

**CITY OF TEMPLE TERRACE, FLORIDA
MAYOR AND CITY COUNCIL
M I N U T E S**

**Regular Meeting
Tuesday, January 2, 2007
Council Chambers-City Hall**

Having been duly advertised as required by law, the regular meeting of the Mayor and City Council of the City of Temple Terrace, Florida, was held on Tuesday, January 2, 2007, in the Council Chambers at City Hall.

PRESENT WERE: Mayor Joe Affronti, Council Members Frank M. Chillura, Alison M. Fernandez, Ron Govin, Ken Halloway, and Mark A. Knapp, City Clerk Lisa Burns, City Manager Kim Leinbach, and City Attorney Ted Taub.

ALSO PRESENT WERE: Fire Chief Ernie Hiers, Finance Director Diane Reichard, Code Compliance Director Joe Gross, Parks & Recreation Director James Chambers, Public Works Director Steve Hodge, Community Services Director Ralph Bosek, Public Information Officer Michael Dunn, M.I.S. Director Bob Keel, Senior Information Services Specialist Rose Ellis, Assistant Library Director Armand Ternak, Deputy Police Chief Patricia Powers, Deputy City Clerk Linda Brewer, Senior Planner Susanne Hicks, Police Officer Carl Avari-Cooper, Police Officer Mike Lowell, Firefighter Roger Chewning, Robert B. Hunter, Joe Bell, George Wilkens, D'ee Griffith, Joyce McKenzie, Debbie & Keith Carson, Ken DeVane, Terry L. Goins, and several other persons.

There being a quorum present, Mayor Affronti called the meeting to order at 7:00 p.m., after which he led the Pledge of Allegiance to the flag and offered a brief invocation.

There were no Proclamations, Recognitions, or Special Presentations.

Minutes of Previous Meetings:

Upon motion of Council Member Chillura, seconded by Council Member Govin, and unanimously carried, the **MINUTES** of the December 19, 2006, Regular City Council Meeting were **APPROVED**.

Public Hearings:

1. Use of Residentially Zoned Property for Parking or Access.

Mayor Affronti opened the Public Hearing and called on Senior Planner Susanne Hicks to present the topic of the Public Hearing.

Senior Planner Susanne Hicks stated this is an amendment to the Land Development Code Section 25.760.11, Use of Residentially Zoned Property for Parking or Access. She explained staff has prepared a City-initiated amendment to the text of this section, the concept of which was presented to the Council on November 6 for approval to proceed.

Senior Planner Hicks stated that the Code section was first adopted in 1981 for the purpose of adding flexibility to the development of commercial sites adjacent to residentially zoned property. She continued the Code section allows residential lots zoned Single Family Residential (R-10), Single Family Residential (R-7.5), or Multi-Family Residential (R-MF) that were contiguous to the commercial property to be developed for parking or access that would serve the commercial development. She explained the existing Code section includes criteria that limit the frontage of property to be utilized for off-street parking to 100 feet and requires landscaping and buffering between the parking area and adjacent residential property.

By approving this text amendment, Ms. Hicks said a site plan applicant would be allowed, as an example, to add drainage facilities to the uses already allowed. She explained that in working with applicants for site plan approvals, staff has encountered instances in which it would be helpful if the applicant could also have drainage facilities, such as a stormwater pond. She said they believe it would be a place where more buffering could be added between the commercial uses and adjacent residences, in a way that would make the site more compatible with residential neighbors, in addition to providing more flexibility to the commercial developer in developing the site.

Ms. Hicks gave the example of the 1.5 acre site on the north side of Fowler Avenue and west side of Greenhill Place, which was recently annexed into the City and given a City Comprehensive Plan designation of Residential-9 for two lots fronting Greenhill Place and Commercial along the Fowler Avenue frontage. She said this is an example of a situation where this text amendment would be helpful.

Ms. Hicks noted that the Hillsborough County City-County Planning Commission has reviewed the proposed amendment and found it consistent with the City of Temple Terrace Comprehensive Plan. She continued that staff is recommending approval of the proposed amendment.

