

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

**Regular Meeting
Tuesday, March 20, 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, March 20, 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: Interim Fire Chief Keith Chapman, Finance Director Diane Reichard, Code Compliance Director Joe Gross, Parks & Recreation Director James Chambers, Community Services Director Ralph Bosek, Human Resources Director Woody Hubbard, City Engineer Joe Motta, Public Works Director Steve Hodge, Public Information Officer Michael Dunn, Deputy Police Chief Patricia Powers, Assistant Community Services Director – Planning Ann Sheller, Housing Official Gail Garnier, Senior Planner Susanne Hicks, Planner Tom Moore, Deputy City Clerk Linda Brewer, George Wilkens, Ken DeVane, Debbie & Keith Carson, Joe Bell, Jack and D’ee Griffith, Judy A. Govin, Judson & Daye Aspray, Bill Hammontree, Ed Vollrath, Patrick Finelli, Virginia Rhan Halloway, Mac Ritchie, R. Wayne Miller, Dave Spaulding, Kathy Spaulding, Charlotte Encinares, Charles Thrower, David Hauser, Andreas Paul Miller, Sandy Bonham, Laura Castaing, Michael Hammon, Scott Peek, Greg Miller, Alexander Ratensky, Doris Rimbey, Don Rimbey, Joyce McKenzie, Bob & Margaret Mitchell, Judy Wabol, Perry & Liz Jacobsen, Richard Reina, Ken Cochran, and several other persons.

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

Proclamations, Recognitions, and Special Presentations:

1. Proclamation – “Temple Terrace Firefighters Appreciation Month.”

Mayor Affronti presented a Proclamation designating April as “Temple Terrace Firefighters Appreciation Month” in recognition of their participation in the Muscular Dystrophy “boot” campaign. Danielle Palmer of Muscular Dystrophy Association was present, along with Firefighters Chris Ashley and David Samon, to recognize the Temple Terrace Firefighters for their efforts. The Temple Terrace Firefighters will be running their boot drive again this year, with a goal of \$15,000, Ms. Palmer said, as she expressed appreciation to the Council for allowing them to have the boot drive.

2. Recognition – “Do the Right Thing.”

Mayor Affronti announced that due to the sensitivity for the situation for which the individual received this month’s award, the individual will be unable to publicly receive the award. He expressed appreciation to all of the City’s young people who courageously serve as positive role models for our community.

Minutes of Previous Meetings:

Upon motion of Council Member Halloway, seconded by Council Member Chillura, and unanimously carried, the **MINUTES** of the March 6, 2007, Regular City Council Meeting were **APPROVED**.

Persons Wishing to be Heard on Items NOT Listed on the Agenda:

David Houser, 7516 Leon Avenue, said he received a notice from the City that a lien would be placed on his property for a tenant who owed the City \$129.40 for an unpaid water bill. He said he feels it is unfair to be charged for his tenant having left the bill, since the tenant is the one who had the contract with the City. He said the City's issue is with the tenant. He said it was annoying that he was not notified about the late bill, nor was he contacted about a forwarding address for the tenant, which he had. He concluded that he doesn't believe the City worked very hard to find the individual who was responsible for the bill before proposing to put a lien on his property and suggested the City is just after money.

The City Manager responded it is inaccurate to say the City is simply after money. He said he was unaware of the situation, but he would be happy to meet with the Finance Director and Mr. Houser to determine a resolution to this problem. At the least, he said, the City's procedure can be improved.

There were no Public Hearings and there was no correspondence, communications or petitions before the Council for consideration and action, no Presentations, and no Site Plan Reviews before the Council.

Resolutions for Consideration and Action: (Consent Agenda)

The City Manager briefly discussed the six Resolutions on the Consent Agenda this evening.

Council Member Knapp asked that Resolutions E-2 and E-4 be pulled from the Consent Agenda for discussion.

