

**CITY OF PORT ST. LUCIE
CITY COUNCIL REGULAR MEETING MINUTES
JANUARY 23, 2012**

A Regular Meeting of the CITY COUNCIL of the City of Port St. Lucie was called to order by Mayor Faiella on January 23, 2012, at 7:00 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
Vice Mayor Linda Bartz
Councilwoman Michelle Lee Berger
Councilman Jack Kelly
Councilwoman Shannon M. Martin

Others Present:

Jerry A. Bentrrott, City Manager
Gregory J. Oravec, Assistant City Manager/
CRA Director
Roger G. Orr, City Attorney
Sherman A. Conrad, Parks & Recreation
Director
Anne Cox, Assistant Planning & Zoning
Director
Edward Cunningham, Communications Director
Marcia Dedert, Finance Director/Treasurer
Joel Dramis, Building Official
Pam E. Booker, Senior Assistant City
Attorney
Daniel Holbrook, Planning & Zoning Director
Renee Major, Risk Management Director
Karen A. Phillips, City Clerk
David K. Pollard, OMB Director
Brian E. Reuther, Police Chief
Patricia Roebeling, City Engineer
Tricia Swift-Pollard, Community Services
Director
Margie L. Wilson, Deputy City Clerk

3. INVOCATION & PLEDGE OF ALLEGIANCE

The City Clerk gave the Invocation, and Mayor Faiella led the assembly in the Pledge of Allegiance.

4. PUBLIC TO BE HEARD

Mayor Faiella advised that Public to be Heard will be held for a half hour, and others who wish to speak will be heard at the end of the meeting.

MARK TREMBLAY - BANNERS AND SIGNS

Mr. Tremblay, owner of TNT Family Fitness, said that he employs almost 50 people and he is having a hard time, so he would encourage the Council to reconsider the ban on signs until he can afford traditional forms of marketing.

MIKE REPETTI - BANNERS AND SIGNS

Mr. Repetti said that he runs a food concession at a Shell station, and he has a banner and signs up that made for an increase in business. He said that taking the signs down affected his business by 10% and there is a chance that his business will fold. Mr. Repetti said that he would like to be able to have his signs and banner up, and he would like the Sign Code changed.

MICHAEL JACQUIN - BID ISSUE

Mr. Jacquin, Jacquin and Sons Construction, stated, "I have a handout for everybody. This is about Port St. Lucie Bid #20110108. I have a few documents to go through. Most of you recall that the last time I was here was for the first Ravenswood; this is the second one. The first highlighted document is from the Specification Manual Section 1000. It talks about no substitutions without submitting a sealed Florida engineer letter. In the bid process you have plans and specifications, and then you have addenda that change those. Each addendum is another layer saying that the item changes, and so forth. You had 19 addenda. Addendum 12 addresses a few things that are key to what I'm here to discuss. I had a meeting with Jerry and he gave me his position. Mr. Orr was there. I believe this is the section he was referring to as to why the bid was awarded the way it was. Another point in Addendum 12 is the tilt wall section which says how the building is supposed to be constructed. The last page of Addendum 12 says, 'If alternates are being used they must be named within the bid submittal. The City shall be the sole judge of the equality of alternate

products proposed and the City's decision shall be final.' It says we must do a certain thing when we submit our bid. I understand that. Addendum 16 says that the contractor must comply with the revised concrete wall panel specifications issued in Addendum 12. It's confusing. Addendum 12 says this is how you want to go, but the City has an option to take an alternate if they want to. Addendum 16 says you want it done per that specification. You must build it that way. Addenda 17, 18, and 19 do not give an option to do anything other than build it per the specifications. The next document is your Agenda Item Request from November 14. The second page is a list of the bids. The first low bidder was Kast Construction; the second low bidder was Urban Building Systems. Our thought is that bids are not per bid documents and specifications; therefore they should be deemed non-responsive. That means you should throw them out because they didn't follow what was requested in the bids. We recently got some documentation. The next item is the Kast bid. The last page states that Kast is not doing what is in Addendum 12. 'We have carried site cast panels that will match the same layout and configuration as the engineer of record's design. The tilt panels will meet the specified wind loads and will meet the same aesthetic look. However, we will be utilizing our own formwork in lieu of formwork mentioned in Addendum 12.' They're saying that they're throwing Addendum 12 out the window. Addendum 16 says you're supposed to do what's there. The second place bidder did the same thing. That is identified in the last document on the last page. I know this is eleventh hour in some instances. This wasn't brought to my attention until January 4. I wouldn't be here for any reason other than to point these things out to you. I didn't investigate it, because I had no reason to. I thought everything was correct. I don't know if we can get some consideration with this. I talked to Mr. Bentrutt, and I wanted to bring it to your attention. We did everything accurately and submitted a bid without any question."

Councilwoman Martin asked about the status of his lawsuit against the City. The City Attorney advised, "That lawsuit is still active. It is out of the Fourth District Court of Appeal right now, but we expect to move forward to final judgment in that case. Because we are in active litigation with Mr. Jacquin, I would advise the Council against engaging in conversation on this."

BARRY DALTON - BANNERS AND SIGNS

Mr. Dalton said that he owns Bayshore Pet Grooming and Boarding at the same location for 29 years. He said that when he put out

a sign, three people came in and said they didn't know they were there. He noted that the signs work. Mr. Dalton said that people want the banners to stay up, and to address the Sign Code issue as the ultimate goal as to specific regulations, and to let it go for another year. He indicated that many of the businesses might fail, which would affect the unemployment rate. Mr. Dalton asked who will police the signs from the people who pushed the envelope.

KEVIN BOLES - BANNERS AND SIGNS

Mr. Boles stated that his business is in the back of a shopping plaza. He indicated that having the banner out made it possible for him to get through bad business months. He added that signs and banners should be done in a professional manner.

MICHELLE HALL - BANNERS AND SIGNS

Ms. Hall said that her business has benefited very much from having a banner, and she would like to be able to keep it for another year.

DENNIS NEWMAN - BANNERS AND SIGNS

Mr. Newman said that he has owned Budget Graphics on Bayshore for 18 years and he doesn't want to see the City all crapped up with banners, and that there should have been limits and specifics set. He asked why people weren't stopped from nailing banners to frames. Mr. Newman said that every store should be able to have a banner and a sign done the right way. He suggested that the sign should only be left out during business hours. Mr. Newman said that he gave free banners to the City for their events for many years, but he feels that the City shouldn't be able to put up banners and flags if the businesses can't. Mr. Newman said that he thinks windows allowed to be covered up to 40% does not make the inside visible to an officer going by at 40 mph.

WINSTON - BANNERS AND SIGNS

Winston said that he wants to reiterate the importance of banners, because they encourage customers to come in. He said that unprofessional signs can make a City look unpleasant. He commented that people didn't know his shop was there until the banners were put up, and he asked that people be allowed to keep them.

ALFREDO FELIPE - BANNERS AND SIGNS

Mr. Felipe stated that banners have helped his businesses a lot, and he would like to see standards set.

(Clerk's Note: Public to be Heard is continued on Page 28.)

5. PROCLAMATIONS AND SPECIAL PRESENTATIONS

There was nothing scheduled for this item.

6. ADDITIONS OR DELETIONS TO AGENDA AND APPROVAL OF AGENDA

Councilwoman Martin **moved** to approve The Agenda. Vice Mayor Bartz **seconded** the motion. The City Clerk restated the motion as follows: for approval of the Agenda. The **motion passed unanimously** by roll call vote.

7. APPROVAL OF CONSENT AGENDA

a) APPROVAL OF MINUTES - DECEMBER 12, 2011

b) INDIAN RIVER CRIME LABORATORY, #95-31218, LABORATORY SERVICES AND EVIDENCE ANALYSIS FOR THE PERIOD OCTOBER THROUGH DECEMBER, 2011, \$64,031.61, AND THE PERIOD JANUARY THROUGH MARCH 2012, \$64,031.61, FUND 001-2105-5310, POLICE DEPARTMENT

c) AM CONSTRUCTION GROUP, INC., AMENDMENT #1, INSTALLATION OF A SPRAY NOZZLE CLEANING SYSTEM AT THE JEA WATER TREATMENT PLANE AND AN UPGRADE OF THE PIPING AT THE RO PACKED DEGASIFIER TOWER, #20110078, \$26,696.05, AND AN ADDITIONAL 36 CALENDAR DAYS, FUND 438-3310-5630, UTILITY DEPARTMENT

d) LANDSCAPE MODIFICATION, WAIVE THE REQUIREMENT FOR A LANDSCAPE BUFFER WALL TO BE LOCATED ALONG THE NORTHERN AND EASTERN BOUNDARY AND REPLACE IT WITH 6 FT HIGH HEDGES AND PERIMETER LANDSCAPE TREES, PSL EVANGELICAL CHURCH OF THE NAZARENE, P11-158, PLANNING & ZONING

