

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

**Regular Meeting  
Tuesday, June 19, 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, June 19, 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:** Code Compliance Director Joe Gross, Parks & Recreation Director James Chambers, Community Services Director Ralph Bosek, City Engineer Joe Motta, Fire Chief Keith Chapman, Public Works Director Steve Hodge, Police Chief Tony Velong, Human Resources Director Woody Hubbard, Deputy City Clerk Linda Brewer, Assistant Library Director Armand Ternak, Assistant Director of Community Services – Planning Ann Sheller, Mindy DeVane, Bobbie Taub, Virginia Halloway, Steve Allen, Ron Delisle, Dan Burton, Paul Greiving, Tommye Barie, Joe Bell, Jeffrey Stark, Lucinda Johnston, Howard Johnston, Rebecca Clark, Hewitt Clark, Wendy Badger, Jim Badger, Debbie & Keith Carson, Katherine O'Donniley, Doug Nerland, Dale Menninger, Kim McGreal, Susie Cochran, 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 – "Recycling Month."**

Mayor Affronti presented Public Works Director Steve Hodge a Proclamation recognizing June, 2007, as "Recycling Month" in Temple Terrace, and commended the Director for the City's recycling efforts.

**2. Proclamation – "American Rivers Month."**

Mayor Affronti presented a Proclamation to Council Member Frank Chillura, Chair of the River Watch Task Force, recognizing June as "American Rivers Month" in Temple Terrace.

**3. Recognition – "Do the Right Thing."**

Mayor Affronti announced that the recipient of this month's "Do the Right Thing" recognition is on vacation and will be recognized at a later date.

**4. Special Presentation** – "Ralph A. Marsicano Award" presented to Theodore C. Taub, City Attorney.

Mary Helen Farris, managing attorney with the Hillsborough County Attorney's Office and immediate past Chair of the City, County and Local Government Law Section of the Florida Bar, explained this section of the Florida Bar is dedicated to lawyers who represent city and county governments and those lawyers on the "outside" who have interactions with local government. She said that since 1976 every year at their annual meeting the Section has awarded the Ralph A. Marsicano Award to a local government lawyer who, over a career, has made outstanding contributions to local government law in Florida, adding it is their highest honor. She announced that this year's recipient of the Ralph A. Marsicano Award is Temple Terrace City Attorney Ted Taub, who over a career has made outstanding contributions in his service. She commented Mr. Taub has dedicated his entire professional career of 47 years to the practice of local government, with 38 years of service to Temple Terrace, along with appointments to many commissions and studies. She also presented to Mr. Taub a flag flown over the U. S. Capitol in his honor from Congresswoman Kathy Castor.

City Attorney Taub stated that Mrs. Taub is the reason for any success he has been blessed with, and with whom he has been married for 48 years in August. He thanked the Committee and the Bar for the award, stating it is the height of his legal career and his life. He said he has been blessed in many ways, one of which is being the City Attorney for Temple Terrace for many years and while he doesn't live here, it is home to him. He thanked the Mayor and Council for the honor of allowing him to serve them, adding that he considers it a privilege.

Mayor Affronti added his thanks to the City Attorney for all he does for the City.

**Minutes of Previous Meetings:**

Upon motion of Council Member Chillura, seconded by Council Member Knapp, and unanimously carried, the **MINUTES** of the June 5, 2007, Regular City Council Meeting were **APPROVED**.

**Public Hearings:**

**1. Text Amendment – Planned Research Office Facilities.**

Mayor Affronti opened the Public Hearing and called on the Community Services Department to introduce the topic.

Stating this is the first of two required Public Hearings, Assistant Community Services Director Ann Sheller presented the proposed text amendment to the Planned Research Office Facilities (PROF) district site design standards, the purpose of which is to allow consideration by City Council of a waiver to the building height standard outlined in Section 25.710.3(d)(1).

