

**CITY OF PORT ST. LUCIE  
CITY COUNCIL REGULAR MEETING MINUTES  
SEPTEMBER 12, 2011**

A Regular Meeting of the CITY COUNCIL of the City of Port St. Lucie was called to order by Mayor Faiella on September 12, 2011, at 7:45 p.m., at Port St. Lucie City Hall, 121 SW Port St. Lucie Boulevard, Port St. Lucie, Florida.

**1. MEETING CALLED TO ORDER**

**2. ROLL CALL**

Council Members

Present: Mayor JoAnn M. Faiella  
Councilwoman Michelle Lee Berger  
Councilman Jack Kelly  
Councilwoman Shannon M. Martin

Council Members

Not Present: Vice Mayor Linda Bartz

Others Present:

Jerry A. Bentrrott, City Manager  
Roger G. Orr, City Attorney  
James Arnold, Neighborhood Service Director  
Sherman A. Conrad, Parks & Recreation  
Director  
Edward Cunningham, Communications Director  
Marcia Dedert, Finance Director/Treasurer  
Daniel Holbrook, Planning & Zoning Director  
Renee Major, Risk Management Director  
Jesus A. Merejo, Utilities Director  
Karen A. Phillips, City Clerk  
David K. Pollard, OMB Director  
Brian E. Reuther, Police Chief  
Patricia Roebling, City Engineer  
Tricia Swift-Pollard, Community Services  
Director  
Gabrielle Taylor, Assistant City Attorney  
Susan Williams, Human Resources Director  
Margie L. Wilson, Deputy City Clerk

**3. INVOCATION & PLEDGE OF ALLEGIANCE**

Mayor Faiella noted that the Invocation and Pledge of Allegiance were recited at the previous Special Council meeting.

Mayor Faiella advised that Item 5 c) would be heard next.

5. PROCLAMATIONS AND SPECIAL PRESENTATIONS

c) CERTIFICATE OF RECOGNITION TO BE PRESENTED TO FRANK PERHAY FOR TURNING 104 YEARS YOUNG

Mayor Faiella presented a Certificate of Recognition to Frank Perhay in honor of his 104<sup>th</sup> birthday. Mr. Perhay said, "I've lived in Port St. Lucie for 30 years, and they were the best years of my life." Councilwoman Berger said, "Mr. Perhay told me that in 1977 when Mr. Perhay and his wife moved to Port St. Lucie, there was hardly anybody here, and they had the hardest time getting people to cut their grass. I told him we still do. Happy Birthday."

4. PUBLIC TO BE HEARD

**TOM LADOMIRAK - CROSSTOWN PARKWAY PUBLIC HEARING/JOBS**

Mr. Ladomirak said that there will be a Public Hearing for the Crosstown Parkway on September 22, and that everyone who can should go to the meeting. He said that he has been laid off since 2009 and has been seeking work. Mr. Ladomirak said that residents should encourage Congress to support a jobs bill that won't raise taxes.

**STEVE CARROLL - ADA COMPLIANCE**

Mr. Carroll said that he is in a group that has been surveying the City and that there are a lot of violations at businesses on the east side of town and that if it keeps up, the City is in jeopardy of losing federal funds, which are tied to ADA compliance. He suggested that his group could help the Police Department with enforcement. Mr. Carroll said that they would like to work with the business owners to achieve compliance on such issues as signage and handicap access, and that vehicles that block access must be towed. He noted that he has been talking with Chief Reuther to work out some cooperation.

5. PROCLAMATIONS AND SPECIAL PRESENTATIONS

a) PROCLAMATION - SICKLE CELL AWARENESS MONTH

The City Clerk read the proclamation for Sickle Cell Awareness month, and Mayor Faiella presented the proclamation to Yvette Coursey, CEO of the Sickle Cell Foundation of Palm Beach County and the Treasure Coast, Inc. Ms. Coursey said that there will be a walk on September 17 at Sand Hill Crane Park, with registration at 8:00 a.m., and that there will be a workshop on exertional sickling in relation to athletes on September 19 at

the St. Lucie County School District building. Ms. Coursey noted that it would be important for the Parks and Recreation staff to know about it.

**b) SPECIAL PRESENTATION - BE A HERO DAY**

Mayor Faiella noted that all of the St. Lucie County Commissioners are present. Wendy Dwyer, Secretary, Van Duzer Foundation, presented a video on what is coming up for the Van Duzer Foundation and asked that the City be involved in donating to their blood drive. Ms. Dwyer said, "I am here to ask for a genuine and passionate commitment from Port St. Lucie, from the top down. I am grateful for the support of the County Commissioners and Chief Parrish. Because of our location, there is a misconception that the Van Duzer Foundation only helps Ft. Pierce residents. Nothing could be further from the truth. Scott Van Duzer is from and lives in Port St. Lucie. You may not realize that 60% of the families we help are Port St. Lucie residents. The Boy Scouts of America are creating a Be a Hero Merit Badge that will encompass 5.8 million scouts. Yet, in two years of our Be a Hero Drive, just over 100 pints of blood have been donated by the City of Port St. Lucie. I am asking the City Council Members to take leadership and participate in our two day Be a Hero drive to save many thousands of lives. This will be held on November 9 and 10. I am counting on you to come and help us." Commissioner Craft said, "Every so often a community has a leader. You never know where that leader will come from. In our case it is Scott Van Duzer. Though his restaurant is located in Ft. Pierce, he embodies the spirit of St. Lucie County. When he reaches out to help someone he just wants to make sure they are from St. Lucie County. I've given blood at this event for several years. One pint of blood helps three people. I want to offer a challenge to Port St. Lucie, Ft. Pierce, and St. Lucie County to see who can donate the most." Councilwoman Berger said, "We love that idea, but here's the deal. We have a bloodmobile schedule here, so we would have to check. Can we add what we give here at the City to that total?" Commissioner Craft said that it is only the total from those two days. Mr. Van Duzer added that the average day at Port St. Lucie is 20 pints. Paul Caruso, Regional Director for South Florida Blood Centers said, "It has been a pleasure working with the Van Duzer Foundation. We serve the hospitals in St. Lucie County. Only 45% of the population is medically eligible to donate blood. Generally only 5% of those will donate. As a result we always have shortages locally. Be a Hero Day has been huge as far as educating people about the importance of donating blood. As far as your City drive, I would be more than happy to cancel the next one so everyone will be eligible for the event. We would love to see you come out and be supportive."

Mayor Faiella said, "Commissioner Craft, you are challenging the City Council." Commissioner Craft said that they are challenging all the City employees. Mayor Faiella said, "We are going to take on the challenge. Do we bring a bloodmobile here? Mr. Van Duzer said, "They have 42 bloodmobiles. Last year we collected about 1,200 pints. We will have 40 mobiles at our store. If you want one in Port St. Lucie, I'm sure. . . . It's not worth it for us to send one for 20 pints of blood, when I can collect 100 in Ft. Pierce. I can only go by history. How many mobiles would you like?" Mayor Faiella said, "Bring two mobiles down. . . ." Commissioner Craft suggested, "The staffs can work out the details and the City, Ft. Pierce, and the county can adopt a resolution with the terms of the agreement." Commissioner Mowery noted, "We challenged Scott by saying that the Civic Center would be a great place to have it, because of the staging area available. He hasn't taken up that challenge." Commissioner Craft said that they will work out the details and do it by resolution. Mr. Van Duzer explained that he has not been able to bring an event to Port St. Lucie, because his store is located in Ft. Pierce.