e) ESTEP CONSTRUCTION, INC., AMENDMENT #2, BRIDGE DECK AND JOINT REHABILITATION FOR SOUTHBEND BOULEVARD BRIDGE OVER THE C-24 CANAL AND THE SAVONA BOULEVARD BRIDGE OVER THE E-8 CANAL, #20110095, \$30,770, CONTRACT PERIOD WILL BEGIN 1/27/12 AND TERMINATE 3/27/12, FUND 304-4125-5340, ENGINEERING

f) NATURAL RESOURCES CONSERVATION SERVICE (NRCS) EMERGENCY WATERSHED PROTECTION PROGRAM, AMENDMENT #3, E-8 CANAL

REPAIRS, TIME EXTENSION FOR COMPLETION DATE FROM 2/1/12 TO 3/2/12, PROJECT AGREEMENT #69-4209-11-1768, ENGINEERING

g) KEITH D. HUBBARD, TENNIS PROFESSIONAL, RENEW CONTRACT FOR AN AMENDED PERIOD OF THREE YEARS, 12/31/11 THROUGH 12/30/14, #20030051, AT THE PROPOSED COMPENSATION SCHEDULE AND ALLOW FOR A TENNIS EVENT FEE TO BE DEVELOPED AND ADMINISTERED BY TENNIS PROFESSIONAL AND APPROVED BY CITY, PARKS AND RECREATION

h) CREDABILITY, FORMERLY CONSUMER CREDIT COUNSELING SERVICE, RENEWAL #1, HOMEBUYER EDUCATION AND HOUSING COUNSELING SERVICES FOR THE NEIGHBORHOOD STABILIZATION PROGRAM, #20100004, MAXIMUM COST PER CLASS IS \$1,500, CONTRACT PERIOD WITH RENEWAL WILL BE 1/18/10 THROUGH 1/17/13, FUND 116/114-5500-5491, COMMUNITY SERVICES

i) WAIVER OF BID PER SECTION 35.04(C), FOR GOOD CAUSE SHOWN, **DAVCO ELECTRICAL CONTRACTORS CORP.,** MAINTENANCE, REPAIRS, SUPPLIES AND INSTALLATION SERVICES FOR THE CITY'S SPORTS LIGHTING, RELATED ELECTRICAL SYSTEMS, AND EMERGENCIES OR HAZARD REPAIRS, #20120034, \$35,000, CONTRACT PERIOD IS 2/1/12 THROUGH 1/31/13 WITH TWO (2) ONE-YEAR RENEWAL OPTIONS, PARKS AND RECREATION

j) BOY SCOUT TROOP 479, REQUEST FOR CITY SPONSORSHIP FOR THE SOLE PURPOSE OF LOCATING TEMPORARY SIGNAGE WITHIN CITY RIGHTS-OF-WAY FOR THEIR SPAGHETTI DINNER FUNDRAISER SCHEDULED FOR FEBRUARY 4, 2012, ASSISTANT CITY MANAGER

k) MELVIN BUSH CONSTRUCTION, INC., EMERGENCY REPAIRS OF 8" GRAVITY MAIN ON CAPRONA AVENUE, #20120036, \$30,023, FUND 438-3516-5630, UTILITY DEPARTMENT

l) PORT ST. LUCIE TRANSIT FACILITY, REQUEST TO WAIVE REVIEW FEES FOR PROCESSING THE SITE PLAN, PLANNING AND ZONING

m) MINOR SITE PLAN, WENDY'S RESTAURANT AT GATLIN PLAZA, LOCATED AT 2200 SW GATLIN BOULEVARD, AT THE SOUTHEAST CORNER OF GATLIN BOULEVARD AND I-95, GATLIN PLAZA, TRACT A, A 3,408 SQ FT RESTAURANT WITH A DRIVE-THROUGH FACILITY, P11-160, BDG PORT ST. LUCIE, LLC

n) ORDER SONS OF ITALY PORT ST. LUCIE AND THE 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 THEIR 3RD ANNUAL PORT ST. LUCIE FESTIVAL ITALIANO SCHEDULED FOR FEBRUARY 25, 2012, ASSISTANT CITY MANAGER

o) THE SIGNAL GROUP, INC., AMENDMENT #2, TRAFFIC SIGNAL AND STREET LIGHTING SERVICES, PROVIDE ADDITIONAL PAY ITEMS NEEDED FOR SIGNALIZATION AND LIGHTING THROUGHOUT THE CITY, #20090103, FUND 104/314-4105/4121-5645, ENGINEERING

p) FELIX ASSOCIATES, LLC, CHANGE ORDER #3, BECKER ROAD WIDENING PROJECT SEGMENT 3, #20100118, FOR DRIVEWAY EXTENSIONS, ADDITIONAL GRADING AND HYDRO-SEEDING, AND MODIFICATIONS TO DRAINAGE PATTERNS AT CULVERTS, \$16,665.66 FOR A NEW CONTRACT TOTAL OF \$6,603,934.91, AND 24 ADDITIONAL CALENDAR DAYS FOR A NEW TOTAL OF 389 CALENDAR DAYS, FUND 360-4105-5688/5671/5672, ENGINEERING

q) FORFEITURE FUNDS, REQUEST TO EXPEND \$30,600 OF FORFEITURE FUNDS IN ACCORDANCE WITH F.S.S. 932.7055(4) AND FEDERAL GUIDELINES TO PURCHASE: BRIEFING ROOM EQUIPMENT FOR PATROL \$9,950, AIR CLEANING SYSTEM FOR THE EVIDENCE VAULT \$5,650, YOUTH COURT PROGRAM SUPPLIES \$5,000, AND A \$10,000 CONTRIBUTION TO THE OPERATION OF THE JUVENILE ASSESSMENT CENTER FOR SCREENING AND PROCESSING DELINQUENT YOUTHS, POLICE DEPARTMENT

r) REQUEST FOR RELEASE OF UNITY OF TITLE BY JOSEPH T. FRISCIA, P.E., FOR LOTS 1, 2, 3, 4, 5, 6, 7, 22, 23, 24, 25, 26, 27 AND 28, BLOCK 1497, PORT ST. LUCIE SECTION SIXTEEN, GOODWILL CENTER, LEGAL DEPARTMENT

Vice Mayor Bartz **moved** to approve the Consent Agenda with Item 7 h) pulled for discussion. Councilwoman Martin **seconded** the motion. The City Clerk restated the motion as follows: for approval of the Consent Agenda with Item 7 h) pulled for separate discussion. The **motion passed unanimously** by roll call vote.

h) CREDABILITY, FORMERLY CONSUMER CREDIT COUNSELING SERVICE, RENEWAL #1, HOMEBUYER EDUCATION AND HOUSING COUNSELING SERVICES FOR THE NEIGHBORHOOD STABILIZATION PROGRAM, #20100004, MAXIMUM COST PER CLASS IS \$1,500, CONTRACT PERIOD WITH RENEWAL WILL BE 1/18/10 THROUGH 1/17/13, FUND 116/114-5500-5491, COMMUNITY SERVICES

Vice Mayor Bartz stated, "Since I first questioned this we have gotten more information. I questioned the \$1,500 per class without knowing what we were doing or how often it was held. I found out that it comes out of NSP money."

Ms. Swift-Pollard explained, "I pulled information to find out

what we had paid Credability in the last year. A staff member told me that the lending consortium for St. Lucie County, which has merged with Martin County, has agreed to pay all the costs for homebuyer counseling." Vice Mayor Bartz noted, "I had originally been told that that was for everyone who was buying a house through NSP. I asked whether we were doing it individually or as a group. I'm really pleased. We should continue to approve it and have this contract in the background, just in case something happens to the consortium. This is pretty good news. I **move** to approve Item 7 h)." Councilwoman Berger **seconded** the motion. The City Clerk restated the motion as follows: for approval of Item 7 h). The **motion passed unanimously** by roll call vote.