The Assistant Director explained that as currently written, Section 25.710.3(d)(1) allows a maximum building height of 65 feet, except for sites adjacent to a single family zoning district, where the height is limited to 35 feet. She said this proposed amendment would make the PROF district more compatible with the other zoning districts with regard to maximum building heights. She continued that the Commercial Office (CO) district and the Educational/Institutional (E/I) district allow building heights up to 50 feet, and other zoning categories that allow non-residential uses also allow building heights up to 50 feet.

The Assistant Director continued that the allowance for the waiver to construct buildings over 35 feet in the PROF district would facilitate the continuing development of Telecom Park in a number of ways: allow greater flexibility in site design; better utilization of sites with limited building areas; and encourage more square footage, while the restriction to 35 feet in height adjacent to the single family districts severely limits most of the building sites along the Hillsborough River, which is the Park's major amenity.

The Assistant Director noted that the Hillsborough County City-County Planning Commission considered this text amendment at their June 11, 2007, meeting and found it consistent with the Comprehensive Plan. She said that the Attachment provided to the Council shows the proposed changes to the language, which staff is recommending for approval.

Council Member Fernandez asked whether this would change building heights in other parts of the City or if this was only for Telecom Park, to which the Assistant Director responded that it affects only the PROF district, which currently is only in Telecom Park. Council Member Fernandez asked what those residents across the River from Telecom Park would see if no waiver was granted, asking whether her assumption that there would be an office building there but the height would be lower was correct. The Assistant Director responded that currently lots in Telecom Park adjacent to single family zoning districts would be allowed to go only 35 feet in height without the text amendment.

Council Member Fernandez asked whether the Council has final approval as to what the building looks like, regardless of the height. The Assistant Director said the way this is written, Council would consider the proposed height when they review the site plan on a case-by-case basis; the amendment would allow them the *opportunity* to permit buildings up to 65 feet, but when presented with a site plan they could see how any height could be mitigated from any impacts they may have by things such as buffering or orientation of the building on the site. Properties along the river already have to be set back 200 feet, she added.

The City Manager added that they would also ask the developer to provide a schematic to show how the building would appear from other vantage points to assist the Council in making that determination.

Council Member Chillura asked whether they should include something in the text amendment to specifically provide for adequate buffering. While they want to encourage development, he wanted to be sure they are protecting the neighborhood from adverse impacts.

The City Attorney commented that they are talking about amending the text, which should never be driven by a specific project, but by the long-term effect the change will have on that particular neighborhood. He said Council has the power to instruct staff that they would like to see further provisions in there to deal with buffering or setbacks or things of that nature that could be in the text. Council Member Chillura added that he would feel a lot more comfortable with additional safeguards to protect the neighbors.

The Community Services Director commented the PROF zoning district has significant buffering requirements already in place; citing as an example the Verizon building on the river side of Telecom Park, with three to four stories covered by tree canopies. He felt they were very well covered out there, adding that the land has become so expensive in Telecom Park that they could only get a two-story building in 35 feet, and yet three-and-a-half stories are covered by the tree canopy. He said he believes it is practical to put a three- or four-story building on the river side, and he encouraged the Council to go out and look at the Verizon building to see how the trees cover it. He concluded that he believes there is natural protection as well as the existing requirements in the PROF zoning designation.

Council Member Govin said the point is well made; however, in this particular case, he believes Council Member Chillura's concern is that the PROF zoning could appear in other areas. He said it could be that they might annex an area, possibly on the east side of town, which doesn't have the protection of the river; perhaps some additional language that would provide for additional buffering could be a good tool.

The Community Services Director expressed concern that the reality is if they require further buffering or more setbacks, the remaining two lots in Telecom Park become unable to be developed. He said this text amendment allows a waiver *if* the Council deems it appropriate; however, if they increase the buffering either from the street or from the river, the property will be unable to be developed. He said he has met with interested developers concerning those two lots and they both tell him the lots are very tight already.