Council Member Knapp said his question relates to the FAR (Floor Area Ratio) value. He offered as an example that if a commercial developer has .50 FAR value on the property he purchased, and the parcel is 10,000 square feet, making him eligible to build a 5,000 square foot building, by having a residential parcel used for parking or for drainage, that additional parcel, being zoned residential, he questioned whether they are able to use the FAR value of the residential also, *or* if that FAR value is *not* able to be used, whether that is spelled out in the Code. He explained he has gone through that before and found that in the Code it is left to discretion; the further they can define these situations, the better they are, and it won't be left to someone's discretion as to whether or not they are allowed to be used. Another example he offered was to suppose a residential parcel is zoned Residential-18, and it has a FAR value also. He questioned whether they are allowed to use that FAR value or not; or is it strictly only for parking and for a drain.

The City Attorney said the intent is *not* to allow them to do that, but the idea to make that clear is a good suggestion, and perhaps it can be added to the language.

Council Member Knapp concurred it should be added to the language, because it is one of the “kicks” that comes into play; simply like knowing that putting a drainage area in residential parking, they are allowing them to have more square footage by doing that, but they are still restricted to the FAR value in commercial parcels. He said he believes the more things that can be cleared up in the Code the better.

Mayor Affronti commented that the Community Services Director should take Council Member Knapp’s recommendation and incorporate it into the language of the ordinance.

There being no further persons wishing to speak, Mayor Affronti closed the Public Hearing.

2. Zoning Reclassification – Greenhill Professional Center.

Mayor Affronti opened the Public Hearing and called on the City Manager to address this topic.

The City Manager announced that due to a technical glitch in advertising this Public Hearing and to be abundantly cautious in being sure to provide adequate public notice, the administration is requesting that the Public Hearing be continued to a date certain, being Tuesday, February 6, 2007, at 7:00 p.m., or as soon thereafter as possible. In addition, he said the First & Final Reading of the associated Ordinance should also be continued to that date as well.

The City Attorney stated for clarification that the Public Hearing has been opened, as advertised, and is being continued to a date certain, February 6, 2007.

There were no Persons Wishing to be Heard on Items NOT Listed on the Agenda, and there was no correspondence, communications or petitions before the Council for consideration and action.

Presentations:

1. Hillsborough County City-County Planning Commission.

Robert B. Hunter, Executive Director of the Hillsborough County City-County Planning Commission, addressed the Council concerning a Resolution listed on the Consent Agenda, which the Planning Commission is respectfully asking that the Council adopt.

Mr. Hunter explained that on December 11 the Planning Commission took an action asking Mr. Hunter and their Chairman to express the concerns of the Planning Commission relative to what they are referring to as “Local Bill No. 4”. He said a change has been offered to the Hillsborough County City-County Planning Commission’s Legislative Act, called a Local Bill, and called No. 4, meaning with the Hillsborough County Legislative Delegation.

Mr. Hunter continued that he believes the change has substantial impact upon Temple Terrace and also, in his opinion, good planning in Hillsborough County. He explained the current composition of the Planning Commission, where there are four members appointed by the Board of County Commissioners, four members appointed by the Tampa City Council, one member appointed by the Temple Terrace City Council, and one member appointed by Plant City. He said the proposed bill identifies that there will be six members, who live in unincorporated Hillsborough County, appointed by the Board of County Commissioners, three members appointed by the Tampa City Council, one member appointed by Temple Terrace City Council, and one member appointed by Plant City, totaling 11 members.

Mr. Hunter said that while politics, in his opinion during the 20 years he has been with the Planning Commission, hasn't entered into the actions of the Planning Commission, it could, and this proposal could *suggest* it more so. In looking at *six* members appointed by the Board of County Commissioners and *five* from the three Cities, if it comes down to politics, he cautioned it could certainly have an influence. Therefore, he said the Planning Commission is asking the City to consider the Resolution, act on it, and send it to the Hillsborough County Legislative Delegation.