8. SECOND READING, PUBLIC HEARING OF ORDINANCES

a) **ORDINANCE 11-78**, AMENDING THE COMPREHENSIVE PLAN OF THE CITY OF PORT ST. LUCIE BY AMENDING POLICY 1.1.8.6 OF THE FUTURE LAND USE ELEMENT, PURSUANT TO CHAPTER 163, FLORIDA STATUTES; PROVIDING THE INVALIDITY OF ANY PORTION SHALL NOT AFFECT THE REMAINING PORTIONS OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE, P11-112

The City Clerk read Ordinance 11-78 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 11-78. Councilwoman Martin **seconded** the motion. The City Clerk restated the motion as follows: for approval of Ordinance 11-78. The **motion passed unanimously** by roll call vote.

b) **ORDINANCE 12-01**, AMENDING OF THE CODE OF ORDINANCES OF THE CITY OF PORT ST. LUCIE, FLORIDA TO MOVE THE REGULATIONS REGARDING REFUSE COLLECTION AND RECYCLING AREAS FROM CHAPTER 153, LANDSCAPE; LAND CLEARING TO CHAPTER 158, ZONING, AND TO ADD A NEW SECTION TO CHAPTER 158 REGARDING SHARED DUMPSTER ENCLOSURES; PROVIDING AN EFFECTIVE DATE, P11-122

The City Clerk read Ordinance 12-01 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 12-01. Councilwoman Martin **seconded** the motion. The City Clerk restated the motion as follows: for approval of Ordinance 12-01. The **motion passed unanimously** by roll call vote.

c) **ORDINANCE 12-02**, TO REZONE 1.09 ACRES OF PROPERTY,

LOCATED NORTH OF LOOKOUT BOULEVARD SOUTH OF CANAL C-24, GENERALLY WEST OF CANAL C-23 A, AND GENERALLY EAST OF PERU STREET FROM RM-5 (MULTIPLE-FAMILY RESIDENTIAL) TO RE (ESTATE RESIDENTIAL) ZONING FOR LOT 5, VIKINGS LOOKOUT (P11-156); PROVIDING FOR AN EFFECTIVE DATE, P11-156

The City Clerk read Ordinance 12-02 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 12-02. Councilwoman Berger **seconded** the motion. The City Clerk restated the motion as follows: for approval of Ordinance 12-02. The **motion passed unanimously** by roll call vote.

d) ORDINANCE 12-03, AUTHORIZING THE CONVEYANCE OF A TEMPORARY ACCESS EASEMENT FROM THE CITY OF PORT ST. LUCIE TO FLORIDA POWER & LIGHT COMPANY; PROVIDING AN EFFECTIVE DATE

The City Clerk read Ordinance 12-03 aloud by title only. Mayor Faiella opened the Public Hearing.

WES MCCURRY, Port St. Lucie Acquisitions, said, "Port St. Lucie Acquisitions recently sold a piece of property within the Southern Grove property to FP&L for a future substation site. There is no infrastructure constructed to that site currently. Therefore, they have requested a temporary access easement. The path of that easement traverses a portion of property the City owns, which was previously conveyed to the City for right-of-way purposes for Paar Drive, I believe. We would ask that for this easement the expiration date be amended to reflect a ten-year expiration date, to allow sufficient time for construction of Becker Road out to where the substation site is."

There being no further comments, Mayor Faiella closed the Public Hearing. Vice Mayor Bartz **moved** to approve Ordinance 12-03. The City Attorney asked, "With the extension through 2021? That's alright with Legal. We had discussed that." Councilman Kelly **seconded** the motion. The City Clerk restated the motion as follows: for approval of Ordinance 12-03, with the amended expiration date to reflect a ten-year expiration date. The **motion passed unanimously** by roll call vote.

9. OTHER PUBLIC HEARINGS

a) PORT ST. LUCIE RESIDENTIAL STREET LIGHTING ASSESSMENT AREA, BOUNDARY #276, SW GAINSBORO STREET

The City Clerk explained, "The City's residential street lighting program is processed through the City Clerk's Office. A request will come in from a citizen who is a property owner. We draw a reasonable map for where the streetlights should go. That comes to the City Council, which is what we're doing tonight. The City Council approves the boundary. There will be a ballot or a vote of the neighbors on the street where the lights will go. It has to pass by 50% plus one in order to be approved for the streetlights to be put in. We are working on the 2012 street lighting districts. Those that do pass will be installed between September and November 2012 and will go on the November 2012 tax roll. The current rate is \$27 per year."

Mayor Faiella opened the Public Hearing.

TRENT DAVIS said, "I am a property owner on Gainsboro. I met with several of the homeowners today. We are certainly in favor of this. There was a concern with the location of one of the lights. I understand that we need to articulate now the request to have the light moved across the street. Mr. William Hanna, who is a property owner, and Mr. Tony Franco, who is a property owner, requested that the light be switched from one side to the other. How do we make that request?" The City Clerk advised, "You can call my office tomorrow morning and give me the exact properties. I can request it, but the final decision is up to FP&L. They make the decision based upon where the poles are and where the lines have to be pulled if they're coming from the back of the property. It's possible there is no pole with a transformer there, and that's why they put it across the street. If you call my office tomorrow, we'll check into it."

There being no further comments, Mayor Faiella closed the Public Hearing. Councilwoman Martin **moved** to approve Boundary #276. SW Gainsboro Street. Councilman Kelly **seconded** the motion. The City Clerk restated the motion as follows: for approval of Street Lighting Boundary #276, SW Gainsboro Street. The **motion passed unanimously** by roll call vote.

b) PORT ST. LUCIE RESIDENTIAL STREET LIGHTING ASSESSMENT AREA, BOUNDARY #277, NW ALJO CIRCLE & COURT

Mayor Faiella opened the Public Hearing.

NAJEH RAHMAN said, "I live at 5145 NW Aljo. I am the one who applied for the lights for good reason. It's not a through-traffic street. I believe it is a target for thugs and thieves to go there and break into people's homes. We had a few

incidents. Mailboxes were vandalized. A van was broken into and all the equipment was stolen. Our bikes were stolen from in front of our home. Worst of all is that my wife was taking a shower and someone peeked in the window. We called 911 on that. Last October I was out of the country and someone tried to break into our neighbor's home. The street is very dark, and all of these incidents happened during the night, never the daytime. That is what prompted us to ask for streetlights."

There being no further comments, Mayor Faiella closed the Public Hearing. Councilman Kelly **moved** to approve Boundary #277. Councilwoman Berger **seconded** the motion. The City Clerk restated the motion as follows: for approval of Street Lighting Boundary #277, NW Aljo Circle and Court. The **motion passed unanimously** by roll call vote.

c) PORT ST. LUCIE RESIDENTIAL STREET LIGHTING ASSESSMENT AREA, BOUNDARY #278, SW FAIR ISLE ROAD

Mayor Faiella opened the Public Hearing.

KIMBERLY LOBSINGER said, "I am a property owner and resident of Fair Isle Road. I talked to several neighbors and we have some concerns. None of us requested this. The fee is \$27. Does it go up every year, or does it have a cap?" The City Clerk answered, "There is no cap. I think the last increase was a \$3 increase. I have not heard as of yet that it is going to increase this year. Usually at the Council Retreat in July that fee is set." Ms. Lobsinger asked when the last increase happened. The City Clerk answered, "I believe it was two years ago." Ms. Lobsinger said, "All the poles on our street run behind our property. What would the poles look like?" The City Clerk replied, "They would be the regular wooden poles like the one that are in your back yard. They pull the line to the front of the street. It's just basic residential street lighting." Ms. Lobsinger asked how far back it is. The City Clerk responded, "My best guess is about nine feet, but I can find that out for you if you'd like."

ORAL SMITH said, "My address is 2614 SW Fair Isle Road. We have been concerned for some time. Across the street from where I live there used to be a streetlight. I guess it was assigned to the homeowner. Because of some illegal activities there the City came by and FP&L removed the light. The street has been in total darkness and there were a number of break-ins. I believe it would be a good idea to put in streetlights. It's very dark in the morning for the kids going to the bus stop. Thank you."

There being no further comments, Mayor Faiella closed the Public Hearing. Vice Mayor Bartz **moved** to approve Street Lighting Boundary #278, SW Fair Isle Road. Councilwoman Martin **seconded** the motion. The City Clerk restated the motion as follows: for approval of Street Lighting Boundary #278, SW Fair Isle Road. The **motion passed unanimously** by roll call vote.

d) PORT ST. LUCIE RESIDENTIAL STREET LIGHTING ASSESSMENT AREA, BOUNDARY #279, SE BAY HARBOR STREET

Mayor Faiella opened the Public Hearing. There being no comments, Mayor Faiella closed the Public Hearing. Vice Mayor Bartz **moved** to approve Boundary #279, SE Bay Harbor Street. Councilwoman Martin **seconded** the motion. The City Clerk restated the motion as follows: for approval of Street Lighting Boundary #279, SE Bay Harbor Street. The **motion passed unanimously** by roll call vote.

10. FIRST READING OF ORDINANCES

There was nothing scheduled for this item.

11. RESOLUTIONS

a) RESOLUTION 12-R14, SUPPORTING A LOCALLY PREFERRED ALTERNATIVE FOR THE EXTENSION OF THE CROSSTOWN PARKWAY FROM MANTH LANE TO U.S. HIGHWAY ONE; PROVIDING AN EFFECTIVE DATE

The City Clerk read Resolution 12-R14 aloud by title only. Mayor Faiella advised that a person signed up to speak on the item.