**c) CERTIFICATE OF RECOGNITION TO BE PRESENTED TO FRANK PERHAY FOR TURNING 104 YEARS YOUNG**

**CLERK'S NOTE:** Item 5 c) was heard before Public to be Heard.

#### **6. ADDITIONS OR DELETIONS TO AGENDA AND APPROVAL OF AGENDA**

Councilwoman Berger **moved** to approve the Agenda. Councilwoman Martin **seconded** the motion. The City Clerk restated the motion as follows: for approval of the Agenda with Item 13 a) removed. The **motion passed unanimously** by roll call vote.

#### **7. APPROVAL OF CONSENT AGENDA**

**a) APPROVAL OF MINUTES - JULY 25, AUGUST 15, AUGUST 22, 2011**

**b) SAINT BERNADETTE CATHOLIC CHURCH, REQUEST FOR CITY SPONSORSHIP FOR THE SOLE PURPOSE OF LOCATING TEMPORARY SIGNAGE WITHIN CITY RIGHTS-OF-WAY FOR THEIR OKTOBERFEST EVENT SEPTEMBER 23-25, 2011, ASSISTANT CITY MANAGER**

**c) SAN GENNARO FESTIVAL SOCIETY OF PORT ST. LUCIE, REQUEST FOR CITY SPONSORSHIP FOR THE SOLE PURPOSE OF LOCATING TEMPORARY SIGNAGE WITHIN CITY RIGHTS-OF-WAY FOR THE INAUGURAL SAN GENNARO FESTIVAL ON SEPTEMBER 17-18, 2011, ASSISTANT CITY MANAGER**

d) **REQUEST FOR UNITY OF TITLE** BY PACE 2000, INC., FOR LOTS 1, 2, 40, AND 41, BLOCK 705, PORT ST. LUCIE SECTION EIGHTEEN, SO THAT THE PARCELS MAY BE COMBINED AS ONE PARCEL FOR REZONING AND FUTURE DEVELOPMENT, LEGAL DEPARTMENT

e) **FERRY ENTERPRISES, INC.**, AMENDMENT #13, DECREASE IN THE CURRENT CONTRACT TO REFLECT ACTUAL LOCATIONS BEING SERVICED THROUGH THE CITY, #20060116, <\$38,663.65>, CONTRACT RUNS THROUGH 11/30/11, WITH AN OPTION FOR AN ADDITIONAL FIVE-YEAR RENEWAL, FUND 104/401-4127-5341, ENGINEERING/PUBLIC WORKS

f) **DECLARATION OF RESTRICTIVE COVENANTS**, LOT 10, BLOCK 2461, PORT ST. LUCIE SECTION THIRTY SIX, TO ADD LOT 10 TO LOTS 7, 8, AND 9, TO CREATE ONE LOT, JACK S. AND MARCIA L. WEHRELL, ALL FEES HAVE BEEN PAID, LEGAL

g) **RAFTELIS FINANCIAL CONSULTANTS, INC.**, CHANGE ORDER #2, WATER AND WASTEWATER REUSE RATE STUDY, #20110039, ADDITIONAL 60 CALENDAR DAYS FOR A NEW COMPLETION DATE OF NOVEMBER 5, 2011, UTILITY SYSTEMS

h) **WAIVER OF BID PER SECTION 35.11 (A)**, EMERGENCY REASONS, **SUNSHINE LAND DESIGN, INC.**, CALIFORNIA BOULEVARD EMERGENCY ROAD/PIPE REPAIR, #20110118, \$37,753.49, FUND 401-4126-5530, ENGINEERING

i) **VICTIMS OF CRIME ACT (VOCA) GRANT #V11163**, FY 2011, \$52,995 GRANT TO COVER SALARY AND BENEFITS FOR ONE (1) VICTIM ADVOCATE POSITION, \$13,249 MATCHING REQUIREMENT, GRANT PERIOD IS FROM 10/1/11 TO 09/30/12, POLICE DEPARTMENT

j) **REQUEST FOR UNITY OF TITLE** BY ACCENT SHOPPES, LLC., FOR LOTS 1 THROUGH 7, AND LOTS 22 THROUGH 28, BLOCK 1497, PORT ST. LUCIE SECTION SIXTEEN, SO THAT THE PARCELS MAY BE COMBINED AS ONE PARCEL FOR REZONING AND FUTURE DEVELOPMENT, LEGAL DEPARTMENT

k) **REQUEST FOR UNITY OF TITLE** BY ACCENT SHOPPES, LLC., FOR LOTS 8 THROUGH 21, BLOCK 1497, PORT ST. LUCIE SECTION SIXTEEN, SO THAT THE PARCELS MAY BE COMBINED AS ONE PARCEL FOR REZONING AND FUTURE DEVELOPMENT, LEGAL DEPARTMENT

Councilman Kelly noted that he would like to pull Item 7 j) for a separate vote. Councilwoman Martin **moved** to approve the Consent Agenda with Item 7 j) pulled for discussion. Councilwoman Berger **seconded** the motion. The City Clerk restated the motion as follows: for approval of the Consent Agenda Item 7 j) pulled for separate discussion. The **motion passed unanimously** by roll call vote.

j) **REQUEST FOR UNITY OF TITLE** BY ACCENT SHOPPES, LLC., FOR LOTS 1 THROUGH 7, AND LOTS 22 THROUGH 28, BLOCK 1497, PORT ST. LUCIE SECTION SIXTEEN, SO THAT THE PARCELS MAY BE COMBINED AS ONE PARCEL FOR REZONING AND FUTURE DEVELOPMENT, LEGAL DEPARTMENT

Councilman Kelly stated, "I won't be supporting this. The last time this came up as a resolution for a special exception I voted against it, and I didn't give my reasons. There is quite a history to this piece of property. It was bought by a developer. These are all residential lots. We changed them to LMD, and there was quite a to-do over it. The vote was split. I don't think it passed the Planning and Zoning Board. It came to Council and there were a lot of people here. That developer sold it to someone else. Now they're coming back. I think this is putting salt in the neighbors' wounds if we give them another special exception. I didn't say anything for the Resolution, because no one from the public was here to speak on it." Councilwoman Martin asked if joining the properties was a condition. Mr. Holbrook explained, "It was a condition. It was brought forward at the Planning and Zoning Board meeting because in the past the Unity of Title had not been processed. It is in the Conversion Area." Councilman Kelly noted, "They have plans for only half of this property. This is a protest vote. We do need the Unity of Title." Councilwoman Martin **moved** to approve Item 7 j). Councilwoman Berger **seconded** the motion. The City Clerk restated the motion as follows: for approval of Item 7 j). The **motion passed** by roll call vote, with Councilwoman Berger, Mayor Faiella, and Councilwoman Martin voting in favor, and Councilman Kelly voting against.