Mayor Affronti clarified that Council Member Govin is looking beyond the location in Telecom Park.

Council Member Govin said he is concerned that if they were somewhere without the river and its natural constraints, as an example, they would want to avoid a seven-story apartment building next door to single family residential, and have some provisions in the Code for adequate buffering. He clarified he is not saying to increase the buffering on the PROF as it presently stands in Telecom Park; he is more than satisfied that Telecom Park is well protected. He said he is concerned if the PROF is used somewhere else in the City.

The Community Services Director said right now they only have Telecom Park with the problem, and if they increase the buffering requirements on those two lots, they will not be able to be developed. He said they plan for a three- and a four-story office building, much shorter than the existing six-story Verizon building. He said he believes the tree canopy will cover the three-story building and almost cover the four-story building.

The Community Services Director said there are no plans at this time to expand the PROF. He said they have been looking at mixed-use zoning and other types of zoning categories, such as industrial and agricultural, but never once has there been any discussion of expanding the PROF.

The City Attorney pointed out that the Council is in control of any imposition of PROF on any other piece of property in the City beyond Telecom Park, if they wish to do that in the future, so this would be limited in that sense. He said the Community Services Director is correct in stating there are certain safeguards built into the existing PROF. He continued that the cause for concern relative to how it would interface with other properties that might be zoned PROF is still in Council's control, and wouldn't happen unless Council approves it.

Council Member Knapp said he believes Council Members Govin and Chillura were trying to convey that they currently have a 200-foot setback for building along the river, and whether a similar setback on residential properties, would or would not impact the two parcels they are discussing. The Community Services Director responded it would not; there is one other parcel on the eastern side of the park, a twenty acre parcel, which is the largest remaining parcel, and it would definitely impact that parcel if they had a 200-foot setback with that height.

The Community Services Director said they are very sensitive in Telecom Park and anywhere else in the City discussing with developers the height of buildings next to residential property. He reminded the Council they are not asking for approval of a project; this just gives Council the right to waive the height restriction if they so desire. They have asked every developer to come up with line-of-site drawings to present to Council, he said, to show the Council what it's like to look at the building from across the river or in the adjacent neighborhood, to enable Council to make good decisions as to how the neighbors and residents will be affected. With only a few spaces left to develop in Telecom Park, he said they are about a million square feet below the original intended development. Without the ability to go vertical, he said it will hurt development. He concurred with Mayor Affronti that this will be a case-by-case situation that Council will have to approve or deny; at this point they are only asking for the approval of Council to be given the ability to *consider* a waiver of the height restriction. He reiterated they are just giving the opportunity to present a few different options in building sizes that will help the Park.

There being no further public comment, Mayor Affronti closed the Public Hearing.

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

Lois Gonzalez, 715 Argyle Place, said she has lived on the river for twenty years. She expressed concern about having an "open season" on alligators over 6 feet. She commented she has one that nests by their property and has never presented any problems. She asked the Council to please not approve the killing of alligators from 56<sup>th</sup> Street to Fletcher Avenue, stating that as a river resident, she asks that the Council let the river remain in its natural state.

Howard Johnston, 1201 N. Riverhills Drive, said American alligators are public icons of wildlife in the United States, and a policy to remove them isn't compatible with the "green" image the City is trying to create. He continued that he has lived on the river for 17 years, and one of the things he has watched happen, as the alligator population has risen, is the decline of truly dangerous animals such as raccoons, possums, and rats, that carry fairly nasty diseases. He mentioned that about 12% of the raccoon population in the State of Florida is said to be infected with rabies, feline distemper, or canine distemper, which are serious problems, but there is no "open season" on them. He said it was ironic to him that the City celebrated two very "green" Proclamations this evening ("Recycling Month" and "American Rivers Month") and would hate to see that followed by a plan to eradicate one of the American icons that inhabits the City.