GEORGE L. JONES stated, "I have a long history with this project. In 1997 I was State Parks Director for the Southeast Region in 1997. In numerous meetings this City and Council were told that that is the hardest alternative to permit. It would be the most difficult, and it would involve the taking of state parklands, which meets a whole different criteria. That has been explained time and time again. I am no longer with the DEP. I do represent the Indian Riverkeeper organization and the St. Lucie County Conservation Alliance. We have been here in happy times with the Council. I am here to say, though, that as this moves forward, we will oppose this alternative at every step of the way. I have been involved for 40 years with environmental permitting and lands issues. You have an excellent consultant. I worked with Mr. Davis when he was with the Army Corps. I understand what he has done, how he has done it, and how he has maneuvered the process. It's all very well and good. It's been

done nice and tidy. It's not really going to fly, though. We have some things out there that are going to be issues. It will be an election year as this moves forward. The Governor has been embarrassed in his first year on two state parks issues already. The Deputy Secretary that probably was behind some of the agreement on mitigation is no longer with the department, partially I would imagine for that embarrassment. State parks issues and this particular state park do not belong to the City of Port St. Lucie. They belong to the citizens of the State of Florida. As a citizen of Florida and as a person who lives in Port St. Lucie, I hate to see more money wasted and time expended on a crossway that will be seriously delayed if this alternative is pursued. I was involved in the 17 mile stretch in the Keys for a long time. I understand all the things that went behind that. I urge you to not look at this alternative. It will take longer, it will be harder, and it will be more costly for your citizens."

Councilman Kelly said, "You and I have had conversations and I know how you feel. It has been a long time for me: eleven years. For me to see this on the Agenda is a huge milestone for me and for the City. When this first came up we had roomfuls of people, just like with the water and sewer. They came down hard on the Council for doing this. This has been planned for about 30 years, and it has always been planned to go in that area. To move it anyplace else would be unfair. That goes to the social aspect. There are three things to consider: social, economic, and environmental aspects. As far as I understand it they all carry the same weight. We don't have the paperwork; Walter England couldn't find it. The City owned that land before the state did. We deeded it to the state with the plan that some day we would need to go over it. There are going to be 450,000 people here. We have to plan for the people. We don't have a letter saying that. We should have had that in writing. Bridges today are built from the top down. I believe that this will not damage the environment. It will hurt it, but not to the extent some people say. Where do people fish? They fish off bridges. People come first. I am a member of the Conservation Alliance. I don't go to a lot of meetings, because I get beat up on this aspect. I appreciate all the work you do. This is a tough decision for me, but people come first. This is the right area. This is where people expected it to go all these years. To do it in another area would be unfair to people who bought homes in that area. If it went close to Prima Vista it wouldn't relieve the same amount of traffic. We always planned to have this go into our downtown. For the economic prospects, that's where it has to go. It's the right thing to vote for 1C. I respect what

you're saying and we respectfully disagree."

Mr. Jones said, "I also respect the Council and that there are human issues involved. It was an economic situation eleven years ago when some of the houses were being acquired. Those things were always known up front. Nothing has seriously changed. You have continued to pursue that one alternative above all others. In the rule for incompatible use of state parklands it specifically says there must be no other viable alternative. Yet you examined six alternatives. It doesn't meet the criteria from the get-go. There will be more conversations. This is Step 1. I do respect all of your efforts. We have always had very professional and cordial engagements. I am here respectfully to tell you that those are some positions that are held by a wide number of folks. This is not local. I was in Tallahassee last week on several issues. I've talked to major environmental organizations and law organizations. This is a precedent setter. DEP has continually and consistently defended the taking of state parklands for years."

Councilwoman Berger said, "I want to recognize Mr. Jones. We do have a great relationship with the Indian Riverkeeper and the Conservation Alliance. We have done a lot of great projects together. It is their role to make sure that voice is heard. I am glad there are people who do that. That's what keeps the balance, with the amount of development that could be happening. What we are doing today is supporting the information that has been brought to us so far. It is not our decision. That is important to say. There is some thought that we get to make a final call. This is part of the milestones we have to check off as we go through this project. This shows what gets support with the local agency, and then it moves on. We're doing our due diligence. Everybody has a role, and we're making sure everybody plays a part." Councilman Kelly **moved** to approve Resolution 12-R14. Councilwoman Martin **seconded** the motion. The City Clerk restated the motion as follows: for approval of Resolution 12-R14. The **motion passed unanimously** by roll call vote.

b) RESOLUTION 12-R15, APPROVING THE REVISED STREET TREE PLANTING PLAN FOR ST. LUCIE WEST PLAT NO. 117 - LAKE FOREST PHASE I; ST. LUCIE WEST PLAT NO. 129 - LAKE FOREST PHASE II; ST. LUCIE WEST PLAT NO. 139 - LAKE FOREST PHASE III; ST. LUCIE WEST PLAT NO. 144 - LAKE FOREST PHASE IV; ST. LUCIE WEST PLAT NO. 146 - LAKE FOREST PHASE VI; ST. LUCIE WEST PLAT NO. 147 - LAKE FOREST PHASE V; AND ST. LUCIE WEST PLAT NO. 148 - LAKE FOREST PHASE VII

The City Clerk read Resolution 12-R15 aloud by title only. Mayor Faiella advised that people signed up to speak on the item.

STEVEN FRASER stated, "I live in Lake Forest. (Clerk's Note: Mr. Frazer gave pictures to the Council.) It is certainly ironic that the Keep Port St. Lucie Beautiful Committee routinely hands out canopy trees and the Lake Forest HOA Board of Directors is asking City Council to destroy 689 oak trees and the associated wildlife because of minor sidewalk lift. Ms. Marcks, the hired landscape designer, provided inaccurate information to the Planning and Zoning Board concerning the planting areas in the development. She claimed that all planting areas are five feet wide and an eight-foot wide planting area is appropriate. She also blames the City for allowing this to happen. When in doubt, blame someone. The planting areas in the north end of the development, which is Phase 1, are clearly eight feet wide, which supports the oak trees currently in this area. Additionally, Ms. Marcks states that the proper pruning and maintenance of these trees can avoid the minor sidewalk lift that is occurring. It is my position that the City Council should not arbitrarily allow for the destruction of trees when they are clearly viable and within the Code established by the City. I am asking that the oak trees in the north end of the community be spared."

SABINE MARCKS, Landscape Design Associates, stated, "I am representing the Board of Directors of the Lake Forest HOA. There are members here in support of the project. I want to respond to the statements. I made one mistake in the width. When we went to the Planning and Zoning Board the second time I stated that I made the mistake and corrected it. What is happening even in the north end of the development is not minor sidewalk lift. That is not the only issue. Numerous trees are planted too close to the curb and drainage structures. Trees are starting to lift sidewalks and driveways. Some trees have circular roots that are not going to be viable over an extended period. To compound the whole problem, there is a re-use water line installed right next to the sidewalk within the planting area that will come up if a tree falls over. I have never stated that eight feet is enough for an oak tree. An oak is the largest tree we have in the state. Even ten feet is marginal. It is not the right tree for the right space. Other trees are more suitable for street trees. I do believe that over time these trees will become even more of a hazard. It is not just the sidewalks. There are water connections to the residences that can be pushed over by the trees. There is potential repair cost to the homeowners for water lines and connections. They are

taking the preventive step of replacing the trees now with more suitable species, as is outlined in the tree plan, rather than waiting for the individual problems to occur. I would like to point out that if this development was in the jurisdiction of Port St. Lucie water or utilities, there would be no street trees, because we wouldn't be allowed to plant a tree within ten feet of a water line. There are lines all over the place. I never accused the City of allowing it, either. It happened, and nobody knows why. The development wasn't built as planned, because the plans show an eight-foot landscape strip throughout the development with the exception of Rocky Bayou Terrace. Even the as-builts don't show it."

Councilman Kelly asked, "Did the homeowners vote on this?" Ms. Marcks replied, "No. We had a meeting on December 19 where about 80 residents showed up. We did a presentation. We have letters since then that are in support of the project. But it wasn't a direct vote." Councilman Kelly asked, "Do we know that a majority of homeowners on North Shore Boulevard and South Street are in favor of taking the trees down?" Ms. Marcks answered, "Do I know where they live exactly? No. We did not do a straw poll. The general consensus of the meeting was that the homeowners understand the necessity of it and are in favor of moving forward as the project was designed." Councilman Kelly asked if the plans are to take out the trees on the sidewalk side or both sides. Ms. Marcks responded, "Both sides. On the other side there are also line issues. Most of the trees were planted within three feet of the curb. I can show you numerous pictures of trees within two feet of drainage structures, and there are water lines in the ground. When you take these trees out, the next tree will be ten feet over, because it has to be placed away from the line. We can't make that same mistake twice."