Upon motion of Council Member Halloway, seconded by Council Member Govin, and unanimously carried, Resolutions E-1, E-3, E-5, and E-6 were adopted by consent, being:

RESOLUTION NO. 025-07, awarding the contract to resurface various streets as outlined herein to the low bidder, Alto Construction Company, in the amount of \$349,513; payment to be made from account 130-3099-541.63-11.

RESOLUTION NO. 026-07, supporting passage of legislation in the 2007 Legislative session enacting a primary enforcement safety belt law as contained in HB 27 and SB 484; providing an effective date.

RESOLUTION NO. 027-07, accepting the proposal from Lee Pallardy, Inc., to appraise the seven City-owned properties in the 56th Street/Bullard Parkway southeast quadrant in an amount not to exceed \$20,000; payment for said appraisals to be made from account 001-2411-552.31-89.

RESOLUTION NO. 028-07, approving the Interlocal agreement between the City and Hillsborough County related to the Military Combat Grant Program.

Relative to Resolution E-2, Council Member Knapp recalled when he previously served on City Council and bids went out, along with a qualification ranking, prices were included as part of the bid process. He added that firms weren't necessarily chosen because of the price, but it was part of the information included. With the bids for the streetscape there was a negotiated price, but no prices were shown, he said, and he asked whether the procedure had changed, and if so, why.

The City Engineer responded that over the last few years they have gone away from competitive bids; according to the legislation concerning the Consultants Competitive Negotiation Act, they are not permitted to ask for bids from their continuing consultant contracts. This has been in effect for three or four years, he said, commenting that they try to select consultants on the basis of qualifications and negotiate the fee, which is what they have presented tonight.

Council Member Knapp said he has a concern with that legislation and suggested they might need to lobby the legislature for change. As an example, he referred them to E-1, wherein the bid is being awarded to Alto Construction. He said the closest bid to them was nearly \$46,000 higher, which shows the savings realized from a competitive bid process. He said that it seems ludicrous they cannot get prices prior to choosing professional services.

The City Attorney responded that is the way the process works according to the Statute. He said they cannot receive prices for professional services; they have to choose based on the presentation, qualifications, experience, capabilities to get it done on time, and a host of other factors; after they have ranked the firms, they negotiate a price with the top-ranked firm.

Council Member Knapp said he thought there would have been an estimate from the City Engineer as to what he thought those fees would be.

The City Engineer responded they don't normally provide an estimate, and because this was pretty complex, until they develop a Scope of Services, they would not be able to come up with an estimate. He explained there are a lot of man-hours involved with surveyors, etc. He said he can do that on construction contracts, but not on professional services.

Council Member Knapp clarified that his concern is with the legislation and not with the City Engineer.

Council Member Chillura asked whether the City can negotiate with two engineers to see where they are. The City Attorney responded that is not the way it is supposed to work. He explained they are to negotiate with the top-ranked firm, and if they can't come to an acceptable fee arrangement, they go to the second firm.

Council Member Knapp asked the City Engineer whether he felt the fee was reasonable, to which the City Engineer responded he had reviewed it and with the amount of work involved, he feels it is reasonable.

Council Member Chillura confirmed with the City Attorney that he has a conflict of interest and will abstain from voting on this issue, citing the fact that he has an ownership interest in property that will be affected by these improvements. The City Attorney concurred.

The City Manager explained this contract is the first step in developing a prototype for the streetscape, lighting, and landscaping theme for the redevelopment area. He noted there is some State funding available (approximately \$250-270,000) for additional work on the medians.

Council Member Knapp asked whether his contractual agreement with Council Member Chillura, to serve as his contractor on the parcel that this streetscape would front, would create a conflict of interest for him relative to his voting on this issue. Since the contract Council Member Knapp has with Council Member Chillura has already been executed, the City Attorney said it would not affect any pecuniary benefit and would, therefore, not create a conflict of interest for Council Member Knapp.

