Arias said yes.

Commissioner Alexander said that is just what he wanted to make as a point. They have ten of these projects completed and that would leave 21 projects, so they need to be inclusive of everything.

Mr. Arias said yes.

Commissioner Alexander said that is one of the questions he asked about the new development that is coming into this community, anything that is within any of these projects. He thinks the impact they are going to bring to the community, some of their charges should be incurred in some of that. That is why he makes emphasis about projects at the Marina Square. They have the roads and everything already in place. So the City needs to take the citizens into consideration now. Because \$2.00 may not seem like much, but to some people it is a great deal. It is just the principle of the thing. But he is in support of it - he let Mr. Arias know then and he is letting him know now.

Commissioner Nelson said he has some concerns about it. He is not sure he is convinced as to what they did with the others that they imposed this fee on. He recognizes and looks at it as a tax on their citizens; and he is not sure that they can in fact absorb it, if pushed down their throats. They don't have to have a referendum on it as such. But to impose it as an impact fee or whatever the case may be or a stormwater utility fee or whatever they want to call it, it is money out of their pocket; and if it comes out on the tax roll, it is going to be considered as a tax. He would much rather discuss this in greater detail at their workshop so they can make doubly sure they want to go down this route. Let's ascertain definitely what the City wants to do and what have they done with those monies they already have collected.

Mayor Benton asked has he spoke to Jack Andrews and Nick Mimms?

Commissioner Nelson said no, he is out of the loop.

Mayor Benton said flooding affects everybody. The one thing he has always supported is this stormwater utility. He was very supportive of starting it because of one reason - flooding affects everybody. If their house or lot isn't flooding, somebody they know is and the streets they use are. And they all know the infrastructure in this City is 40 years old in a lot of areas. So to him it is very important. He thinks everybody should buy into it. Commissioner Alexander said he spoke with the guys in Engineering Department. What he would ask is, instead of spending a lot of time on this at their workshop, they need to move forward with it. He would ask that Mr. Arias set up a time with Commissioner Nelson and sit down with him and go over it, because it appears that Commissioner Coke and Commissioner Alexander and himself are ready to move forward with it. He thinks Commissioner Nelson, once he is educated on this by the City Engineer...

Mr. Arias said Commissioner Nelson wasn't here, he was at a conference, but he talked to him briefly this morning. But they can set up something with him to discuss the whole thing.

Mayor Benton said the good thing about this - call it what they want, a tax - it is spent for what it says it is going to do. It is earmarked just for that. So that is why he votes to support it.

Mr. Arias said don't forget that they use the revenues also for Public Works to maintain the system. In fact, he has been talking to Public Works and it is about time they set up some type of a Stormwater Maintenance Division in the Public Works Department to go ahead and address only these issues, because the City needs this. The rain isn't going to stop.

Mayor Benton said he gets the calls at 5:00 a.m. in the morning and then Mr. Arias gets them. Oakland Park had a major disaster last year.

Mr. Arias asked do they remember that Easter Avenue situation they had? That was a horrendous thing.

Mayor Benton said Melody Lane. If they are going to build these beautiful projects there...

Mr. Arias said the Commission approved this as an emergency for him and then they just did it, and then they had tremendous rains and nothing has happened, so that is a result.

Commissioner Coke said they are looking for a consensus this evening. She thinks not only should they proceed, but they need to bite the bullet and do it once, the \$2.00, so they can do all the projects they have.

Mayor Benton asked what does the \$2.00 number come to?

Mr. Arias asked in revenues? Because they are going to be able to raise \$10.2 million.

Mayor Benton said as far as the cost on that. He was looking at the \$48.00.

Commissioner Coke said it would be \$54.00 a year.

Mayor Benton said he will support it, but the millage rate has to come down. So staff, hear that loud and clear.

Commissioner Coke said they already decided that, didn't they? They just haven't voted officially on it yet. They gave staff that direction last year.

Mayor Benton asked is there a consensus from three of them?

Commissioner Alexander said yes, with his emphasis on new development and the impact they are going to be bringing needs to be incorporated in this too.

Mayor Benton said he thinks when they update the comp plan, they need to put all kinds of restraints on some of this new development. Mr. Arias has a consensus from three of them. He thinks when Mr. Arias sits down and talks to Commissioner Nelson, he will understand.