Ms. Marcks continued, "The other problem in the north area is that for the most part we're dealing with laurel oaks, not live oaks. They are faster growing weaker trees with much larger trunks. Pruning will help with a laurel oak, but it has a very compact canopy. The rule of thumb is that the root volume equals the crown volume. As the crown increases there won't be enough root volume to keep the tree in place. Hillsborough County did an extensive study of this. They came up with staggering numbers on sidewalk fixing and replacement." Councilman Kelly said, "I have pictures, and they're beautiful. The wires are in back, so that's not a problem. I don't live in this neighborhood; I'd go with the majority of the residents. It's just a shame. I lived up north with asphalt sidewalks and curb and gutter. We had huge trees that tore up the sidewalks, but we repaired them. If they

took the trees down, I would have had a fit. It's a shame, but it's their HOA." Ms. Marcks commented, "I completely agree. It was not an easy decision. If we weren't on the coast in the path of hurricanes, we wouldn't be talking about this. But IFAS says that since the 2004 storms we have to rethink how we treat street trees. They had 195 trees fall over." Councilman Kelly noted, "A palm tree will come down much quicker than an oak."

BRUCE LANDAU said, "Ten percent were at that meeting and there was no vote. The majority does not favor the removal of the plants. The replanting plan was presented to the community based on false facts. There were several mistakes in the plan. Therefore I question much of the information presented. I understand the need to replace the trees. One of the trees recommended is the Hong Kong orchid. A journal supported by the Florida Water District, the US Department of Agriculture, and the Cooperative Extension states that it is weak rooted and has low wind tolerance. Pulling out oaks and replacing them with this? How can this be a responsible replacement plan? Please shelve this project so it can go back to the HOA, so they can get their 50% plus one before reconsideration of the replacement trees. The residents of Lake Forest want the board and the residents to decide, not the HOA presenting their bogus information to you. I'll show you a picture of the canopy we have now. Then I'll show you a picture of what they're going to replace it with. These trees do not have leaves for four months out of the year. I beg you to send this back to the HOA for a vote. They did not get a vote. Maybe we could have two or three designers present plans. Reject this plan so we can have further input from the residents to the HOA."

Councilwoman Berger asked Anne Cox, Planning and Zoning Department, to explain what is to be approved. Ms. Cox said, "The plan presented would replace all the oaks. They propose to do this in phases. They would notify us at the beginning of each fiscal year of exactly what areas they would work on. It does include a variety of flowering trees for the most part." Councilwoman Berger said, "Some of the residents have approached me and asked about the trees. They would like to see more foxtail palms. I understand that that is not on the HOA list. Can you explain why?" Ms. Cox answered, "The staff has not accepted palms as shade trees for the purposes of meeting the subdivision regulations." Councilwoman Berger asked if the Hong Kong orchid doesn't have leaves for four months of the year. Ms. Cox replied, "I would refer to the landscape architect." Councilwoman Berger noted, "If it's a crape myrtle, I don't think they go four months without leaves. I think they're new

plantings." Ms. Cox pointed out, "The type they are proposing is a single stem. You don't see those much. Mostly you see multi-stem. The single stem does provide more of a canopy look." Councilwoman Berger said, "I'm trying to understand how our staff is involved with the process. It's a matter of trying to find out what will work. The HOA Board of Directors brought this information to the City specifically because they are looking at a long term obligation, because of the sidewalks and pipes." Ms. Cox added, "They didn't want to have to come back every time they wanted to change something. When this was first approved by the City, the plan showed a tree and a house. They decided to come up with a comprehensive plan showing the whole neighborhood. The subdivision regulations require a uniform pattern for street trees. That is what they presented. We are reviewing it for conformity to the subdivision regulations and the spacing of the trees per their size." Councilwoman Berger said, "That is the only role the City has. Everything else has been initiated by the HOA or the Board of Directors. If we approve the seven phases now, will they come back before us for each phase? Can we stipulate that? Here's my concern. They do need to do something; the board is being proactive. But we don't want anyone to go in and clear everything out. Is there a way we can get updates on the phases?" Ms. Cox said, "They have proposed on the plan to notify us at the beginning of each fiscal year as to what areas they intend to implement. Staff can check that, as well." Councilwoman Berger said, "If a new Board of Directors comes in, they could stop it. If they get votes against it, they could come before Council and stop it at Phase 2, for example." Ms. Cox said, "It is up to them as to when they would implement the phases."

Councilwoman Martin said, "I will support this. I've been aware of the situation from the beginning. There were issues in the beginning as to whether the homeowners were notified. I met with several people and asked to make sure the board did that. The board represents the HOA. The HOA put the plans through. It's been a work in progress for a long time. I've been to the Planning and Zoning Board meetings. I don't want to get into a situation of telling a HOA board what they should do with their membership. We can't regulate 50% plus one or how many people are going to attend a HOA meeting. That's up to the residents. They rely on their HOA board to make their decisions for them. Being that it has gone through this process and the board did what was asked, I don't want to intrude into what the board and members do in their community as long as they meet the criteria and follow City guidelines. I support this." Mayor Faiella said, "I agree." Councilman Kelly asked what they are going to do with

the trees that are taken out. Ms. Marcks said, "They cannot replant them. The only way to replant them is to use a tree spade. That rips out the water line and pavement, and it would cause as much destruction as you're trying to prevent. Another problem is that insurance companies are starting to drop HOA's because of sidewalk issues." Councilman Kelly said, "We're talking about over 900 trees, and I really don't like it. Councilwoman Martin said the right thing, but I have to go by the will of the people who live there."

Councilwoman Berger said, "I agree with Councilwoman Martin and Councilman Kelly. This is going to change the landscape of the entire area. But the board and the members have been working on this for a long time. Sometimes it's hard to get the attention of the people who live in your community and get them to come to meetings. They had some very good discussion. Certainly they will have the attention of the homeowners when the trees start to come down. I have attended other meetings with other HOA's in St. Lucie West and they have the same issues. So I know you don't like it, but we may see this again." Councilman Kelly said, "I don't think anybody up here likes it, but they represent the people." Mayor Faiella said, "They did pass the notice out. I saw it at a Planning and Zoning Board meeting." Councilwoman Martin **moved** to approve Resolution 12-R15. Vice Mayor Bartz **seconded** the motion. The City Clerk restated the motion as follows: for approval of Resolution 12.-R15. The **motion passed unanimously** by roll call vote. Councilwoman Berger added, "Councilwoman Martin is correct when we say we stalled this as long as we could to make sure it went back. We met individually and asked for more information. Thank you for all the back and forth you went through."

c) RESOLUTION 12-R16, APPROVING AND ACCEPTING THE PRELIMINARY AND FINAL PLAT FOR GOODWILL CENTER (P11-153) WITHIN THE CITY OF PORT ST. LUCIE, FLORIDA ON THE REQUEST OF PHOENIX GATLIN ACQUISITION LLC; AUTHORIZING THE MAYOR AND CITY CLERK TO COUNTERSIGN SAID PLAT; PROVIDING AN EFFECTIVE DATE

The City Clerk read Resolution 12-R16 aloud by title only. Councilwoman Martin **moved** to approve Resolution 12-R16. Councilwoman Berger **seconded** the motion. The City Clerk restated the motion as follows: for approval of Resolution 12-R16. The **motion passed** by roll call vote, with Vice Mayor Bartz, Councilwoman Berger, Mayor Faiella, and Councilwoman Martin voting in favor, and Councilman Kelly voting against.

d) RESOLUTION 12-R17, AUTHORIZING THE CITY MANAGER AND

HIS STAFF TO ENTER INTO AND EXECUTE A LOCAL AGENCY PROGRAM AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION CONCERNING THE INSTALLATION AND MAINTENANCE OF CERTAIN IMPROVEMENTS WITHIN AND ALONG THE STATE'S RIGHT OF WAY ON STATE ROAD 716 (PORT ST. LUCIE BOULEVARD) BETWEEN BAYSHORE BOULEVARD AND PETUNIA AVENUE; PROVIDING AN EFFECTIVE DATE

The City Clerk read Resolution 12-R17 aloud by title only. Vice Mayor Bartz **moved** to approve Resolution 12-R17. Councilwoman Martin **seconded** the motion. The City Clerk restated the motion as follows: for approval of Resolution 12-R17. The **motion passed unanimously** by roll call vote.

12. UNFINISHED BUSINESS

a) DISCUSSION CONCERNING THE PERMANENT DISPLAY OF THE WORLD TRADE CENTER ARTIFACTS, ASSISTANT CITY MANAGER

The City Manager stated, "Last year when this issue came about and the City accepted two pieces of steel from the World Trade Center, Council directed that staff come back with recommendations as to where to permanently place these pieces and to set up appropriate memorials. As the first step of that process a meeting was held with representatives of the Police Department who are our first responders, Parks and Recreation who control our parks and facilities, and the City Manager's Office. Our recommendation is that the smaller piece of steel would be permanently on display in the main atrium of the Civic Center and could be checked out for any appropriate event. For the large piece of steel the recommendation was that it be placed outside this facility, for a number of reasons. It is centrally located. It's where our first responders are. It's occupied by the Police Department 24/7. It could be placed in an area large enough that we could have events. If Council decides to do that, our recommendation was to put out an RFP and ask for proposals from various people as to their ideas of what the display would look like. Then we could look at that. When one was accepted we could do fund raising to construct the memorial site."

Mayor Faiella advised that several people wish to speak.