Lucinda Johnston, 1201 N. Riverhills Drive, said she is very upset about the alligator situation; she was one who helped to look for the dog when it was missing, and on hearing what happened to him, she was devastated. However, she said she believes people in favor of the alligator hunt are motivated by fear and grief. She presented statistics on alligator attacks, noting that there is a greater danger for animals being hit by cars than being attacked by an alligator. She said she is a dog lover and frequently helps wandering dogs find their way home. She commented that the reason the dog was eaten by the alligator is because it was left unattended in a pen that was not sufficient to contain it. She noted that if it had been a dangerous breed of dog that had attacked and harmed a child, they would not be talking about alligators tonight, adding that at some point people need to take some personal responsibility for their own safety and the safety of their pets. She said the trappers have already taken out six large alligators; she asked that they sit back, see if that is enough, see if there are any more problems, and then perhaps move forward with more aggressive plans later if it appears to be needed.

Jim Badger, 1519 Riverhills Drive, said he has lived on the river for 30 years and loves to watch the gators. He asked that they please protect their river gators.

Wendy Badger, 1519 Riverhills Drive, said they want the Council to understand that the Hillsborough River is a natural river paradise of a rich, diverse eco system. She said alligators are a Florida native heritage and are an important part of that eco system. She asked that the Council please protect the gators and the wildlife on the river, which is the "jewel" of Temple Terrace. She provided a humorous animated alligator to help get her point across.

Hewitt Clark, 11507 Cerca Del Rio Place, said he and his wife have lived near the river for many years, and walked the river often, for years accompanied by their small dog that died of natural causes. They canoe the river, he said, and he swims in the river and has never had any problems, but has had some close encounters. He said they don't believe there is a need for additional culling of alligators, believing there are adequate provisions for dealing with nuisance alligators, and the culling down to the six foot range is affecting their breeding patterns. He concluded with their belief that the alligators play an important role in managing some of the other animals that may be more of a nuisance than the alligators represent, noting that it is the American alligator and should be treated with respect for its beauty and role in the life of the river.

Mayor Affronti said the Council had asked the staff to seek information about the program from the Game and Freshwater Fish Commission for their review. The City Manager confirmed having just received the information yesterday and has planned to review it and bring it forward at the next Council meeting for Council's review and consideration. Mayor Affronti expressed appreciation for the citizen input this evening.

**There were no Presentations and no correspondence to come before the Council for consideration and action.**

### **Site Plan Reviews:**

#### **1. Final Site Plan – Florida College Dormitories.**

The Assistant Community Services Director Ann Sheller presented the final site plan submitted by IBI Group on behalf of Florida College, applicant, for construction of two new dormitory buildings on the main campus, which total approximately 118,223 square feet. She said the project is within the approximately 16 ± acre main campus property located on the north side of Temple Terrace Highway, west of the Hillsborough River and east of Glen Arven Avenue. She noted the property is zoned EI (Educational/Institutional) and its Future Land Use designation is Public/Semi-Public.

The Assistant Director stated that the current site plan proposes construction of two new dormitory buildings: Building A (replacing Boswell Hall), five-stories and 86,070 square feet; and Building B, four stories and 32,153 square feet. In addition to the current Boswell Hall, a one-story laundry building, a sand volleyball court, a gazebo and pavement in various locations will also be removed to facilitate construction of the new buildings, access driveways and parking, and landscaping areas.