Commissioner Nelson said heard him talk about buying duplicated trucks. He agonized over Mr. Ferch buying those suction trucks and now Mr. Arias wants to buy some more of their own private stock. Mr. Arias said those trucks they have now are over 12 years old.

Commissioner Nelson said Gary Ferch bought his truck since he has

been here. He hasn't been here 12 years.

Mr. Arias said it will take over three years with one truck to clean the pipes in the City.

Mayor Benton said set a time and then discuss this with Commissioner Nelson. They have a lot of other things they can talk about at the workshop, but not this one, he thinks this one is straightened out.

The next item on the Agenda was Interim Director of Development to advise of his administrative approval of a **Minor Amendment** to an approved Site Plan for **Coggin BMW**, to be located on the northwest corner of Weatherbee Road and U.S. #1.

Mr. Hector Arias, Interim Director of Development, said he is going to let Travis Gibbons explain this. It is a very minor amendment. He believes it has to do with the moving of the building.

Mr. Travis Gibbons, Interim Planning Coordinator, said the actual change to the Site Plan was the footprint of the building. It had to be moved and it changed the parking configuration on the front of the property facing U.S. #1. The parking calculations remain the same, impervious area is the same. The Planning Department has approved the amendment.

Mayor Benton said the action has already been done. That is just for information.

City Manager Beach said he wants to take this opportunity to introduce three new staff members. They all recall Patti Tobin (Director of Community Services) left the City a few months ago. Her replacement is here tonight. His name is Brian O'Connor. Mr. O'Connor is from Jackson, Michigan. He started last week. Also, Jon Ward started this morning as Director of the CRA (Fort Pierce Redevelopment Agency). Also here is Mark Meyers, who is the Deputy Building Official that just came to work today.

Commissioner Nelson asked do they have any resumes on these people that he can look at?

City Manager Beach said Commissioner Nelson is welcome to review those files. They do have resumes.

Commissioner Nelson said he would like a copy of the resumes. He likes to know what kind of people are working down there.

Mayor Benton said if they get a few minutes, walk in and say hello. It is very enlightening, some of their backgrounds. They have some very experienced people who have come on board.

Mr. Patrick Henry, 1123 Granada Street, said they have seen his package, this latest pile of nonsense that he submitted. He sees the facts this way, correct him if he is wrong. He does not expect any answer today, he is just making a comment here. Number one, either he signs a permanent injunction, which he is not. Number two, the City Commissioners and Mayor do a motion to dismiss. Or number three, do what he was told, which was at a Commissioners meeting December 1, 2003. Which means to let them in his house and have a closed meeting. He did just that. He submitted a letter (to Robert Schwerer dated December 7, 2003). Since then, all this

has been ignored as to what he asked in this so-called procedure that he was told on December 1st by then former Assistant City Attorney Schwerer and Mayor Enns. He did just that. And he figures it this way now. Since it has been ignored, number four, the City Commission and the Mayor can go tell the Judge why they won't do a meeting with him. Because he has given up on trying to figure out what you people want.

Mayor Benton said give his office a call in a few days, because he would like to find out. He inspected Mr. Henry's house. They sat down - Mr. Schwerer and Staff - and he thought the decision was that Mr. Henry had to add a window that was not there, and he believes he has done that.

Mr. Henry said yes.

Mayor Benton said so he just wants to find out if they cleared the air with this. If he can get some information on this so he can get back with Mr. Henry, then maybe Mr. Henry won't have to come to every one of their meetings to try to get an answer. He thought they had cleared the air. He has seen a substantial improvement compared to what was there. But he knows Mr. Henry's house was a lot different inside than the outside. But if the window was the issue and the window has been added, he would like to find out if it was inspected and if they can...

Mr. Henry said as they can see in the package he submitted, Hector Franko was in his house. That is his initials on there. He did an okay on the final walk-thru. This is the list. This is what gets him. He was going to be sent a list. Anybody could have written it.