Mr. Hunter stated that the sponsor of the bill has suggested two points: for justification, the sponsor says that the County's population is larger than that of the City of Tampa, and that the County pays the cost of the Planning Commission. Mr. Hunter said, in response, the population was greater in the City than in the County when the Planning Commission was formed in 1959; it was roughly 70/30, and Tampa was not given a stronger representation back then. He said the Planning Commission was envisioned and structured to insulate it from the influence and pressures of politics; a membership imbalance to one appointing authority over another is inconsistent with the concept that was created initially by Sam Gibbons when he introduced the bill, knowing Hillsborough County was going to grow, and wanting a fair and balanced, non-political planning process. He reminded the Council the Planning Commission only recommends; the City Council makes the final decision. He said that since there is no problem that would justify disturbing the current membership structure of the Planning Commission, it should not be disturbed.

Mr. Hunter continued that another point is that the Planning Commission has no taxing authority, no bonding authority, and can't incur indebtedness. While funds for the costs of the Planning Commission are *administered* by the County Commission, the funds are collected from the county-wide ad valorem tax base, which includes the Cities of Tampa, Temple Terrace, and Plant City and unincorporated Hillsborough County. Another fact which hasn't come up, he said, is that the economic generators in Hillsborough County, dealing with Sales Tax and employment, are located in the City of Tampa – the urban core, the St. Petersburg-Times Forum, the Regional Airport, the Port of Tampa (one of the largest in the country), Busch Gardens, Ybor City, Channelside, and the cruise ship terminal. Realizing that politics come to the Council when they make their decisions on planning, but he asked that they try to keep politics out of planning and requested that the Council reject the proposed draft of Local Bill No. 4 and encourage the delegation to reject it.

Council Member Fernandez asked how the proposed change, giving more weight to the County, would affect the City, when the City will still have only one representative. Mr. Hunter responded that he believes Temple Terrace would receive less representation, because the make-up of the Commission would be 6-3-1-1 as opposed to the current 4-4-1-1. He noted similar bills are being introduced concerning the Sports Authority, and commented that on the horizon loom changes in representation as it relates to the Port Authority, the Aviation Authority, the MPO, HARTline, and others. He said questioned that in fifty years, the population could shift to Tampa and Temple Terrace having the larger population. To answer her question directly, Mr. Hunter said he believes Temple Terrace would lose slightly.

The City Attorney commented that the likelihood, in his opinion, in getting run over, is enhanced if it goes from 4-4-1-1 to 6-3-1-1.

Council Member Govin commented that having served on the Planning Commission for eight years and as Chairman, one of the great feelings of the Planning Commission is that it is non-political. To give any one jurisdiction a larger number, he said, changes that. He said he has served on other boards, where because of the predominance of the jurisdictional body, the board is dominated and driven by that body. He said he believes the current balance is excellent and allows the City to participate in good fashion; more so, as the City Attorney has stated, it seems better to remain at 4-4-1-1 than change to 6-3-1-1.

Mayor Affronti stated that he doesn't want the Board of County Commissioners to think that in any way the City does not respect what they have done; they have helped Temple Terrace tremendously and their help is greatly appreciated. However, he feels that to have one entity, whether a City or County or whomever, to have a majority vote on any issue is not healthy, and therefore, he supports the proposed Resolution as being in the best interest of the community and the entire area.

2. Firefighters' & Police Officers' Retirement System Disability Provisions.

Mayor Affronti called on Police Officer Carl Cooper to address this issue.

Officer Cooper said the proposed revision to the Police Officers' Retirement Ordinance is a "housekeeping" issue and doesn't cost the City any money. He explained that in their prior revisions they had increased the multiplier; what that did was effectively penalize any applicant that may seek disability that had 21.4 years of service or greater. He further explained that meant their earned benefit for normal retirement would be actually higher than the capped top benefit of 75% that is currently written in the ordinance for disability retirement, which he said is obviously discriminatory.

Officer Cooper said the Pension Board attorney has reviewed this and recommended the language be changed to reflect that the maximum earned benefit for a disability retiree would be his earned benefit, so not to be punitive in any way. He said they forwarded the proposed revision to the City Attorney for his context and content review. Included in the Agenda item with the cover letter was a strike-through version showing the proposed changes, he noted.