JOSEPH PATRONIE - WORLD TRADE CENTER ARTIFACTS

Mr. Patronie said that these artifacts should be approved as stated.

CHRISTINE D'OCCHIO-HICKEY - WORLD TRADE CENTER ARTIFACTS

Ms. D'Occhio-Hickey said, "I'm going to say this even though I didn't know what your decision was, because I was lied to by the entire City Council that I could sit on this committee. I've been e-mailing certain individuals on this Council to let me know what was going on, and nothing was done. I'm very upset. I have something to read. This is a four year project that I have worked so hard on. My application was submitted in 2008 with the Port Authority of New Jersey and New York with the World Trade Center Artifacts Program. Unfortunately my request was denied, due to the program reaching their limit on steel distribution. Thankfully, Mr. McKenna, a Martin County resident and a member of the 9/11 First Responders of the Treasure Coast, had his application approved. He knew of our plight and was determined to help us obtain World Trade Center steel for Port St. Lucie."

Ms. D'Occhio-Hickey continued, "I'm going to give you a bit of history as to why I started this September 11 memorial here in Port St. Lucie. In 2008 while my husband Albert Hickey was in Afghanistan, I thought I was ready to attend my first memorial since the attacks. I felt I owed it to my husband, who is a retired New York City detective who worked Ground Zero for nine months, and to the many friends we lost that fateful day. The only memorial advertised in the newspaper was at Jensen Beach High School, so on September 11, 2008, I arrived an hour early to the auditorium. Choking back tears, it took me almost an hour to get the courage to put my hand on the door and open it. It was an emotional service, sitting there by myself. I noticed that the service was only about the firemen. I do have a lot of respect for firemen, but what about the civilians? What about the victims who were employed by the businesses that had offices in both of the towers, the victims in the planes and in the Pentagon? I left and called Al and promised him that I would never allow this to happen ever again, and that all the victims will be remembered. As soon as I got home I e-mailed then Mayor Christiansen to tell her I would do all the necessary legwork if Port St. Lucie would have their own memorial. She passed my information to Tonya Taylor at the Civic Center. With the great support of Ms. Taylor and all the employees the City had its first September 11 memorial in 2009 and every year thereafter. On July 25, 2010, the Council had discussions to consider acceptance of the World Trade Center beam. The Council discussed their willingness to work with Albert Hickey and the members of the 9/11 First Responders of the Treasure Coast who reside in the City. On September 2 Al and I rode with the Blue Knights Chapter 10, a law enforcement motorcycle organization, for an

800 mile journey to meet the truck that was carrying the World Trade Center steel beams here to Port St. Lucie and Martin County. It was an emotional journey for all of us. This year on the 10th year anniversary with no cost to the taxpayers Al and I worked printing 2,986 cards naming each victim alphabetically and laminating each one. We purchased 3,000 ground sticks to hold each of the name cards. The 2,986 American flags were donated by the Southeastern Military Academy. With the help of numerous volunteers we were able to set up the field of honor at the Civic Center with an aerial message seen from the roof of the garage. Then at the September 19 Council meeting there was a discussion on how to proceed with the beam from the 9/11 First Responders. There was a different tone compared to the last discussion on July 25 from a few of the Council members. Michelle Berger stated that this was about the first responders and having Port St. Lucie's first responders decide where it goes, and then it becomes less political. Al and I started this with the purest of intentions. It was City Hall that made this political. The first responders that the Council spoke of was its Police Department and not the members of the Treasure Coast 9/11 First Responders. I had to clear this up, since the meeting left some residents confused. It was also discussed that the City wanted to place the 10'7" beam outside the Police Department in the roundabout. As the wife of a 9/11 first responder who lost many coworkers and friends, I don't feel it is an appropriate location. By placing it there, it gives the appearance of only being about first responders and not the civilians. We fight hard to keep the memory alive of all the victims of September 11. On September 20 Al and I attended meetings with the Mayor, the City Manager, and a few of the Council to discuss our willingness to sit on this committee. We are not asking for the total control on the decision of where and how the beam will be placed. All we ask is that I be a part of it. Many of you know our personal ties to September 11, and this beam is considered sacred to us in many ways. Michelle Berger, your statement to me on September 20 really hurt, and I can't forget what you said. 'This beam is not sacred, as you say, especially when the steel was melted down into spatulas. So you're telling me that they're selling sacred spatulas?' I've searched all over the internet and made many phone calls to New York City regarding your statement, none that I can find true. But whether it is true or not, to have the audacity to say that to someone who has been through what I've been through, it's hurtful, disrespectful and totally uncalled for. In closing, the whole idea of having a piece of the World Trade Center here in our City is very important. On the day the towers fell, the Pentagon was hit, and Flight 93 crashed into the field in

Shanksville, Pennsylvania, we were all Americans, not Floridians, not New Yorkers."

ALBERT HICKEY - WORLD TRADE CENTER ARTIFACTS

Mr. Hickey said, "My wife and I are very upset, especially with most of you that lied to us to my face. I'm a taxpayer. I pay your salary. Any speaking I do from here on out is going to be with the media. I'm going to go directly to the media and tell them exactly what happened. Good? Fair? This is what you wanted."

DENNIS MCKENNA - WORLD TRADE CENTER ARTIFACTS

Mr. McKenna stated, "I'd like to thank every one of you for the welcome that you gave us when we brought the steel in. Your Police Department was absolutely respectful. They gave us an escort and showed a lot of respect for the men and women who lost their lives on that day. Mr. Bentrott, I'd like to address what you said. The Port St. Lucie police officers are first responders. The Port St. Lucie firefighters are first responders. That steel, however, doesn't represent a general first responder. That steel represents the first responders that went into the building that day and died. It also represents people who came to work that day to support their families, so it's a different way of looking at it, rather than the way you explained it. That steel represents Father Michael Francis Judge, who was a personal friend of mine. It represents Craig Caine, Ladder 25, John Collins, Ladder 25, Joseph Plumatello, and I could go on and on. They are all my friends. I watched them die. I wound up in St. Vincent's Hospital with smoke inhalation. I had to march in the St. Patrick's Day parade right after 9/11 with the children and wives of those people, knowing their fathers weren't going to be there. So I thank the City for accepting our steel. I say our steel because we're attached to it. We're emotionally close to it. I'm a retired federal agent, so I'm pro law enforcement. But people who go to the Police Department are basically two types of people. They're a crook or a complainant. It's not a place that we would like to have this steel seen and recognized. Today we have brothers that live here who are police officers who are coming down with cancer. If we put it in front of the Civic Center, anywhere you want, it will be there for the Italian Festival, the Haitian Fair, the Latino fair, and for St. Patrick's Day. People will be there and see it. I have to admit that there was a lot of effort in the memorial that day and the steel would be perfect. We've been here for eleven years. The steel just got here. I've done a lot

of work in Port St. Lucie and in Stuart as a 9/11 First Responder. It's not just because that's what we did before the World Trade Center. It's a good role model for our children. That's why we help handicapped and assisted living people who get their wheelchairs stolen. We don't collect money. We get the money and take care of it. I brought the steel in like I promised at no cost to the City. I brought architects and ironworkers. I think it would be fair and respectful to put the steel at the Civic Center. My offer still stands as a man of my word. I will bring ironworkers and anything you need to help. Please put the steel at the Civic Center on behalf of all my brothers and victims of 9/11."

Councilwoman Martin said, "For those of you who haven't been at the meetings when we discussed this, I believe I've been back and forth twice on the issue. I did at first say I would like it to go to the Civic Center. Then I said I'd like to look at it at the location outside the Police Department in the traffic circle. The direction the Council gave to staff was to look at their recommendations. I've had a lot of time to think about this issue, and I'm glad it was brought up early in the year. In thinking about what is the best thing to do for all of our citizens, first responders, and everyone involved, I have to look at a location in the city where the majority of our events are held, where people go from here and out of town to enjoy our beautiful Civic Center, and where it's going to serve the most good. After speaking with many people I do believe that the Civic Center would be a better location."

Councilwoman Berger said, "Before we go on to the context of what we're talking about, my heart is beating a mile a minute. I'm going back and forth on being personally offended as well as being shocked. Let me start by saying thank God I was in a meeting with Mr. Bentrutt as a witness, because I am absolutely saying that I didn't say that and you took it out of context. So if you're going to walk up here and have that discussion with me, I will make sure I pull the New York Times Sunday magazine where I got the article. It was an article I was telling you about. That's what we talked about. At first it was considered something they were trying to move, and there were pieces. I'm not going to get into what the article said. We also talked about the amount of hurt that happened with you and your family. We talked about the fact that I don't think you guys knew that my husband is a firefighter for 25 years. There's a lot of hurt in me as well when you come up and say that I don't think that's solemn ground. On top of that, to call me out and say I'm a liar. I try to operate professionally and reasonably in this

position, so I will not go to the level and decide what I'm going to say about you, other than to say that Mr. Bentratt was there. I know what was said. I know you can take something out of context. We see that all day every day in politics. I thought that we did the right thing as a Council by saying that we won't make the final decision, let's let a group make the decision that involves our first responders. I have no dog in this fight. If the group wants it to be in front of the Police Department because our first responders thought that would be a great place, I think that's a great place. If the Council and the first responders think it should be at the Civic Center, that's great. Either way, I'm going to go there. We have two pieces. We'll have two locations. That's a big benefit. It's something to be celebrated, not something to come up here and attack people personally to make sure you get what you're looking for. But that's okay, because that's what my job is. I wrote down something about fairness. My role is not to be treated fairly; it's to make sure that I do the right thing. Christine, that's okay."