City Attorney Schwerer said Mr. Henry has come to the Commissioners on repeat occasions, filing these papers. He needs to address these issues to the Court. Mr. Henry, as far as he knows, has complied with what the City has asked. However, there are final sign-off documents that are necessary to conclude the Court case, which Mr. Henry refuses. So he is coming to the Commission. And they don't have jurisdiction. He has offered to meet with Mr. Henry. He has written letters. Mr. Henry agreed to sign off on the case; and then he comes up and says he is not going to and won't give a reason.

Mr. Henry said he did not agree...

City Attorney Schwerer said excuse him, but he is talking to the Commission. They don't need to debate this.

Mayor Benton said in other words, the issue that they sat down and discussed that day would have to be straightened out. His issue now is with the Judge and the Court?

City Attorney Schwerer said he believes it has been straightened out, yes. Mr. Henry's issue is with the Court, that is correct. And the legal technicalities of signing off on the end of the case. They are not asking him, as far as he knows, to do anything more.

Mayor Benton said so it is very simple, there is no debate. He thinks Mr. Henry has to go to the Courthouse and...

Mr. Henry said he asked for a closed meeting, which is what was said to him on December 1, 2003. He addressed in his letter, stating for a closed meeting with the Commissioners.

City Attorney Schwerer said Mr. Henry does not get a closed meeting. He needs to address his issues to the Court.

Mayor Benton said he has addressed his issues with the Commissioners. They feel he has done what he needed to do. But because the Court system is involved and a Judge made a ruling, Mr. Henry has to clear the air with the Judge. Mr. Schwerer is telling him, all he has to do is sign off with the Judge.

Mr. Henry said it was here that he was told that it would be done. (Mr. Henry read a statement made by Assistant City Attorney Schwerer during the City Commission Meeting on December 1, 2003): "If he has a proposal to make to the City relative to how this case can be resolved, then the procedure to follow is Mr. Henry needs to send that in writing to his office and he will then direct that to the Commission with any comments from the other staff that it may require such as the City Manager; and the Commission can then meet in a closed executive session to discuss that proposal." And that is what he is asked for in his letter.

City Attorney Schwerer said that has already happened.

Mr. Henry said he never spoke with the Commissioners.

City Attorney Schwerer said he does not feel like arguing with Mr. Henry.

Mayor Benton said there is no need to argue tonight. What they can do is maybe have a letter explaining to Mr. Henry on paper what he has to do that will supercede the one he is...

Mr. Henry asked does he get to talk to the Commissioners?

City Manager Beach said no, he does not.

Mr. Henry asked then why was he told that?

City Manager Beach said that is not what it says. The reference that is made there...

Mayor Benton said don't worry about that letter, the City Attorney will put something together explaining to him what he has to do to get signed off on it.

City Attorney Schwerer said Mr. Henry has that letter and he refuses to do what they asked him to do, so they are taking the issue to the Court. Mr. Henry is trying to convince the Commission to drop the whole case against him so he doesn't have to go see the Judge. It is that simple.

Mr. Henry said that is what is said here, that he can talk to the Commissioners.

City Attorney Schwerer said he is not going to argue with him.

Mayor Benton said he thought they had cleared it up; but it is an issue where Mr. Henry has to go to Court and speak with the Judge, then it is out of their hands.

Mr. Henry asked then why was he told here that this could be settled with the Commissioners? This is what he was told here. This is what he is looking at here. He gave them copies of that

and they can see what he is referring to. He is referring to what Mr. Schwerer said, that it needs to be settled with the Commissioners.

Mayor Benton said Mr. Schwerer is telling Mr. Henry something different now.

Mr. Henry said that's his point. He is being told something different.

City Attorney Schwerer said the Mayor needs to conclude this. Mr. Henry is misrepresenting the facts. That discussion took place before he settled with the City. Mr. Henry was bucking the system, he would not agree to do anything, he was told what he needed to do, he wanted to go to Court, he filed all his papers, and then he sat down and said he would like to make a proposal.

Mr. Henry said that was December 7, 2003.

City Attorney Schwerer said Mr. Henry's proposal was then, he said he would do everything they wanted him to do. They put it in black and white; and Mr. Henry signed off. There is no need to talk to the Commission. Mr. Henry has done what he needed to do. They are well past that point. He is not going to argue with Mr. Henry. This is a Court action and Mr. Henry needs to address his comments to the Court, and not make misrepresentations to the Commission. If Mr. Henry wants to make any representations, let him file his documents in front of the Court. That is where this case is.