Utilizing a PowerPoint presentation and related diagrams, the Assistant Director continued that as part of the site plan, the applicant is requesting two waivers to the City Code, which she explained as follows:

- 1) Building Height – Building height in the EI zone is limited to 50 feet. At a City Council meeting on November 6, 2006, the applicant requested support for a waiver to the height limit to allow construction up to 55 feet based on preliminary conceptual drawings, and City Council voted unanimously in support of the waiver (Resolution No. 129-06(m), approved November 6, 2006). Recently completed elevation drawings for the project indicate height from average finish grade for proposed new Building A is 53'4", and Building B is 52'6." As part of the elevations they have received as part of this project, the Assistant Director said it is indicated that the average height ranges between 59 feet to 61.6 feet, dependent upon where they look at it. She said they are not requesting any change to the building, which is still the same height as proposed in the conceptual plans, but it is more a matter of the definition of how they measure the building and how it is set on the slope. She said that is why they have requested the maximum waiver request for a maximum of 65 feet allowable building height.

- 2) New Construction Within the Hillsborough River Setback – New sidewalks connecting new buildings A and B with the parking lot and other campus facilities are proposed within the 150-foot minimum setback required for accessory structures. She presented an illustration of the proposed location of the sidewalk, where there is currently a “beaten path” from people walking back and forth.

The Assistant Director said the City’s Development Review Committee (DRC) has reviewed this final site plan, and based on the final site plan package and the additional information submitted on May 25, 2007, staff recommends approval, subject to the following conditions set forth below and in the Memorandum to the City Manager dated June 7, 2007:

#### **CONDITIONS OF APPROVAL**

##### **SPR #07-01**

1. Building Height – Maximum building height for new construction (Building A and Building B) shall not exceed 65 feet (waiver to 50 foot height limit in the EI zone approved by City Council Resolution). [Section 25.710.2]
2. New Construction Within Hillsborough River Setback Areas – New sidewalk along west side of north-south access road connecting the existing parking area to the campus sidewalk network may be constructed within the required 150-foot setback for accessory structures from the Hillsborough River (waiver to construction within the 150-setback approved by City Council Resolution). [Section 25720.8(e)(1) and (e)(2) and Section 635(a)(10)]
3. Building Elevations and Building Footprints – All construction on the site will be substantially the same in appearance as shown in the concept elevations and renderings for Building A and Building B, including enclosures for dumpsters and cooling towers with finished buffering walls matching the materials and colors of campus buildings. [Based on Section 25.640] (See attached elevations) [Elevations are a part of the permanent record.]
4. Protection of Public Wells and Utilities - At the time of permitting, applicant will provide a geotechnical study, sealed by a licensed geotechnical engineer, evaluating the risk of damage to the City’s groundwater extraction well and make recommendations to mitigate this risk. City access to wells, water and sewer lines, and power service lines will be provided during construction.
5. Cooling Towers - At time of permitting, applicant will provide a management plan acceptable to the City that includes status of other agencies’ permits if required, schedule of inspections and maintenance, training of personnel, and management of chemicals and effluent. No chemicals will be stored within the cooling tower compound.
6. Tree Removal, Replacement, and Preservation – Tree removal, replacement, and preservation shall be per City Code except that three grand oaks totaling 118 inches shall be replaced on an inch-for-inch basis with 5-inch DBH (Diameter at Breast Height) trees for a total of 24, in addition to 29 other trees to be replaced, for a total of 53 new 5-inch DBH trees to be planted on the main Florida College campus. [Section 25.735]