Officer Cooper commented that the maximum earned benefit is still 100% as capped by Statute. He concluded by asking for the Ordinance to be placed on First Reading.

Noting that Officer Cooper referred to these revisions as a “housekeeping” item, Council Member Fernandez questioned how the plan has been accumulating funds for this; in the plan assumptions she thought they would go by the language and therefore the assets would reflect paying 75%, or whatever that number was.

Officer Cooper responded that the actuary uses the worst-case contingency studies and has done an actuarial analysis on this, as required for any ordinance change, and has categorically decided there is no plan impact. He explained they are basically funding the members’ retirement benefit and it would already fund to above that 75% cap that they have already “paid for” into the system. To reduce that would be punitive, he said, taking away something they have already earned. He said it is not that the plan would be giving them any excess monies; it would allow for the full amount to be distributed as opposed to a reduced amount by cap.

Firefighters Pension Board Chair Roger Chewning said the revision to the Firefighters’ Pension Ordinance is also a “housekeeping” issue. He said the Pension Board retains the same attorney as the Police Pension Board, and in reviewing their Ordinance, found that it did not state the cap as required by law. Therefore, he said the revision to their Ordinance is to add that language, stating that the cap, according to Statute, is 100%.

There were no Site Plan Reviews for Council consideration or action.

Resolutions for Consideration and Action: (Consent Agenda)

The City Manager briefly reviewed the two Resolutions on the Consent Agenda, the first being a Resolution for the continuing program of computer leasing under State contract. The City Manager commended M.I.S. Director Keel and his staff for an excellent job of delineating the program; he recommends they continue the computer leasing program, which has been very successful. The City Manager said the second Resolution was explained earlier by Mr. Hunter, relative to opposing the bill to change the structure of the Planning Commission.

Upon motion of Council Member Knapp, seconded by Council Member Chillura, and unanimously carried, Resolutions No. E-1 and E-2 were adopted by consent, being:

RESOLUTION NO. 001-07, approving the 37-month contract between the City and Dell to lease 50 personal computers under State Contract #250-000-03-01, in a total amount of \$66,610.01; payment for said lease to be made from account 001-1121-513.44-17.

RESOLUTION NO. 002-07, supporting the existing structure of the Hillsborough County City-County Planning Commission.

Proposed Ordinances for Consideration and Action:

Following **SECOND** and **FINAL** reading, by caption, upon motion of Council Member Knapp, seconded by Council Member Chillura, **ORDINANCE NO. 1195** was **ADOPTED** being: **AN ORDINANCE OF THE CITY OF TEMPLE TERRACE, FLORIDA, AMENDING CHAPTER 25, TEMPLE TERRACE CODE OF ORDINANCES, BY REPEALING SECTION 25.310(a) IN ITS ENTIRETY, AND ENACTING A NEW SECTION 25.310(a), TO INCLUDE A PROVISION FOR THE APPOINTMENT OF UP TO TWO ALTERNATE MEMBERS TO SERVE ON THE BOARD OF ADJUSTMENT; PROVIDING A SEPARABILITY CLAUSE, EFFECTIVE DATE, AUTHORITY TO CODIFY AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.** Vote on the motion for adoption being: Council Members Chillura, Fernandez, Govin, Halloway, and Knapp voting “aye,” no “nay.”

Following **SECOND** and **FINAL** reading, by caption, upon motion of Council Member Halloway, seconded by Council Member Govin, **ORDINANCE NO. 1196** was **ADOPTED** being: **AN ORDINANCE OF THE CITY OF TEMPLE TERRACE, FLORIDA, AMENDING CHAPTER 1, TEMPLE TERRACE CODE OF ORDINANCES, BY ENACTING A NEW SECTION 1.180, INDEMNIFICATION IN CONTRACTS, TO PROHIBIT THE USE OF PROVISIONS IN CONTRACTS, WHEREBY THE CITY AGREES TO INDEMNIFY, OR OBTAIN INSURANCE FOR THE BENEFIT OF, ANY OTHER PARTY TO THE CONTRACT; PROVIDING A SEPARABILITY CLAUSE, EFFECTIVE DATE, AUTHORITY TO CODIFY, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.** Vote on the motion for adoption being: Council Members Chillura, Fernandez, Govin, Halloway, and Knapp voting “aye,” no “nay.”