City Manager Beach said Mr. Henry will sit and talk to all of the Commissioners here in this forum as long as they will permit it.

Mayor Benton said no, he has had his five minutes. He thinks they have explained what Mr. Henry needs to do. Mr. Henry needs to sit down with the Judge.

Mr. Henry said he would told on December 1, 2003. He sent the letter six days later.

City Manager Beach said the Mayor is asking Mr. Henry to take a seat.

Mayor Benton said they have explained what he needs to do. He suggests whatever Judge they ask him to get with, he get with.

Mr. Tony Barnes, Director of Purchasing, said he would like to give them a check for \$22,430. This is the money they received from the proceeds from the **Auction** on June 18th.

Commissioner Coke said she has seen some **land appraisals** for the Moore's Creek Project. But she thinks time is very important if they are going to use the \$5.125 million to be spent on public land. They need all the figures in front of them, which would include all the For Sale signs that are up and down South A-1-A. They might look to expand their public access there also.

Commissioner Nelson said the Legislative Delegation for the Treasure Coast is due to come in here on July 20th to talk about

things relative to the CRA (**Fort Pierce Redevelopment Agency**) and any other issues they want to talk about.

City Manager Beach said the Florida League of Cities has asked that the City of Fort Pierce host the Legislative Delegation on July 20th. They have invited the Treasure Coast Legislative Delegation as well as some other Legislators to come here and review the activity of their CRA. The purpose of the visit is for the Legislators to get some direct knowledge of what cities are doing with CRA resources. They are aware that each year the Legislature convenes, the counties of Florida are browbeating the Legislature to change all the laws relating to CRAs, redefining how those are set up and what type of resources they have and what type of involvement the counties have in those CRAs. The purpose for this meeting is to start to try and educate Legislators about the value of CRAs and why those are important and what the CRA has been able to do and what they plan to do in Fort Pierce with their CRA.

Commissioner Nelson said he would encourage them to have contact with their Legislators, to have them come here. He is advised that the invitations have been sent out; and some of the Legislators will not be here, but their aides will be. Please don't take these aides lightly, because the information they pick up and report to their respective bosses has a way of tending to make the Legislators act accordingly on their recommendations.

Mayor Benton asked did they invite them? Are they coming to this building?

City Manager Beach said the plan is to meet here in the Commission Chambers at 9:30 a.m. There will be a briefing at that time. Then they will go on a tour of the CRA area. It would conclude with lunch around 12:00 noon. That is the current plan. City staff did not invite them. The legislative group with the Florida League of Cities has invited them and they are the ones coordinating it.

Mayor Benton asked when is their next CRA meeting?

City Clerk Steele said no, the CRA meets July 27th.

Commissioner Nelson said the Florida League of Cities picked ten cities they wanted to visit and Fort Pierce was one. He had nothing to do with it. They called him on the telephone and told him.

Mayor Benton said maybe they should consider having their CRA meeting a week early for them.

Commissioner Coke said not if they are going to be here all morning and then through lunch time. They are not going to want to sit through a three-hour CRA meeting. They won't be happy.

Commissioner Alexander asked could they see about having that demo trolly here to ferry them around? They were supposed to see the demo at the CRA.

Commissioner Coke said it was supposed to be here on the 27th. Maybe it could come on the 20th. That is a good idea.

Commissioner Nelson said he sent out a memo about the **Growth**

Management Plan that the Legislature passed. The State actions that are being taken by three key departments at that level with the oversight by the Department of Community Affairs, the Department of Environmental Protection, and the Transportation Department. He will send out packages reflective of what each of those departments are pushing that they want to accomplish in the next three to five years. He wishes they will look at this, because it is the mandate that is legislated with the Governor personally involved in some of these things, and it might affect some of their funding coming down the line in the future.

Commissioner Nelson said the **City Commission Workshop** scheduled for July 13th and 14th.

Commissioner Coke asked will they be getting information on that soon hopefully?

Commissioner Nelson said he is hopeful they have some input from the Commissioners relative to what they want to discuss and that staff is prepared to discuss some of the things the Commissioners want to discuss, and make plans accordingly. For example, the Comprehensive Plan. He does not want to go there and talk about the Comp Plan and staff tell him the Comp Plan is going to be this and the citizens say they want that, and it gets all confusing.