#### 8. **SECOND READING, PUBLIC HEARING OF ORDINANCES**

a) **ORDINANCE 11-20**, AN ORDINANCE AUTHORIZING THE CITY MANAGER OF THE CITY OF PORT ST. LUCIE TO ENTER INTO A SITE LEASE AGREEMENT BETWEEN THE CITY OF PORT ST. LUCIE AND PJ DEVELOPMENT, LLC; PROVIDING AN EFFECTIVE DATE

The City Clerk read Ordinance 11-20 aloud by title only. Mayor Faiella opened the Public Hearing. There being no comments, Mayor Faiella closed the Public Hearing. Councilwoman Martin **moved** to approve Ordinance 11-20. Councilwoman Berger **seconded** the motion. The City Clerk restated the motion as follows: for approval of Ordinance 11-20. The **motion passed unanimously** by roll call vote.

b) **ORDINANCE 11-66**, AN ORDINANCE OF THE PORT ST. LUCIE CITY CODE, AMENDING SECTION 61.05, WATER METER INSTALLATION CHARGE; AMENDING SECTION 61.06, METER TESTING; AMENDING SECTION

61.10, WASTEWATER INSTALLATION CHARGE; AMENDING SECTION 61.11, PROVIDING FOR WATER AND WASTEWATER TREATMENT CAPITAL CHARGES; AMENDING SECTION 61.15; GUARANTEED REVENUE FEE; ADOPTION; APPLICABILITY; CALCULATION; TIME OF PAYMENT; FORFEITURE; AMENDING SECTION 61.16, RECLAIMED WATER CONNECTIONS; AMENDING SECTION 61.24, PROVIDING FOR WATER LINE AND WASTEWATER LINE CAPITAL CHARGES; AMENDING SECTION 61.25, HYDRANT METER PERMITS; AMENDING THE TITLE OF CHAPTER 62; WATER, WASTEWATER AND GAS UTILITY SERVICE RATE SCHEDULE; AMENDING THE APPENDIX TO CHAPTER 62 SETTING FORTH WATER, WASTEWATER RATE SCHEDULE; PROVIDING AN EFFECTIVE DATE

The City Clerk read Ordinance 11-66 aloud by title only. Mayor Faiella opened the Public Hearing. There being no comments, Mayor Faiella closed the Public Hearing. Councilman Kelly **moved** to approve Ordinance 11-66. Councilwoman Martin **seconded** the motion. The City Clerk restated the motion as follows: for approval of Ordinance 11-66. The **motion passed unanimously** by roll call vote.

**c) ORDINANCE 11-67**, TO REZONE 3.76 ACRES OF PROPERTY LOCATED ON THE EAST SIDE OF NORTH TORINO PARKWAY BETWEEN BLANTON BOULEVARD AND SHAWBURY LANE FROM GU (GENERAL USE) TO I (INSTITUTIONAL) FOR A PROJECT KNOWN AS MANNA FOUNDATION, P11-078; PROVIDING FOR AN EFFECTIVE DATE

The City Clerk read Ordinance 11-67 aloud by title only. Mayor Faiella opened the Public Hearing. There being no comments, Mayor Faiella closed the Public Hearing. Councilwoman Berger **moved** to approve Ordinance 11-67. Councilwoman Martin **seconded** the motion. The City Clerk restated the motion as follows: for approval of Ordinance 11-67. The **motion passed unanimously** by roll call vote.

**d) ORDINANCE 11-68**, TO REZONE 1.05 ACRES OF PROPERTY LOCATED ON THE SOUTHEAST CORNER OF PORT ST. LUCIE BOULEVARD AND CARY STREET FROM P (PROFESSIONAL) TO LMD (LIMITED MIXED USE) FOR A PROJECT KNOWN AS PACE 2000 INC., P11-081; PROVIDING FOR AN EFFECTIVE DATE

The City Clerk read Ordinance 11-68 aloud by title only. Mayor Faiella opened the Public Hearing. There being no comments, Mayor Faiella closed the Public Hearing. Councilwoman Martin **moved** to approve Ordinance 11-68. Councilman Kelly **seconded** the motion. The City Clerk restated the motion as follows: for approval of Ordinance 11-68. The **motion passed unanimously** by roll call vote.

**e) ORDINANCE 11-69**, AMENDING THE CITY OF PORT ST. LUCIE

CODE OF ORDINANCES, AMENDING CHAPTER 156.94(F) SUBDIVISION AND LOT ACCESS; AND CHAPTER 158.222(C) ACCESS STANDARDS OF THE CITY OF PORT ST. LUCIE LAND DEVELOPMENT REGULATIONS; PROVIDING AN EFFECTIVE DATE

The City Clerk read Ordinance 11-69 aloud by title only. Mayor Faiella opened the Public Hearing. There being no comments, Mayor Faiella closed the Public Hearing. Councilman Kelly **moved** to approve Ordinance 11-69. Councilwoman Martin **seconded** the motion. The City Clerk restated the motion as follows: for approval of Ordinance 11-69. The **motion passed unanimously** by roll call vote.

**f) ORDINANCE 11-70**, AMENDING THE 2010-11 BUDGET OF THE CITY OF PORT ST. LUCIE, FLORIDA, BY INSERTING THEREIN A SCHEDULE CONSISTING OF 5 PAGES, ATTACHED HERETO AND DESIGNATED AS 2010-11 BUDGET AMENDMENT NO. 3, THE SAID SCHEDULE PROVIDES FOR AN INCREASE AND/OR DECREASE IN APPROPRIATIONS IN THE VARIOUS LINE ITEMS; PROVIDING AN EFFECTIVE DATE

The City Clerk read Ordinance-70 aloud by title only. Mayor Faiella opened the Public Hearing. There being no comments, Mayor Faiella closed the Public Hearing. Councilwoman Berger **moved** to approve Ordinance 11-70. Councilwoman Martin **seconded** the motion. The City Clerk restated the motion as follows: for approval of Ordinance 11-70. The **motion passed unanimously** by roll call vote.

**g) ORDINANCE 11-71**, AUTHORIZING THE CONVEYANCE OF A NON-EXCLUSIVE UTILITY EASEMENT FROM THE CITY OF PORT ST. LUCIE TO TRADITION IRRIGATION COMPANY, LLC, A FLORIDA LIMITED LIABILITY COMPANY; PROVIDING AN EFFECTIVE DATE

The City Clerk read Ordinance 11-71 aloud by title only. Mayor Faiella opened the Public Hearing. There being no comments, Mayor Faiella closed the Public Hearing. Councilwoman Martin **moved** to approve Ordinance 11-71. Councilman Kelly **seconded** the motion. The City Clerk restated the motion as follows: for approval of Ordinance 11-71. The **motion passed unanimously** by roll call vote.

#### 9. OTHER PUBLIC HEARINGS

There was nothing scheduled for this item.

#### 10. FIRST READING OF ORDINANCES

**a) ORDINANCE 11-65**, PROVIDING FOR THE AMENDMENT OF CHAPTER 71 TO ADD SECTIONS 71.03 THROUGH 71.08, PORT ST. LUCIE

CITY CODE; SPECIFICALLY, SECTION 71.03, INTENT; SECTION 71.04, DEFINITIONS; SECTION 71.05, FINDINGS AND DETERMINATIONS; 71.06, PROHIBITIONS; 71.07, SEVERABILITY; 71.08, PENALTIES; PROVIDING FOR AN EFFECTIVE DATE

The City Clerk read Ordinance 11-65 aloud by title only. Mayor Faiella advised that several people wish to speak on the item.