Upon motion of Council Member Knapp seconded by Council Member Fernandez, **RESOLUTION NO. 029-07, was ADOPTED**, awarding the contract for professional services to survey, design, and permit the streetscape, lighting, and landscape improvements for 56th Street from Temple Heights Road to 98th Avenue and Temple Heights Road from the City limits to 56th Street, to TBE Group, Inc., in the amount of \$134,920; payment to be made from account 130-3099-541.63-11. Vote on the motion being: Council Members Fernandez, Govin, Hallway, and Knapp voting “aye,” no “nay.” Council Member Chillura abstained from voting citing the Conflict of Interest above referenced, relating to his ownership of property which would be fronted by the proposed improvements.

Council Member Knapp continued he has the same question [whether his contractual relationship with Council Member Chillura creates a conflict of interest relative to voting on this issue] relative to Agenda Item E-4, which is why he had also asked that Agenda Item be pulled for further discussion, since that item is for the zoning reclassification of the same parcel. The City Attorney responded that Council Member Knapp does not have an ownership position and would receive no benefit; therefore, there is no conflict of interest in his opinion.

Upon motion of Council Member Knapp, seconded by Council Member Govin, **RESOLUTION NO. 030-07, was ADOPTED**, granting nine waivers to the City of Temple Terrace Land Development Code requirements as part of the zoning reclassification approval in connection with RZP 06-14 (Terrace Piazza), located on the west side of 56th Street, north of Temple Heights Road, zoning reclassification request from CO (Commercial Office) to PD (Planned Development). Vote on the motion being: Council Members Fernandez, Govin, Hallway, and Knapp voting “aye,” no “nay.” Council Member Chillura abstained from voting citing the Conflict of Interest above referenced, relating to his ownership of property which would be affected by the granting of the nine waivers in connection with the zoning reclassification of the property.

Proposed Ordinances for Consideration and Action:

Following **SECOND** and **FINAL** reading, by caption, upon motion of Council Member Halloway, seconded by Council Member Chillura, **ORDINANCE NO. 1202** was **ADOPTED**, being: **AN ORDINANCE OF THE CITY OF TEMPLE TERRACE, FLORIDA, AMENDING CHAPTER 25, ARTICLE II, SECTION 25.205, TEMPLE TERRACE CODE OF ORDINANCES, BY REPEALING THE DEFINITION FOR “FAMILY” AND BY ENACTING A NEW DEFINITION FOR “FAMILY”; BY AMENDING CHAPTER 27, ARTICLE VII, SECTION 27.710 BY ENACTING DEFINITIONS FOR “FAMILY,” “RELATED FAMILY MEMBER,” AND “RENT”; BY REPEALING SECTIONS 27.725, 27.726, 27.727, 27.728, AND 27.729 IN THEIR ENTIRETY AND BY ENACTING NEW SECTIONS 27.725, 27.726, 27.727, 27.728, AND 27.729 TO INCLUDE PROVISIONS FOR A RENTAL HOUSING PROGRAM, RENTAL PERMITS AND WAIVERS, RENTAL AND PERMIT WAIVER INSPECTIONS, RENEWAL OF RENTAL PERMITS AND WAIVERS, AND A FEE SCHEDULE; 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 Govin, seconded by Council Member Fernandez, **ORDINANCE NO. 1203** was **ADOPTED**, being: **AN ORDINANCE OF THE CITY OF TEMPLE TERRACE, FLORIDA, REZONING PROPERTY LOCATED ON THE WEST SIDE OF NORTH 56TH STREET, APPROXIMATELY 270 FEET NORTH OF TEMPLE HEIGHTS ROAD, LEGALLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF, FROM ZONING CLASSIFICATION CO, COMMERCIAL OFFICE, TO ZONING CLASSIFICATION PD, PLANNED DEVELOPMENT; PROVIDING FOR AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING A SEPARABILITY CLAUSE, EFFECTIVE DATE, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.** Vote on the motion for adoption being: Council Members Fernandez, Govin, Halloway, and Knapp voting “aye,” no “nay.” Council Member Chillura abstained from the vote citing a conflict of interest, due to his ownership in the subject property.

There was no Unfinished Business before the Council for consideration and action.