City Manager Beach said this is a City Commission Workshop. It would not be a productive workshop to just talk about things that they are not interested in.

Commissioner Nelson said he has submitted his list for the last ten years; and nine times out of ten, 50% of what he submitted was not discussed.

Mayor Benton said his understanding is, and he discussed this with staff, that every Commissioner might submit two or three items. That does not mean ten items.

Commissioner Nelson said he is going to submit all of his items for the past years.

Mayor Benton said they don't have that many days. Everybody should submit two or three items and they will have time to discuss them. If not, they will be there for weeks.

Commissioner Nelson said okay, that is good enough for him. Just as long as they have some input that each of the Commissioners want to talk about.

City Manager Beach said that is the purpose of the workshop.

Mayor Benton said he would suggest that for this workshop invitations go out to the City Planning Board and the Historic Preservation Board, anybody involved in that. Items like wastewater treatment plants or sewer plants, so that they might understand that is not in the best interest of Fort Pierce. The County Commissioners and their staff. Mr. Anderson should get an invitation too.

Commissioner Nelson said he saw in the paper where they got some money, some \$3 million in FEMA emergency money. He saw where there

was some \$20 million to be split for SHIP housing and that sort of business.

Mayor Benton said it was \$9 million and Fort Pierce got \$3 million.

It was \$3 million each for St. Lucie County, Port St. Lucie, and Fort Pierce. Basically there is almost no strings attached to that money.

Commissioner Nelson said no, that is not it.

Mayor Benton said he is telling them about the money that he went down and picked up the check.

Commissioner Nelson said he is talking about three sets of monies.

One, which just came out in the paper, was \$20 million which the City, the County, and Port St. Lucie are going to share in that, which represents about \$6.3 million each. Is that right?

City Manager Beach said yes, it is somewhere in the vicinity of \$7 million. That is a subject that is scheduled for the City Commission Workshop to talk about in some detail with the Commission, because all of them have to be involved and have to make the decisions about the allocation of those resources.

Commissioner Nelson said what he is trying to suggest is, they ought to be thinking about how they want to use that unprogrammed windfall money. They got another \$500,000 when Patti Tobin (former Director of Community Services) was here for housing development.

Mayor Benton said just go along with him, he has it spent.

Mayor Benton said he missed the last City Commission meeting and the discussion on the \$5.125 million for the property at Marina Square. Early on he did not support that project; but because the Commission did, he has embraced that project. What he would like to see - and he thinks he heard this from Commissioner Coke a few minutes ago - that the \$5.125 million be used for the purchase of public land. He thinks it should be, specifically waterfront. Also something to think about. He has had many inquiries in the last several months on what is going to happen with the Causeway Mobile Home Park property and what that land could be used for. If they were to do something similar to what is being done at Marina Square, possibly look at purchasing it and going out for proposals.

The word is, they don't want to see another Harbour Isle. They can determine their destiny. That \$5.125 million could make them more. But also, they could have that land developed the way this City would like to see it developed. So he is asking that be put formally on the next CRA Agenda for discussion.

Commissioner Coke said a gentleman called her Friday because he wants to build a marina there. She did not have a chance to get in depth with him about it.

Mayor Benton said he knows that gentleman has talked to Dean Kubitschek (Marina Manager). They have talked back and forth on the phone. It could be a public/private partnership. But the only way they are going to have that land developed the way the community would like to see it developed is to have some say in it. To him, that is what the CRA is there for.

Commissioner Nelson said the price tag on that land is \$25 million.

Mayor Benton said that may be true. But he can guarantee, ask the Marina Manager what the City Marina is worth. And look at what they have the ability to do over there with a marina with 17 acres.

It does not matter what they do with it today, if they would just use that \$5 million down, he guarantees the way land is... Look at the Port and the numbers they are talking about. He just wants everyone to think about it. They will talk about it formally at their next CRA meeting.

There being no further business, Mayor Benton declared the meeting adjourned at 10:15 p.m.

Adjournment.

ATTEST:

CITY CLERK

MAYOR COMMISSIONER