**RICK CRARY**, Attorney for Scripps Media said, "I represent Scripps media, and Don Hornbeck is the Circulation Manager. We object to the form of this ordinance, because it is an 'all or nothing' ordinance that we feel would needlessly put 16 street vendors out of work. The ordinance is based largely on the position that was taken in St. Petersburg in a case that was upheld where they took a very radical 'all or nothing approach,' but other communities, such as Jacksonville and Pasco County, have not taken that approach. If the City has genuine safety concerns about how street vendors operate, then those could be specially tailored to an ordinance to address that, rather than simply banning all street vendors. I have had a fair amount of experience myself purchasing from street vendors. I was concerned the first time I bought a paper at an intersection whether the light would change, but I found that the people that I bought from are very professional. They look constantly at whether the light is going to change and I've never had a problem with holding up traffic. The gentleman I generally purchase from has time to tell me a joke. He is a regular standup comedian, which makes it an enjoyable experience. If you pass this ordinance, that gentleman could stand in the median and tell me a joke, but he could not sell me a paper. It is important to remember that we are talking about first amendment rights of the press. Freedom of the press is one of our most essential rights and included within that is the right of distribution. Cases have been upheld where if newspapers don't have the right to distribute it doesn't make much difference if you publish. There are many other ways for papers to sell, but this has been a time-honored tradition of street vending. In the St. Petersburg case, it looks like the court just closed its eyes to the evidence of whether or not there was really a problem or a safety concern. They just said it makes common sense that there is a safety concern. If you have someone who could be killed or injured in a bar, you don't close all of the bars, you police better. There are certain things that can be done here. You can limit the street vendors where they can't walk across to another lane. They can just step a couple of feet over and make sales when there is a red light, so there are things that you can do to police this without infringing on the first amendment. If you pass this ordinance, someone could stand out there with a sign protesting the loss of a job, but he

couldn't hand you a newspaper. They can do standup comedy or have a cross and preach that the world is about to end, because the local government is infringing on the first amendment, but they couldn't raise up a paper and show it to you, much less sell it to you, because under this ordinance that might be advertising. There are important messages and important jobs. Do not infringe upon this activity. You can say that they still have the right; it's just not as big. A police state is certainly more efficient. I'm not implying that you would be akin to a police state, but I am implying that our rights and freedoms under the First Amendment and the Bill of Rights are a messy business, and sometimes we have to put up with some inconveniences, but it is worth it. If it is 'all or nothing,' then I say, 'nothing.' However, I think we could come to some accommodations."

**DON HORNBECK** said, "I'm a resident of Port St. Lucie and I'm the Director of Circulation and Sales for the Scripps Company in Florida. I'm here to urge you not to ban the sale of the Sunday newspapers from the City's rights-of-way. Currently, it has been permitted on Sundays during daylight hours as long as it is done in a safe way. There are 16 people, many of whom are here tonight, that get their income from this program. It helps them pay their mortgages, car payments, and groceries. With unemployment in St. Lucie County at 13.8%, I strongly urge you not to take away their much needed income. These folks sell almost 2,000 Sunday papers to Port St. Lucie residents who enjoy the convenience of picking up their Sunday newspaper in this fashion. With the challenging local economy, we need to be creating more opportunities for folks to make a living, not taking opportunities away. These folks have weathered the storm so far in our economy and they are doing the best that they can to earn that income. Our Sunday newspaper hawking program started in the year 2000 and it has gone through 607 Sundays, which is over 36,000 hours of selling the newspaper. Those hours would equate to me working my full-time 40-hour-a-week job for almost 19 years. During that 12 year period, there has been one safety accident involving a street hawker. When those of us at the newspaper found out that the hawker disregarded a required safety condition we immediately terminated that contract. I called Mr. Oravec the next day to let him know. Our emphasis has always been on safety and we are proud of the record the program has shown during the past 12 years. On September 3, 2011, an article in the St. Lucie News Tribune stated that according to Allstate, Port St. Lucie ranks as one of the safest driving cities in the nation. Local newspapers perform a vital everyday service to the communities that they serve. After the hurricanes in 2004, when folks were without power and in need, the street hawkers handed out free newspapers on the street corners so that

our City, county, and state governments could communicate where supplies were and what services were available. I urge you to allow this long established program to continue and not eliminate the much needed income that these folks earn."

**STEPHANIE GLAVIN** said, "I'm with the local Muscular Dystrophy Association, and I want to thank all of you for your continued support. We are here tonight to address our concerns with the total ban ordinance that is proposed and is going to be up for a vote. As you know, the St. Lucie County Fire District and IAFF Local 1377 participate in the 'Fill the Boot Campaign' every year to benefit the association. If the ordinance and total ban is passed as is, it would be absolutely devastating to our mission and the services that we provide to our local families in Port St. Lucie. The Fire District and Local 1377 raised \$39,000 last year, and within the last five years they have raised \$282,000. Those numbers obviously show the community's support as well. The 'Fill the Boot Campaign' is our single largest fund raising program on the Treasure Coast, and firefighters nationwide are our number one sponsor to the tune of \$27.2 million this year alone. These funds that we raise provide research and services to our local families, and all of the money raised does stay here locally. We understand why the proposed ordinance has come about, and we are hopeful that we can work together on a solution to allow us to continue raising these lifesaving funds for our families."

**BRANDY MILLER** said, "I'm also with the local Muscular Dystrophy Association, as the Director of Business Development. I wanted to share with you exactly what it would mean to lose these funds. Last year alone the St. Lucie County firefighters raised \$39,000, and in the last five years, they raised \$282,000. The highest was over \$60,000 in one year. We have 375 firefighters. If you break that down per firefighter, they have raised about \$104. If we were to take the firefighters off the street corner, we would move them to the big box locations such as Publix, Lowes, Home Depot, and the mall. We have had this partnership with the International Association of Firefighters for 57 years. The 'Fill the Boot Program' is done all across the country. We have done a number of studies. This isn't the first time a proposed ban on street solicitation has come about. We are familiar with a number of different ordinances that have been adopted to continue to allow firefighters to collect funds. If you were to take them off the streets they would raise \$20 per firefighter. Therefore, they would raise about \$7,500, which means we would have a loss of \$31,500, and that is substantial. We were doing some quick calculations to give you an idea. The \$31,500 loss would be 15 repairs to wheelchairs, leg braces, and communication devices; nine children that we would send to MDA

summer camp; 11 clinic visits to meet with neurologists; 14 physical respiratory and speech therapy consultations; 18 support groups; 122 minutes of life saving research; and 20 flu shots. That would be the services we could not give to families who live in Port St. Lucie. That's just from the \$39,000 that was raised last year, which was raised in a time when the economy is hurting. If you take away the opportunity for the firefighters to collect, you're taking away thousands and thousands of dollars in future years."

Ms. Glavin noted, "One of the solutions we would like to propose for discussion is an ordinance. We have worked with other counties and cities. There's one that's been used in Alachua County for the past three years. It's a total ban for most of the year where no one can collect, but for a designated four-day weekend everyone can collect. That way it is content neutral where it doesn't exclude anyone. As far as public safety is concerned, this proposed solution. . . ." Mayor Faiella pointed out, "I'm sorry, but your time is up. I have to allow other people to speak."

**BOB BRUNJES**, President and Publisher of Scripps Treasure Coast Newspapers, stated, "The contractors we have out on the streets hawking our papers actually have business licenses. Sales tax is paid on the papers sold. I have been very involved in the business development on the Treasure Coast in St. Lucie County and the other two counties that we serve. I'm really big on creating sustainable jobs for our community. I think that's what we need going forward. At this time to take this type of action, take these 16 people off the street, and as a result take food off the table. . . . Hopefully, there can be some kind of accommodation made here. If it's all or nothing, we vote nothing. In talking to some folks, I understand that safety is really the issue that brought this to the forefront. Port St. Lucie has the safest roads in the state as it is. At a time where unemployment is in double digits and we have safe roads, we need to preserve jobs. I'm hoping there's some kind of accommodation that can be made."