Councilman Kelly said, "It's the World Trade Center. It's very emotional. I worked at the World Trade Center. It was a magnificent building and a pillar of everything we're about. What we're here about is where we're going to put the steel. Christine, I know you tried to get it once before. When we first got the steel we were grateful. The big piece is torn up and ugly and it represents what happened. That piece should be where 60,000 cars a day go by. It's called the City Center. That's what we said first. That's where the people who got this for us have their annual meeting. Every year it gets bigger. I think the small piece should go at the Veterans Memorial and should be transportable. I **move** to have staff look at putting it in the appropriate place at the Civic Center and get input from the first responders on that, if that's what Council says, and to put the other piece at Veterans Memorial Park and make it transportable." Mayor Faiella suggested that the small piece be at the Civic Center and have it be transportable. Councilman Kelly said, "Okay. The big thing is to get the big piece to the Civic Center. I'll take that part out of the motion. The big piece stays at the Civic Center."

Mayor Faiella stated, "I don't want staff to get blamed for this because direction was given by Council. It's not Jerry's fault or staff's fault. They did what we asked them. They did a great job. Thank you. After reviewing everything this does suit better at the Civic Center, because there are more people and events there. Dennis, with an okay from the Council, can you oversee

this and get this going with the staff?" Mr. McKenna replied in the affirmative. Councilwoman Berger commented, "I think if we don't I might be personally attacked again, so I'll be okay with anything you want to do." Mr. McKenna said, "There are two things happening here." Councilwoman Berger interjected, "There are. And I want you to understand that I am still upset about it." Mr. McKenna continued, "And I would like to move forward. I would like to let you know that I represent the 9/11 First Responders. We're from New York. We come here, and they're still back in New York. That's my goal. It is to see that steel erected and to be there with a light shining on it. Nothing else is in the way. That's my focus. Once the steel is up, I feel I have accomplished something in my life. If you can take that little piece of steel and find someone in the schools who is a historian, that person could be in charge of it. In Martin County we go to schools on 9/11 and speak and let the children know who we are and what we are. It's so effective. It can be something positive. If we take that steel from school to school it would be a fantastic education for our children."

Vice Mayor Bartz said, "I listened to this presentation several times. I've been involved with the group when they have the 9/11 memorial. When this came to us last year I was approached by some of the veterans, who said that if they need a spot we're here for them. They determined that that was not the right spot. The veterans have their place, and that's the way it should be. I thought the committee was going to be a little different, so I was a little surprised at that. The memorial has grown year after year. As we have seen through St. Patrick's Day and so many things that go on there, and it will be seen. People take their children there. Children ask about the piece at Mets Stadium. It gives you a chance to educate the children about what happened. From the get-go I thought you were getting an architect and ironworkers, and that you were going to get this set up. I was surprised when I found out we were. I like it when you're doing it. Working with staff and coming to the final conclusion will be good. I **second** the motion." The City Clerk restated the motion as follows: for approval to put the larger piece of World Trade Center 9/11 artifact at the Civic Center, and to also place the smaller piece at the Civic Center, but to make it mobile. The **motion passed unanimously** by roll call vote. Councilman Kelly added, "Also, we're going to work with the First Responders on this, and they'll have input on it." Mayor Faiella replied in the affirmative.

Councilwoman Berger said, "While Mr. Hickey is standing up and applauding, I would like to personally thank you and your wife

for the amount of work that you have done for the 9/11 events. I know you did a lot of work. Thank you for everything you have done for the City."

13. NEW BUSINESS

a) **MELVIN BUSH CONSTRUCTION, INC.**, SOUTHPORT #4 LIFT STATION AND FORCE MAIN REPLACEMENT, #20120011, \$459,717.86, CONTRACT PERIOD IS 180 CALENDAR DAYS WITH NO OPTION FOR RENEWAL, FUND 438-3380-5630, UTILITY DEPARTMENT

The City Manager said, "This is a contract to replace the Southport #4 force main in the amount of \$459,717.86. There were three bids and this was the low bid. We recommend approval." Councilman Kelly asked if it was in the budget, and Mr. Bentrutt replied in the affirmative. Councilman Kelly **moved** to approve Item 13 a) Councilwoman Martin **seconded** the motion. The City Clerk restated the motion as follows: for approval of Item 13 a). The **motion passed unanimously** by roll call vote.

b) **MELVIN BUSH CONSTRUCTION, INC.**, AMENDMENT #21, CHANGE ORDER #4, CITYWIDE CULVERT REPLACEMENTS & SIDEWALK CONSTRUCTION, E-8 CANAL DRAINAGE IMPROVEMENTS, #20070008, \$295,122.16 FOR ADDITIONAL WORK AND MATERIALS TO COMPLETE THE PROJECT FOR A NEW CONTRACT TOTAL OF \$1,895,475.082, PLUS 30 ADDITIONAL CALENDAR DAYS FOR A NEW CONTRACT TOTAL OF 231 CALENDAR DAYS, THIS IS A NATURAL RESOURCES CONSERVATION SERVICE (NRCS) FUNDED PROJECT, FUND 401-4126-5340, ENGINEERING

The City Manager said, "This is Change Order #4 for work on the E-8 Canal. It is funded by a federal NRCS grant at 75% and 25% City funded. The federal agency has already approved the extension of the time and additional funding. We recommend approval in the amount of \$295,122.16." Vice Mayor Bartz **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) **DISCUSSION REGARDING PROPOSED ORDINANCE TO AMEND CITY CODE SECTION 10.99, GENERAL PENALTY**, LEGAL DEPARTMENT

The City Attorney advised, "This is an amendment to the general penalty section of the City Code. It clarifies it. More than anything else it has specific penalties for citations. It currently says that you can be fined up to a certain amount and spend a certain amount of time in jail. This has delineated amounts for first, second, and third violations, specific

amounts so that people can pay citations. If they don't want to pay them it goes to hearing, and then they can be exposed to the maximum penalties. This allows the citation to be paid and move on." Councilwoman Martin **moved** to approve Item 13 c). Councilman Kelly **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.

14. **EXCUSED ABSENCES**

a) COUNCILWOMAN MARTIN, BOARD OF ZONING APPEALS MEETING AND REGULAR COUNCIL MEETING HELD ON JANUARY 9, 2012

Councilman Kelly **moved** to approve Item 14 a). Vice Mayor Bartz **seconded** the motion. The City Clerk restated the motion as follows: for approval of Item 14 a). The **motion passed unanimously** by roll call vote.

4. **PUBLIC TO BE HEARD CONTINUATION**

SANDRA NEWMAN - BANNERS AND SIGNS

Ms. Newman stated, "I'm from Budget Graphics. My husband and I have owned Budget Graphics for 16 years. We've been residents for 19 years. The recession has hit this town and its businesses pretty hard. Not just the small businesses as you would describe us, but also large corporations such as Wendy's, McDonalds, KFC, Walgreens, Circuit City, and others. When the bubble burst the businesses in the City needed to advertise, but at the same time they couldn't spend the money on newspaper ads. Out came the signs, banners, and flags. The Sign Code states that we are not allowed to use the banners and signs, because they are not to be used to attract attention to commercial establishments. We asked the City last year if we could keep the banners and signs out, because this method of advertising was bringing in new customers. People come in and say they never knew we were there until they saw the banner or sign. We've been in the same location for 16 years, and we were amazed they would say that. We realized that they drive past the plazas without being able to take their eyes off the road to see where the businesses were. The banners catch their eye. We have listened to customers say goodbye as they have lost their businesses and homes and have left the City. We need these banners, signs, and flags. They help us survive and get new businesses started. I took some pictures before the signs came down. Most of the signs say 'Lease' or 'For Rent' or show empty buildings for sale. There are twelve spaces for rent just outside this building and many

more throughout the City. We feel the Council should be more concerned with how that makes our City look, rather than coming down on the ones still left. I would love to sell every business in this town a huge banner, but we agree with the City that that would be unsightly. We would like to set up our own committee of small businesses of different types. We are also disappointed that the Chamber didn't represent small businesses here. If they did, they would not have taken a year to do nothing for us. Extending the event banners from two to four has nothing to do with our everyday survival. Having your own business is personal. It is our livelihood. We would ask that the Council lift the Sign Code Ordinance with restrictions, and allow the small businesses to review the Sign Code and come back to the City with some new suggestions. My husband and I would be very happy to take on this task. We will use our money, not the City's. We are the taxpayers and the employers. We are also the residents, and we don't like looking at empty plazas. We are also the voters. I did start a petition, and I have about 1,500 signatures so far."