Council then heard **FIRST** reading, by caption, of a proposed ordinance being: **AN ORDINANCE OF THE CITY OF TEMPLE TERRACE, FLORIDA, AMENDING CHAPTER 25, TEMPLE TERRACE CODE OF ORDINANCES, BY REPEALING SUBSECTION 25.760.11, USE OF RESIDENTIALLY ZONED PROPERTY FOR PARKING OR ACCESS, IN ITS ENTIRETY AND BY ENACTING A NEW SUBSECTION 25.760.11, USE OF RESIDENTIALLY ZONED PROPERTY FOR PARKING, ACCESS, OR DRAINAGE FACILITIES, FOR THE PURPOSE OF ADDING DRAINAGE FACILITIES, SUCH AS STORMWATER PONDS, TO THE IMPROVEMENTS THAT ARE ALLOWED ON PROPERTY ZONED R-10, 5-7.5, AND R-MF, WHEN LOCATED ADJACENT TO COMMERCIAL ZONED PROPERTY, SUBJECT TO SITE PLAN APPROVAL; PROVIDING A SEPARABILITY CLAUSE, EFFECTIVE DATE, AUTHORITY TO CODIFY AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.**

The City Clerk noted that Agenda Item F-4, the First and Final Reading, by caption, of a proposed ordinance rezoning 1.54 acres located at 6938 Fowler Avenue – Greenhill Professional Center – from Hillsborough County Commercial Neighborhood to City R-10 Single-Family Residential for Lots 18-19 and City Commercial General for Lots 20-27, has been continued in accordance with the Council's consensus earlier this evening to continue the Public Hearing on this Zoning Reclassification to February 6, 2007, at which time the First and Final Reading will be scheduled to occur following the Public Hearing.

Council then heard **FIRST** reading, by caption, of a proposed ordinance being: **AN ORDINANCE OF THE CITY OF TEMPLE TERRACE, FLORIDA, AMENDING CHAPTER 18, TEMPLE TERRACE CODE OF ORDINANCES, BY AMENDING SECTION 18.195.10(a), "DISABILITY BENEFITS ON-DUTY", AND BY AMENDING SECTION 18.195.10(b), "DISABILITY BENEFITS NOT IN LINE OF DUTY", OF THE TEMPLE TERRACE FIREFIGHTERS' RETIREMENT SYSTEM, PROVIDING THAT THE MAXIMUM AMOUNT OF DISABILITY BENEFITS SHALL BE ONE HUNDRED PERCENT (100%) OF AVERAGE FINAL COMPENSATION; PROVIDING A SEVERABILITY CLAUSE, RETROACTIVE EFFECTIVE DATE, AUTHORITY TO CODIFY, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.**

Council then heard **FIRST** reading, by caption, of a proposed ordinance being: **AN ORDINANCE OF THE CITY OF TEMPLE TERRACE, FLORIDA, AMENDING CHAPTER 18, TEMPLE TERRACE CODE OF ORDINANCES, BY AMENDING SECTION 18.185.10(a), "DISABILITY BENEFITS ON-DUTY", AND BY AMENDING SECTION 18.185.10(b), "DISABILITY BENEFITS NOT IN LINE OF DUTY", OF THE TEMPLE TERRACE POLICE OFFICERS' RETIREMENT SYSTEM, PROVIDING THAT THE MAXIMUM AMOUNT OF DISABILITY BENEFITS SHALL BE ONE HUNDRED PERCENT (100%) OF AVERAGE FINAL COMPENSATION; PROVIDING A SEVERABILITY CLAUSE, RETROACTIVE EFFECTIVE DATE, AUTHORITY TO CODIFY, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.**

Mayor Affronti directed a slight change in the Agenda, specifically that the City Manager's report be given prior to Unfinished Business.

City Manager's Report:

The City Manager reported the administration is diligently working on the revisions to the City's rental code with the City Attorney's office, but the process is taking a little longer than expected to define specific language.