**GARY MICHALOWSKI**, Scripps Newspapers, Circulation and Sales Department, stated, "The ordinance as I understand it is all about safety. The Newspaper Street Sales Program is all about safety. Some of the folks are here tonight. They are all wearing a yellow shirt, and on the back of that shirt is a safety message. Before they sell a newspaper they have to agree to certain safety rules in order to be able to participate in the program. They are not allowed to sell to motor vehicles when the light is green. Under no circumstances are headphones or any type of ear device to be worn that impairs their ability to hear

any oncoming traffic that they can't see. Safety shirts identifying the product that they are selling are required to be worn at all times. If they don't have a safety shirt they are not permitted to sell. They should never sell to a moving vehicle, and they are to stay on the median or side of the road. If they enter the paved roadway they are subject to being ticketed or fined. They are to remain at the location that they are assigned and are not to wander off to another location, because every time that they cross the street, it increases their chances of injury. When they are done selling they are to use the crosswalk to get to the side of the road. They are to be alert to their surroundings at all times. They are not to impede the flow of traffic to solicit a sale, and they are to keep their newspapers secure, as blowing newspapers will cause littering and a safety hazard. Harassment of motorists will not be tolerated. They agree to all of these points before we allow them to sell a newspaper. Their whole program is designed around this, because they understand that there are safety issues. If they cause safety issues, their income is going to go away."

**WILLIAM DOLAW** said, "I represent the people in the yellow shirts. Sixteen people are going to lose their jobs. I coordinate the distribution of the papers. There are 2,000 people who buy the papers. We employ all safety measures. There was one incident before my time, but 11 years is a pretty good record. We're selling the newspaper, not roses or bottled water. Please take it into consideration. A lot of people rely on this income."

**ROBERT HALL** said, "I am one of the people in the yellow shirts. I never expected to need to sell papers on the side of the road. I need this job, and I think most of the hawkers do. I went back to school and graduated with honors. I won competitions. I'm working out of a labor hall now. This isn't the easiest job. It's every Sunday and you have to start early. It's not a lot of money, but it helps me afford vaccinations for my dog. I have prescriptions. It helps to pay my auto insurance. As for safety, we are required to have non-slip shoes and we can't wear sandals. This job really helps a lot of people, and the customers appreciate the service."

**RICK SZUMSKI** said, "I'm one of the hawkers. I'm 63 years old. I'm on Social Security, and it really helps me out. We're very safe. The money I make goes into local businesses. I would appreciate your consideration."

Councilman Kelly said, "I'll give you the history of how this started. This was not generated by somebody in City Hall. It was generated by the public. I got many calls. There was one group

that made it hard for everybody else. It was the same in the county and Ft. Pierce. This is a countywide ordinance. The county was getting complaints, too. But in the 11 years I have been here, I have never had a complaint about a Scripps street hawker. I've had really bad complaints about other groups. Some people come here for a couple of weeks from hundreds of miles away. They get all the money they can and leave. They couldn't care less about the confrontations with the police or people in cars. This was generated from requests from the public. Commissioner Mowery and I talked about this months ago. People criticized us for taking so long to act. We got a group together, and the safety issue came up. But at no time did I even think about the street hawkers. It wasn't anyone's intention to target them. This ordinance is for everyone. I don't think, however, that this stops the sign spinners and others on the side of the road. Some would like to stop that, also, because it's a distraction. Being up here means you can't please everybody. All you have to do is be concerned about health, safety, and welfare, and treat everybody the same. If you can do that, you'll be okay. That's the easiest part and the hardest part. That's what we come here to do. If Muscular Dystrophy asks for a couple of days per year and we do that, it doesn't help you guys. Over the years we have helped Scripps by making paved areas for the newspaper boxes. We did everything we could to accommodate you. I wish we could do it again. The problem I have is that our Legal Office hasn't met with them. It's supposed to be this week. If we vote before that meeting, I don't know if we can accommodate them. I'd like to know that before we go any farther. It's important that you talk to the county, too. Of the 12 or 13 corners someone gave me, at least six are in the county, not the City. Maybe there is a way we can accommodate the hawkers."

Councilwoman Martin said, "This is under public safety, and I don't know how we do for one and not the other. If there is a way we can accommodate, I don't know what that is. I talked with Ms. Taylor. She said they contacted other counties and cities about other ways to do this. So far nothing has come back. There is a meeting with the county on Wednesday. I understand that is just to make sure everyone is on the same page." The Assistant City Attorney advised, "The meeting is being held at the request of Scripps Newspapers. We had a meeting previous. It is my understanding that the Chief in Ft. Pierce is going to put it on their agenda. The county is moving forward. There are areas that do different things to accommodate. One area has Labor Day weekend free for all, which doesn't help the newspaper people. We don't have a constitutional problem until we start looking at what people are selling or why they're selling it. As Councilman Kelly stated, it's an all or nothing situation, in my opinion."

Commissioner Tod Mowery said, "When Jack first asked us about this, it was related to the non-veteran groups. As we got into the discussion, we had three police officials, the City of Port St. Lucie, the City of Ft. Pierce, St. Lucie County, and their legal staffs. They walked us through the question. The law enforcement people felt that it should not be allowed, period. Then Jack and I realized it related to the hawkers and the boot drive. There are a lot of kids advertising carwashes. We got into what-if's, but we didn't want to develop something based on that. We asked Legal how to stop the non-veteran groups from doing something undesirable and unsafe. I have appreciated the information brought forward about other counties. Ft. Pierce has taken the position that the state law doesn't even allow any solicitation involving commerce. They don't allow anything in Ft. Pierce. We're trying to better understand the position, so we can respond to the question. We are trying to take a regional approach. If it's important, let's all look at it."

Mayor Faiella said, "I need more information, so I'm not ready to vote on this tonight. If we could table it, then we can decide on the pros and cons of it. I'd be willing to do that." Councilwoman Berger asked, "That's fine. When are the County Commissioners expected to look at this?" Commissioner Mowery replied, "It will be held in October. The ordinance is set for first reading on October 6, 2011. The City of Fort Pierce is hoping to do it soon thereafter. The basic premise is that if something was adopted that it would be in a time frame so that we didn't have one community doing it now and another doing it six months from now. It is to all be done in a fairly similar time frame. This really hasn't been discussed by the County Commission at this point, so it is not as though we have been actively developing and discussing it. It will be coming up, and there will be a lot of discussion. We will be meeting with the same groups that you have. Bob Brunjes is a friend of mine. I appreciate his position and love hearing his comments. I appreciate having Scripps within our community." Councilman Kelly pointed out, "It was generated by the public, and not by you or me. We will table it to November, and let you guys take the heat for the next couple of weeks." Councilwoman Martin asked, "How long are we tabling it for?" The Assistant City Attorney replied, "There is a meeting Wednesday with Scripps, and it will be attended by the Sheriff's Office and the county. The City of Fort Pierce and Chief Baldwin send their regrets, but their thoughts are basically the same as ours." Councilman Kelly clarified, "Fort Pierce doesn't have to do anything, because they already have that ordinance." The Assistant City Attorney advised, "Their position was that the statute already prohibits commerce of any kind with moving vehicles. It is a little bit of a broad reading of the statute, but it arguably

fits with their position." Councilman Kelly said, "I'd like to table it for at least 30 days. That will give the Legal Department a way to try to accommodate some people or not."