JOHN LETOURNEAU - BANNERS AND SIGNS

Mr. LeTourneau said, "My daughter just opened a dog grooming salon in Port St. Lucie in the Morningside Shops. I followed all the rules and regulations. I couldn't believe how helpful the people were when I got my permits and licenses. We are asking for everybody to work together. Even though we have a sign up above, people say they didn't know we were there. It's difficult to see into our little shopping center. I ask you to work with all of us so we can take care of our families."

JOSEPH PETRONIE - BANNERS AND SIGNS

Mr. Petronie asked that the protocol be put in the meeting Agendas, so that citizens will know how to address the Mayor. He also questioned that there are five equal votes on the Council. Mayor Faiella said that they do have equal votes. Councilman Kelly said, "Council members are elected by the whole City, at large. The whole City votes for us." Mr. Petronie suggested term limits for Council members, changing to a single incumbent, reducing the Council wages, and adding two more Council members.

Councilwoman Berger said, "In Public to be Heard there were quite a lot of comments. I agreed with a lot of what Mr. Newman said. But the one thing I strongly agree with is that we should not have those banners out for our Parks and Recreation events. They don't look great. There is a mutual benefit, for the people

who are on the banners and to draw people to the events. We first started the banners almost a decade ago. Now we use the TV and internet, so we have as much exposure as any other small business. He is correct. We're clearing the streets and they look great, so we should lead by example. I would try to get a consensus on that issue."

Councilman Kelly said, "I agree with a lot of that also. Some of the things you said have to be cleared up. When we did the banners we did have specifics. It was supposed to be 32 square feet and only on one side. That was too large, but we were trying to help everybody. I think you said it was \$300 for the special. It's \$75. I don't know if that's going to be changed. This Council and the others try to be business friendly. The other Councils were here during good times. This started three years ago when we got complaints about signs. Councilwoman Berger brought it to Council to let the banners be up for the Christmas season. The next season people bought banners and the Council went along with letting it go for a year. I didn't get any calls saying thank you. I got a lot of complaints from people who didn't like it, especially other businesses. I get recognized everywhere, and the majority of people were upset that we let the banners go that long. Mine was the most cluttered district. It probably did help businesses, but it's a double edged sword. I would like the banners to come back at Christmas, regulated and a different size. When we first talked about this I was in favor of the A-frames so that they are only out when the business is open. There are many ways to do it. A lot of people didn't like the banners, and people did take advantage of it. We put regulations on, but we didn't go far enough. Joel did a great job getting them taken down. I want to thank all the businesses that took them down."

Vice Mayor Bartz said, "Councilman Kelly has talked a lot about having the banners up at the holidays and how we did that for several years. It was always well received. We talked about what the outcry was going to be when we asked people to take them down. This is not totally unexpected. The City spent a lot of time on the Sign Code, and that was only a couple of years ago. We asked for business input. It's like the HOA. You can ask people to come for their input, but they don't necessarily show up. And then, if it doesn't go the way they want, they're very upset. But the City did put a lot of time into it. In turn, the Chamber of Commerce went over it and found some errors. We addressed those. I know there are people here who will say the Chamber doesn't represent small business. If you look at their membership, they do. They do talk a lot about what's happening

in the City. You have to have your voice heard with them. I'm not saying we can't change the Sign Code again. I'm just saying that we have done a lot. I remember saying to make sure to let people know when they pull a sign permit in November or December that they only have until the beginning of January. We were very concerned about how that was going to come across to businesses. I'm not saying you're wrong. In many ways you're right. I'm saying that we have tried to do our due diligence in working on this. It's not a dead issue."

Councilwoman Berger said, "I've been beaten down a lot tonight, but I'm ready to come back up. The Vice Mayor is correct. This is a bit disappointing, because I know that we do have a sign law that has a lot of what people are asking for. As I listen small business owners come to the lectern and say they would love more standardization or to know more about sizes. We do have a lot of that in place. If the guy that sells the signs doesn't know our Sign Code then I'm worried. I heard the Mayor mention in the past that maybe there should be a class. But at the same time, when you get your permit to be a business owner, I believe you do get that information. There is some due diligence needed on the part of the business owner, and there is some responsibility to understand what the law is. I equate it to someone who decides they're going to drive down the street 60 mph, and then when they get pulled over because the limit is 30 mph, they say they didn't know. That's the law and that's what you're supposed to know. There is a personal responsibility that goes along with small business ownership. This is just one piece of that."

15. COUNCIL COMMENTS AND COMMITTEE REPORTS

COUNCILWOMAN MARTIN - COUNCIL DISCUSSIONS

Councilwoman Martin noted, "I should have said this when the First Responders and the cameras were here. I'll say this publicly and address it personally with certain individuals. Every single one of us on this dais is here for a reason. That reason is always to do what is in the best interest of the City. We all strive to do that. It's difficult at times, but that's what we're here to do. I know that is what my colleagues do. We have items on the Agenda to talk about and we change our minds sometimes. We don't always have a hard line on a particular item. We're entitled to change our mind based on new information and talking with the community. What is disheartening to me is that people don't give us as a Council the chance to think about things, change our minds, and hear from the public and each

other, which is what we're supposed to do here in Government in the Sunshine. This is the only time we can talk to each other about items on the Agenda, without people thinking they need to bring the news media in for us to make decisions on what the best interest is of the City. That's sad to me, and in a way I feel sorry for people who think they have to do that without giving us the opportunity to do what we do here and do the business of the City, and make the right decisions for Port St. Lucie." Mayor Faiella said, "In reference to that, because this issue has been such a controversy, it's very sensitive to them. When your emotions get tied up you react without thinking first. That's what happened." Councilwoman Martin said, "I would agree with that, but I think people take things to the next level for other reasons. It's a shame that they don't give us a chance to do what we're supposed to do. We do what is in the best interest of everyone in the City." Mayor Faiella said, "Councilwoman Berger, I don't know what transpired in that meeting. Only you and Mr. Bentrutt would have known. But I don't see you ever saying something like that which would be less sensitive to people's needs." Councilwoman Berger commented, "It's never easy to have someone stand and point at you. The whole time the gentleman is glaring while his wife was talking to me, and you all saw the gentleman who was here in the biker outfit yelling as he was walking out. I always say that doesn't happen when my husband who is 6'2 is sitting next to me. I'm 5' tall and I'm up here; I guess I'm a big target when I try to speak the truth. And whether you believe it or not, that is an article out there. I will produce it. It is a conversation piece that I did have with them. The biggest part of the conversation that day was Mr. Bentrutt and I thanking them for the amount of work they have done with the City for their 9/11 events, and trying to get them to understand what we had hoped to accomplish. We were there a long time. I left there thinking it was a very good conversation. I haven't had an exchange of e-mails with them since then. One of the comments was that they had talked to multiple Council members and they lied. Then both of them said I lied, and that's not the truth. I'm not sitting up here and saying that's okay, because it's not okay. There are a lot of things you can say. You don't agree with my politics. You don't like me. That's okay. Don't vote for me. But to call me a liar in a bully pulpit atmosphere with a news camera, thinking that I'm not going to come back and say something, that was very difficult. That was a big lesson for me. I will take this tonight and learn from it. We have had situations in the past when people get emotional and say exactly what they're thinking in the heat of the moment. There were times when Mr. Kelly and I have told each other we're out of line. That didn't happen

tonight. I don't think it was by accident, considering that it was by design with the news camera. That is hurtful, at best. Premeditated, at worst. I'll leave it at that."

COUNCILMAN KELLY - COUNCIL ISSUE/BOTANICAL GARDENS

Councilman Kelly said, "Councilwoman Martin makes a point. I had an issue about three weeks ago when somebody called a TV channel and Scripps, and they called me about an issue that I didn't know anything about. I called up the department involved and they knew nothing about it. The newspaper got someone to check on the issue, and it didn't exist. If there is an issue, call up the appropriate department and then the Council person, if there is an issue that isn't being taken care of. Don't call the TV or newspaper. WPEC isn't going to fix your problem. We're going to fix it. It happens. I also want to say that I was at the Botanical Gardens for Arbor Day. It was fabulous. The Botanical Gardens is such an asset. I'll say again that we got the property for free. It came from the Trust for Public Land. The money to build it came from conservation funds. It could only be spent on a project like that. And it is run entirely by volunteers. I'm so proud of it. It didn't cost any money for the land and there were conservation funds for the building, and volunteers run it.

16. ADJOURN

There being no further business, the meeting adjourned at 9:35 p.m.

Karen A. Phillips, City Clerk

Margie L. Wilson, Deputy City Clerk