The City Manager noted the improvements to the audio visual equipment in the Council Chambers are underway, for which he commended the Public Information Officer.

Unfinished Business:

Mayor Affronti called on Council Member Govin, who is serving as the Council's representative in the meetings with staff and Pinnacle/RAM, for a brief progress report.

Council Member Govin reported he met with the Developer and City staff last Wednesday for about four hours. He said at this first meeting they attempted to review all of the comments from staff, find points of resolution, and request clarification on other details to be addressed in a subsequent meeting. He expressed the difficulty of the process and that it is too early in the process to be able to report what will be coming forward. Stating that another meeting is planned for January 12, Council Member Govin said it will be a similar meeting, strongly discussing financial matters. He said they are at a point where City staff has been able to put together some numbers, which he is sure will be shared with the Council in the next few days. He asked that Council Members study the numbers and express their concerns to the City Manager so that they can be discussed with the Developer at the meeting on January 12.

Council Member Govin noted that John Stainback will also be attending the January 12 meeting; Mr. Stainback will also be privy to the numbers beforehand and ready to discuss them at that meeting. Council Member Govin said the staff responded to and brought up a number of valid questions; some were put off until the design stage, because the plan is not that finite at this point. He concluded it was an excellent meeting and he feels they are going in the right direction; the numbers are very critical, reiterating that Council should spend time carefully reviewing them and relaying concerns to the City Manager so they can be brought up in the next meeting with the Developer.

Mayor Affronti commented the City is getting to the point "where the rubber meets the road," and he expressed appreciation to Council Member Govin and staff for their efforts. Mayor Affronti announced there will be a Special Temple Terrace Redevelopment Agency Meeting on Thursday, February 1, at 4 p.m., which will be followed by a Special City Council Meeting.

New Business:**1. Appointment - Municipal Code Enforcement Board.**

Mayor Affronti announced Municipal Code Enforcement Board Member D'ee Griffith's second term has expired and she had indicated an interest to serve a third term on the Board. In addition, as is the policy of the City to advertise all volunteer board positions, Terry L. Goins has also expressed interest in serving on the Board.

Following introductions and a brief statement of qualifications by each candidate, by Ballot Vote, the Council appointed Terry L. Goins to serve a three-year term on the Municipal Code Enforcement Board.

In other business, Council Member Chillura asked whether a similar Ordinance, as adopted for the Board of Adjustment, had been adopted for the appointment of alternate members to the Municipal Code Enforcement Board. The City Clerk responded that has already been done and the Deputy City Clerk has reported that the Board will be discussing possible candidates at their next meeting.

Council Member Chillura suggested, in light of recent critical concerns over the water level of the Hillsborough River, that the Council seriously considers forming a committee or task force, to include the Marine Patrol Officer, two or three residents who live along the River, and possibly a Council Member, to meet whenever needed. He explained that when Tampa is pumping out of the River, the City doesn't have a "front line" to communicate with them the City's concerns about the decreasing water level, or when Southwest Florida Water Management District is taking action, the City has no "front line" other than through the City Manager's office. He commented that the City has a Marine Patrol Officer who is on the River almost every day; if there is a problem it could be addressed through this committee, who could make whatever recommendation or communication may be necessary. He concluded the River is the greatest asset of the City; without the River the City would not be what it is, and he requested action be taken to form a committee to oversee the River from the City's perspective – not just as currently done through representation on a County board.

Mayor Affronti asked the City Manager to follow up with recommendations for structuring such a committee.

Council Member Govin said he believes the City needs to have direct representation on whatever body controls the flow of the Hillsborough River. He requested the City Manager find out what board controls the flow and seek representation on that board.

There being no further business to consider, upon proper motion, the meeting was adjourned at 7:45 p.m.

Joseph A. Affronti, Sr.
Mayor

Frank M. Chillura, Council Member

Alison M. Fernandez, Council Member

Ronald A. Govin, Council Member

Ken Halloway, Council Member

Attest:

Mark A. Knapp, Council Member

Melissa E. Burns, MMC
City Clerk