Councilwoman Martin **moved** to table Ordinance 11-65 for 30 days to the meeting of October 10, 2011. Councilman Kelly **seconded** the motion. The City Attorney inquired, "Do you want to put it on as a first reading item, or do you want it back on for discussion?" Councilwoman Berger stated, "I need more information too, so I'd like to have more discussion or at least get with staff to see what Alachua and Jacksonville are doing." The Assistant City Attorney clarified, "The other one is the four-day Labor Day thing." Councilwoman Berger said, "Alachua does the four-day Labor Day, and basically it is a free for all. Generally, the bad apples are not going to come out on Labor Day and challenge the firefighters on the corner to try to get a couple of dollars. I thought this started because we had some bad apples out there, and it was less about safety. I guess that is the route we need to take. I wish that we could come up with something else about better policing, or try to understand this group that seems to think it can come into communities. . . . Maybe we could get the message out to just stop giving them money, and that would solve the problem." Councilman Kelly questioned, "How do you determine which are the good ones and which are the bad ones?" The Assistant City Attorney explained, "The problem lies in you trying to make that determination. When there is an attempt to make that determination that is when we find ourselves in a constitutional violation position." Councilwoman Berger said, "I would remind the Council that that is what the calls were that were coming in, and they were pointing at certain groups and saying here is why they think this. We are dealing with an issue that was started as a result of listening to those concerns. If we believe that they are real, then it needs to be followed up on, and not finding other reasons to make this happen." Mayor Faiella clarified, "You said another county is doing it for four days." The Assistant City Attorney responded in the affirmative and said, "Labor Day weekend, and I believe it is Alachua." Mayor Faiella asked, "How does that constitute . . . ? If it is a safety issue, it is safety all year round. It is not only for four days." The Assistant City Attorney commented, "I see an issue with that. I agree." Councilwoman Martin remarked, "They are saying that the road is safe for four days and not for the rest of the year." The Assistant City Attorney explained, "If you have that many people selling stuff in the road, there is no vehicle traffic moving." Mayor Faiella said, "If we are dealing with safety, then it is 365 days a year." The Assistant City Attorney pointed out, "The one weekend doesn't help the newspaper vendors at all." Mayor Faiella stated, "I have a problem with punishing

everyone for a selective group. I just can't do it." Councilman Kelly clarified, "We are tabling it for discussion."

The City Clerk restated the motion as follows: for approval to table Ordinance 11-65 for 30 days to the meeting of October 10, 2011, and to bring it back as a discussion item. The **motion passed unanimously** by roll call vote.

**b) ORDINANCE 11-74**, AUTHORIZING THE CITY MANAGER OF THE CITY OF PORT ST. LUCIE TO ENTER INTO A LEASE AGREEMENT BETWEEN THE CITY OF PORT ST. LUCIE AND THE SOUTHWESTERN PORT ST. LUCIE LITTLE LEAGUE, INC; PROVIDING AN EFFECTIVE DATE

The City Clerk read Ordinance 11-74 aloud by title only. Councilwoman Martin **moved** to approve Ordinance 11-74. Councilwoman Berger **seconded** the motion. The City Clerk restated the motion as follows: for approval of Ordinance 11-74. The **motion passed unanimously** by roll call vote.

## 11. RESOLUTIONS

**a) RESOLUTION 11-R54**, APPROVING AND ACCEPTING THE PRELIMINARY AND FINAL PLAT FOR TRADITION PLAT NO. 67, REPLAT (P10-094) WITHIN THE CITY OF PORT ST. LUCIE, FLORIDA ON THE REQUEST OF INLAND DIVERSIFIED PORT ST. LUCIE SQUARE, LLC AND TRADITION VILLAGE CENTER, LLC; AUTHORIZING THE MAYOR AND CITY CLERK TO COUNTERSIGN SAID PLAT; PROVIDING AN EFFECTIVE DATE

The City Clerk read Resolution 11-R54 aloud by title only. Councilman Kelly **moved** to approve Resolution 11-R54. Councilwoman Martin **seconded** the motion. The City Clerk restated the motion as follows: for approval of Resolution 11-R54. The **motion passed unanimously** by roll call vote.

**b) RESOLUTION 11-R55, PUBLIC HEARING**, RELATING TO THE COLLECTION AND DISPOSAL OF SOLID WASTE WITHIN THE CITY OF PORT ST. LUCIE; RE-IMPOSING SOLID WASTE SERVICE ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN PORT ST. LUCIE, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2011; APPROVING THE RATE OF ASSESSMENT; APPROVING THE ASSESSMENT ROLL; AND PROVIDING AN EFFECTIVE DATE

The City Clerk read Resolution 11-R55 aloud by title only. Mayor Faiella opened the Public Hearing. There being no comments, Mayor Faiella closed the Public Hearing. Councilwoman Martin **moved** to approve Resolution 11-R55. Councilman Kelly **seconded** the motion. The City Clerk restated the motion as follows: for approval of Resolution 11-R55. The **motion passed unanimously** by roll call vote.

**c) RESOLUTION 11-R56, PUBLIC HEARING,** RELATING TO RESIDENTIAL STREET LIGHTING WITHIN THE RESIDENTIAL STREET LIGHTING ASSESSMENT AREAS IN PORT ST. LUCIE, FLORIDA; RE-IMPOSING RESIDENTIAL STREET LIGHTING ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN PORT ST. LUCIE, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2011; APPROVING THE RATE OF ASSESSMENT; APPROVING THE ASSESSMENT ROLL; AND PROVIDING AN EFFECTIVE DATE

The City Clerk read Resolution 11-R56 aloud by title only. Mayor Faiella opened the Public Hearing. There being no comments, Mayor Faiella closed the Public Hearing. Councilwoman Martin **moved** to approve Resolution 11-R56. Councilwoman Berger **seconded** the motion. The City Clerk restated the motion as follows: for approval of Resolution 11-R56. The **motion passed unanimously** by roll call vote.

**d) RESOLUTION 11-R57, PUBLIC HEARING,** ELECTING TO UTILIZE THE UNIFORM METHOD OF COLLECTING NON-AD VALOREM ASSESSMENTS FOR THE COLLECTION OF NUISANCE ABATEMENT SERVICES ASSESSMENTS; ADOPTING FINDINGS OF FACT; APPROVING THE RATE OF ASSESSMENT FOR EACH AFFECTED PROPERTY; APPROVING THE ASSESSMENT ROLL; AND PROVIDING AN EFFECTIVE DATE

The City Clerk read Resolution 11-R57 aloud by title only. Mayor Faiella opened the Public Hearing. There being no comments, Mayor Faiella closed the Public Hearing. Councilwoman Berger **moved** to approve Resolution 11-R57. Councilwoman Martin **seconded** the motion. The City Clerk restated the motion as follows: for approval of Resolution 11-R57. The **motion passed unanimously** by roll call vote.

## 12. UNFINISHED BUSINESS

**a) CAPTEC ENGINEERING, INC.,** CONSTRUCTION ENGINEERING INSPECTIONS FOR TIFFANY CHANNEL, #20110087, \$175,370, FOR A TIME AND EXPENSE CONTRACT, FUND 403-4126-5688, ENGINEERING

The City Manager stated, "This is a contract for CEI services on the Tiffany Channel, which is part of EWIP. At a previous meeting the prioritized list of firms was brought before Council. Captec was Number 1. We are bringing forth a contract in the amount of \$175,370. We recommend approval." Councilman Kelly **moved** to approve Item 12 a). Councilwoman Martin **seconded** the motion. The City Clerk restated the motion as follows: for approval of Item 12 a). The **motion passed unanimously** by roll call vote.