City Manager’s Report:

Relative to the direction from City Council to establish a Hillsborough River Advisory Board, the City Manager recommended four individuals to serve on the Board, which include Terry McMahan, Ron Smith, Robert Collins, and Jack Westbury, all of whom have agreed to serve. He said he recommends a City Council Member serve as the Board’s Chair and that the Police Marine Patrol Officer serves as staff support to prepare Minutes and meeting notices, etc.

The City Manager advised that he has researched the issue with the Planning Commission, the Hillsborough River Basin Board, and the Southwest Florida Water Management District (SWFWMD). He suggested that the new Board hold an organizational meeting and “dig in” to ensure the City is represented where the decisions on the River are made as to water levels and other areas which affect the community.

The City Manager also noted that Goal No. 5 of the City’s 2020 Goals and Visions is to capitalize on the Hillsborough River as the City’s greatest natural asset.

After a brief discussion, Council Member Chillura was appointed by Mayor Affronti to serve as Chair on the new created Hillsborough River Advisory Board.

Council Member Govin mentioned he was recently informed that a minimum flow study was conducted for the upper and lower Hillsborough River, but not for the Temple Terrace section of the River. He said he believes SWFWMD should be contacted and asked, or demanded, that a minimum flow study be done for this section of the River. He said the City complained about this situation about two or three months ago, and when they did that, the River did stop flowing for a period of time. He continued it still does not flow, but the problem now is the River was already so low that with the drought conditions, it is once again approaching non-navigation. He reiterated he believes the City should demand SWFWMD explain why it is not necessary for them to check the flow in the Temple Terrace portion of the River to determine where it stands. He recommended City staff pursue this issue. The City Manager responded that would also be a good issue for the newly created advisory board.

The City Attorney said he would wait until Mr. Ritter was present to more thoroughly discuss his opinion on the question raised by Mr. Ritter relative to the Rental Housing program, concerning the nexus between delinquent utility bills or delinquent Code Enforcement Board liens and rental housing permits. Without elaborating on Case law, which is mixed concerning this issue, the City Attorney said, in their opinion, to do that would undermine the constitutionality of the rental permit program, because there is no real reasonable relationship that the Courts would look for between the permit, whether it should or should not be issued, and a delinquent utility bill on perhaps some property elsewhere in the City or a Code Enforcement Board lien, so they recommend it not be done. Mayor Affronti suggested that the administration notify Mr. Ritter of the opinion of the City’s legal counsel.

The City Manager reminded the Council Members of the Goal Setting Session on March 28, 2007, beginning at 8:15 a.m., in the meeting room on the fourth floor at MOSI.

There being no further business to consider at this time, upon proper motion, the meeting was adjourned at 7:30 p.m. to reconvene immediately following the Temple Terrace Redevelopment Agency Meeting (TTRA).

Following the conclusion of the Temple Terrace Redevelopment Agency Meeting at 8:50 p.m., the regular City Council Meeting was reconvened and called to order by Mayor Affronti.

New Business:

1. Temple Terrace Redevelopment Agency Recommendations.

Mayor Affronti announced they received a recommendation from the Temple Terrace Redevelopment Agency for consideration and action by the Council.

Upon motion by Council Member Govin, seconded by Council Member Knapp, **RESOLUTION NO. 031-07(m)** was **ADOPTED**, accepting Temple Terrace Redevelopment Agency **RESOLUTION NO. CRA-81(m)**, that the City Council proceed into contract negotiations with Pinnacle/RAM using Plan “D” [labeled as “Site Masterplan 2” as presented at this meeting] as the basis of those negotiations, with the option to further negotiate details and proceed to architectural renderings. Vote on the motion being: Council Members Chillura, Fernandez, Govin, Halloway, and Knapp voting “aye,” no “nay.”

The City Manager clarified again that Plan “D” is the Site Masterplan 2 presented this evening, with Site Masterplan 3 being the same, with the proposed revision of the Burger King site shown for the future.

There being no further business to consider, upon proper motion, the meeting was adjourned at 8:55 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