**b) NUTTING ENGINEERS OF FLORIDA, INC.,** GEOTECHNICAL FOR

LOUTUS POND, #20110093, \$40,050, FOR A TIME AND EXPENSE CONTRACT, FUND 403-4126-5688, ENGINEERING

The City Manager said, "This is also part of EWIP for the Loutus Pond area. The list of geotechnical engineering firms was brought to Council. Nutting Engineers was Number 1. We have negotiated a contract in the amount of \$40,050. We recommend approval." Councilwoman Martin **moved** to approve Item 12 b). Councilman Kelly **seconded** the motion. The City Clerk restated the motion as follows: for approval of Item 12 b). The **motion passed unanimously** by roll call vote.

### 13. NEW BUSINESS

a) **AMERICAN EARTH MOVERS, INC.**, EASTERN WATERSHED IMPROVEMENT PROJECT (EWIP) LOUTUS POND STA & BLACKWELL WATERWAY IMPROVEMENTS PROJECT, #20110077, \$2,751,349.05, PLUS A ONE-TIME \$10 INDEMNIFICATION FEE, CONTRACT PERIOD WILL BE 240 CALENDAR DAYS, FUND 403-4126-5688, ENGINEERING

**Clerk's Note:** This item was pulled from the Agenda.

b) **FIRST VEHICLE SERVICES**, AMENDMENT #2, MAINTENANCE AND REPAIRS ON CITY'S FLEET OF VEHICLES, #20040059, FUTURE ANNUAL CPI ADJUSTMENT NOT TO EXCEED 5.1%, AMEND THE SCOPE OF WORK, AND APPROVE FY' 12 ANNUAL FEE \$1,723,100, FUND 001-VARIOUS-5340, FINANCE

The City Manager stated, "This is a renewal of the contract with FVS to provide maintenance for the City's vehicles in the amount of \$1,723,100. There were some slight increases, but we also had a reduction in the fleet, so it is the same dollar amount. We recommend approval." Councilwoman Martin **moved** to approve Item 13 b). Councilman Kelly **seconded** the motion. The City Clerk restated the motion as follows: for approval of Item 13 b). The **motion passed unanimously** by roll call vote.

c) **WAIVER OF BID PER SECTION 35.04(C)**, FOR GOOD CAUSE SHOWN, FOR PURCHASE FROM **CUES, INC.**, UPGRADE TWO T.V. TRUCKS, NOT TO EXCEED \$40,000, #20110121, FUND 438-3370-5630, UTILITIES

The City Manager advised, "This is a request to upgrade the television equipment for the Utilities Department. They televise lines to verify any problems. This would upgrade the equipment for an amount not to exceed \$40,000. It is with the vendor who sold us the equipment, so we are asking to go to them for the update." Councilwoman Martin **moved** to approve Item 13 c). Councilwoman Berger **seconded** the motion. The City Clerk restated the motion as follows: for approval of Item 13 c). The **motion**

passed unanimously by roll call vote.

d) **GENERAL LABOR STAFFING SERVICES, INC.**, PROVIDE GOLF MAINTENANCE LABOR SERVICES FOR THE SAINTS GOLF COURSE, REJECTING THE PREVIOUS AWARD AND CONTRACT WITH **MVP360 A DIVISION OF BARNETT MANAGEMENT**, #20110052, \$145,000, ONE (1) YEAR UNIT PRICING CONTRACT WITH AN OPTION TO RENEW FOR AN ADDITIONAL FOUR (4) ONE (1) YEAR TERMS, FUND 421-7250-5340, PARKS AND RECREATION

The City Manager said, "This is a contract for maintenance services at the Saints in the amount of \$145,000, as opposed to having City employees." Councilwoman Berger **moved** to approve Item 13 d). Councilman Kelly **seconded** the motion and asked what happened with the other firm. The City Manager explained, "The original company didn't provide enough bonding and insurance, so we went to the Number 2 company." Councilwoman Martin noted, "I realize why we're doing this and the savings involved. However, the first company did have a lot of experience in maintaining golf courses. It is my understanding that this company does not. I'm a little concerned, but I'll support it." The City Clerk restated the motion as follows: for approval of Item 13 d). The **motion passed unanimously** by roll call vote.

e) **LAWN AND ORDER LANDSCAPE COMPANY**, MOWING AND GROUNDS MAINTENANCE FOR THE CIVIC CENTER, #20110006, \$54,000, CONTRACT PERIOD WILL BE THREE (3) YEARS, WITH AN OPTION TO RENEW AN ADDITIONAL THREE (3) YEARS, THERE WILL BE AN ANNUAL PRICE DETERMINATION BASED ON THE U.S. DEPARTMENT OF LABOR STATISTICS CPI, FUND 104/401/001-4127/7501/2105-5341/5340, ENGINEERING

The City Manager said, "This is a contract for \$54,000 for mowing and grounds maintenance at the Civic Center. It's a three-year contract. We recommend approval." Councilwoman Berger **moved** to approve Item 13 e). Councilman Kelly **seconded** the motion and asked if it is the same company the City had before. The City Manager replied, "No. There were two companies with lower bids, but in talking to them OMB noted that they were trying to get into the business and had not covered everything they needed to. They withdrew. The previous contract was for a broader scope, including fertilizing and maintenance of the ponds and irrigation system. That has been removed and will be done via a separate contract." The City Clerk restated the motion as follows: for approval of Item 13 e). The **motion passed unanimously** by roll call vote.

f) **DUNKLEBERGER ENGINEERING & TESTING, INC.**, GEOTECHNICAL FOR TIFFANY CHANNEL, #20110092, \$31,943, FOR A TIME AND EXPENSE CONTRACT, FUND 403-4126-5688, ENGINEERING

The City Manager said, "This is for EWIP for geotechnical engineering work on the Tiffany Channel in the amount of \$31,943. We recommend approval." Councilwoman Martin **moved** to approve Item 13 f). Councilman Kelly **seconded** the motion. The City Clerk restated the motion as follows: for approval of Item 13 f). The **motion passed unanimously** by roll call vote.

**g) WPC INDUSTRIAL CONTRACTORS, LLC, AMENDMENT #2, WATER MAIN EXTENSION PHASE II IN-LINE BOOSTER PUMP STATION, #20100117, \$147,703.89, PLUS AN ADDITIONAL 56 CALENDAR DAYS, FOR A NEW TOTAL OF 266 CALENDAR DAYS, PROJECT COVERED ENTIRELY BY STATE FUNDS ALREADY ALLOCATED TO THE PROJECT AND WILL NOT BE A COST TO THE CITY, FUND 446-3315-5630, UTILITY SYSTEMS**

The City Manager advised, "This is construction work on the booster pump to provide water to the Martin Correctional Facility, in the amount of \$147,703.89. There are various components. The main one is to put a pressure reducer into the pump system. This will be reimbursed via the state contract. There is no cost to the City." Councilman Kelly **moved** to approve Item 13 g). Councilwoman Martin **seconded** the motion. The City Clerk restated the motion as follows: for approval of Item 13 g). The **motion passed unanimously** by roll call vote.

**h) DESIGN & PERMITTING FOR MIDWAY AND SELVITZ ROAD IMPROVEMENTS, APPROVE FIRMS SHORT LISTED BY EVALUATION COMMITTEE: #1 CULPEPPER & TERPENING, INC, #2 CAPTEC ENGINEERING, INC., AND #3 CREECH ENGINEERING, INC., AND BEGIN NEGOTIATIONS WITH #1 RANKED FIRM, #20110115, OMB**

The City Manager said, "The county is looking to expand Midway Road. As part of that project we are going to have to move some utility lines. We have gone through the RFP process for the engineering. The shortlisted firms in order of recommendation are Culpepper & Terpening, Captec, and Creech Engineering. We recommend negotiating with Culpepper & Terpening. There are fairly significant time constraints." Councilwoman Martin **moved** to approve Item 13 h). Councilman Kelly **seconded** the motion. Councilwoman Berger asked, "What is the time line for the county?" The City Manager answered, "I don't know, but they are in design." Dave Koepfel, Port St. Lucie Utilities, advised, "The county is anticipating letting of the project at the beginning of the year. We are working with the county to do an interlocal that will come back to you at a later date to incorporate this work into their project. That will also bring some cost savings, because we won't have to do CEI." Councilman Kelly asked who is paying for it. Mr. Koepfel answered, "We're in the right-of-way, so the costs will have to be absorbed by the Utilities." The City Clerk restated the motion as follows:

for approval of Item 13 h). The **motion passed unanimously** by roll call vote.

**i) FEDERAL EMERGENCY MANAGEMENT AGENCY HAZARD MITIGATION GRANT PROGRAM PERFORMANCE EXTENSION, PROJECT #1561-117-R PHASE I, WATERSHED A AND B DRAINAGE IMPROVEMENTS, CONTRACT MODIFICATION #1, 1HM-2Y-10-66-02-008, TO EXTEND IMPROVEMENTS AN ADDITIONAL SIX (6) MONTHS, PERIOD OF PERFORMANCE END DATE WILL NOW BE FEBRUARY 15, 2012, PUBLIC WORKS**

The City Manager said, "This is a contract modification to extend the grant for six months. The new end date would be February 15, 2012. The City is doing maintenance and improvement to the E-8 Canal system and some of the control structures. The work is underway." Councilwoman Berger **moved** to approve Item 13 i). Councilwoman Martin **seconded** the motion. The City Clerk restated the motion as follows: for approval of Item 13 i). The **motion passed unanimously** by roll call vote.

**j) CO-PRODUCED AGREEMENT BY AND BETWEEN THE CITY OF PORT ST. LUCIE AND THE GERMAN AMERICAN CLUB OF THE TREASURE COAST FOR OKTOBERFEST 2011, ASSISTANT CITY MANAGER**

The City Manager said, "This is similar to the agreement we had last year with the German American Club. There are the same conditions. It was a success. We recommend approval." Councilwoman Martin **moved** to approve Item 13 j). Councilman Kelly **seconded** the motion. The City Clerk restated the motion as follows: for approval of Item 13 j). The **motion passed unanimously** by roll call vote. Councilman Kelly noted that the Fall Festival will also have to be on an Agenda.

**k) UNDERWATER ENGINEERING SERVICES, INC., CHANGE ORDER #1, EWIP PROJECT ELKS-CANE SLOUGH STORMWATER TREATMENT AREA CONSTRUCTION, #20110010, \$319,455.72 FOR A NEW CONTRACT TOTAL OF \$1,329,233.36, THE CONTRACT PERIOD REMAINS 240 CALENDAR DAYS, FUND 403-4126-5688, ENGINEERING**

The City Manager stated, "This is Change Order #1 for Underwater Engineering Services, the contractor on the Cane Slough portion of EWIP. It is for \$319,455.72. This is to put in the 72-inch lines from the Cane Slough portion into the Azzi portion at the corner of Lennard and Mariposa. We wanted to get that work done while school was out of session. It was originally scheduled to be done under the contract for the Azzi piece. That was delayed, so we transferred the work to what you see here. Underwater has both contracts, so the contractor isn't gaining or losing money. There will be a deduction in the Azzi portion contract." Councilman Kelly said, "I thought the 72-inch pipe is supposed

to go all the way behind Sam's Club down to the Loutus property. Is this part of it?" The City Manager explained, "This was the part that was going across Lennard. Then we had a manhole. We went across Mariposa into the Azzi piece. It's for that work." Councilwoman Berger **moved** to approve Item 13 k). Councilman Kelly **seconded** the motion. The City Clerk restated the motion as follows: for approval of Item 13 k). The **motion passed unanimously by roll call vote.**

**1) DISCUSSION CONCERNING FLORIDA POWER & LIGHT FRANCHISE AGREEMENT, LEGAL DEPARTMENT**

The City Manager said, "For the past year we have been working with a representative from FP&L to upgrade our franchise agreement. The current agreement runs until 2014, but FP&L asked if we wanted to start working on updating it. That's what you have before you. The bottom line is that our franchise fee will remain at 6%. But with the way it is calculated, we are anticipating that it will generate maybe an extra \$600,000 a year." Councilman Kelly **moved** to approve Item 13 l). Councilwoman Martin **seconded** the motion. The City Clerk restated the motion as follows: for approval of Item 13 l). The **motion passed unanimously** by roll call vote.

**m) ARCADIS, REESE, MACON AND ASSOCIATES, INC., CHANGE ORDER #3, AMENDMENT #42, #98-02467, WESTPORT EXPANSION, FINAL TRUE-UP, ADDITIONAL \$87,840 FOR A NEW CONTRACT TOTAL OF \$1,467,840, AND AN ADDITIONAL 166 CALENDAR DAYS FOR A NEW TOTAL OF 2,216 CALENDAR DAYS, FUND 445-3512-5630, UTILITY SYSTEMS**

The City Manager advised, "This is the true-up for the professional engineering services with Arcadis at the Westport Plant. It is a big contract. We're adding 166 days for a total of 2,216 days. This is for the engineering for the expansion. We did the odor control systems as part of this contract. There were additional days in the construction, so the engineer had some extra services. My understanding is that the contract will be reduced to pay for the addition to this contract in the amount of \$87,840." Councilwoman Berger **moved** to approve Item 13 m). Councilwoman Martin **seconded** the motion. The City Clerk restated the motion as follows: for approval of Item 13 m). The **motion passed unanimously** by roll call vote.

**n) AFFORDABLE HOUSING COMMITTEE, REAPPOINTMENT OF SIX (6) ORIGINAL BOARD MEMBERS, AND APPOINTMENT OF FIVE (5) NEW MEMBERS, TO REVIEW AND EVALUATE THE IMPLEMENTATION OF THE ORIGINAL COMMITTEE'S RECOMMENDATIONS, COMMUNITY SERVICES**

The City Manager said, "As part of the affordable housing

program we have to periodically update some rules and regulations. There is a very specific committee needed. This is to appoint members to the committee so they can review the issues." Councilwoman Martin **moved** to approve Item 13 n). Councilwoman Berger **seconded** the motion. The City Clerk restated the motion as follows: for approval of the recommended appointments for Item 13 n). The **motion passed unanimously** by roll call vote.

#### 14. COUNCIL COMMENTS AND COMMITTEE REPORTS

Councilwoman Berger, Councilwoman Martin and Councilman Kelly stated that they have no updates.

#### MAYOR FAIELLA - SAN GENNARO AND SAN JUAN FESTIVALS

Mayor Faiella said, "Yesterday we went to Kings Isle and had a 9/11 tribute. It was very beautiful. Councilwoman Berger did a phenomenal speech. This coming weekend we have the San Gennaro Italian Festival for the first time at the Civic Center, and the San Juan Festival as well. I hope everyone can join us."

#### 15. ADJOURN

There being no further business, the meeting adjourned at 9:50 p.m.

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Karen A. Phillips, City Clerk

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Margie L. Wilson, Deputy City Clerk