7. Landscaping - A final landscape plan shall be provided for review and approval prior to issuance of infrastructure permits. Interior and perimeter landscaping, including hedges and equipment screening, and building and parking area landscaping, shall be provided per City Code (required replacement trees may be used to fulfill landscaping requirements). [Section 25.780 and 25.735]. The final landscape plan shall show placement of live oak trees to allow sufficient room for root systems and future canopies, and some live oaks shown in landscape beds will be substituted for smaller trees per the approved tree list table. The proposed plant list shall be revised to add 4 holly trees that have been added to the west side of Building A, and to include a variety of ground cover, shrubs, and plants.
8. Utility Structures Buffering and Screening - Any privately-owned utility structure and/or facilities that stand to a height of more than two and one-half (2-1/2) feet and is within seventy-five (75) feet of the property line must at a minimum be landscaped on all exterior sides. [Section 25.780.10]
9. Signage - All signs shall be permitted separately and shall meet the requirements of City Codes. [Section 25.765]
10. Site Lighting – The parking lot and area lighting plan shall be submitted for review and approved prior to issuance of infrastructure permits to ensure that average footcandle and uniformity standards are in compliance with Section 27.745.75 (b).
11. Other Agencies Permits – A copy of the SWFWMD permit shall be required prior to issuance of site clearing and infrastructure permits. Copies of the approvals from the Health Department (water) and EPC (sewer), as necessary, shall be required prior to issuance of infrastructure permits. [Section 25. 725.7]
12. Site Plan Expiration – All approved final site plans are valid for six (6) months from date of approval. When approval lapses, the new submittal must meet the rules, regulations, standards, and criteria in force on the date of “acceptance.” The building permit issued for the site shall be automatically revoked without further action by the City unless site clearing and substantial construction has been commenced within 180 calendar days after the date City Council approves the site plan; provided, however, City Council may grant one extension of up to 180 days within which site clearing and substantial construction must be commenced. The applicant must begin and substantially complete the development within two years from the time of final approval. [Section 25.115 and Section 25.645]

The Assistant Director mentioned that Mr. Ron Delisle, Mr. Steve Allen, Mr. Paul Greiving, and Mr. Dan Burton are present this evening. She noted that they were provided the proposed Conditions of Approval, and they have indicated they have no objections to them.

Council Member Fernandez asked about the impervious sidewalk and whether there are any other requirements from other agencies, as a result of building along the river. The Assistant Director responded that Southwest Florida Water Management District requires a permit, which the gentlemen present indicated has already been obtained.

Upon motion of Council Member Knapp, seconded by Council Member Chillura, **RESOLUTION NO. 055-07(m)** was **ADOPTED**, approving Final Site Plan SPR#07-01, Florida College Dormitories, submitted by IBI Group on behalf of Florida College, applicant, for construction of two new dormitory buildings totaling 118,223 square feet, subject to the Conditions of Approval as set forth above and in the Memorandum to the City Manager dated June 7, 2007. Vote on the motion being: Council Members Chillura, Fernandez, Govin, Halloway, and Knapp voting “aye,” no “nay.”

**Resolutions for Consideration and Action:**

The City Manager read through and briefly explained the two Resolutions listed on the Consent Agenda.

Council Member Halloway asked to pull Resolution No. E-2 from the Consent Agenda for further discussion.

Upon motion of Council Member Govin, seconded by Council Member Knapp, and unanimously carried, Resolution No. E-1 was adopted by consent, being:

**RESOLUTION NO. 056-07**, accepting the recommendation from the Temple Terrace Redevelopment Agency; approving the Update to the Redevelopment Plan for the Temple Terrace Redevelopment Agency area, which Update supersedes the previously adopted Redevelopment Plan.

Relative to Resolution No. E-2, Council Member Halloway said this item has caused great consternation over the past couple of weeks. Since he was a member of the Audit Committee, he said he would review the procedures used to select the auditor. He said the City is required by the Sarbanes-Oxley Act of 2002, which was a result of the Enron scandals and Arthur Anderson fiasco, to have an Audit Committee to provide an additional buffer to prevent the auditor from becoming too friendly with the firm he is auditing and maintain his independence. He continued that one of the duties of the Audit Committee was to choose the auditing firm. Noting that every member of the Committee was a CPA, he said the Committee consisted of Ed Hanna, the City's Finance Director Diane Reichard, and himself, all of whom have professional experience in auditing and, therefore, understand the qualifications and detail required to conduct an audit.

Council Member Halloway stated the first step was to send out an RFQ (Request for Qualifications). He said all members of the Audit Committee were “in the loop” for preparing the RFQ, which was developed by the Finance Director, reviewed by the Committee, and sent out. He continued there were five responses; the Committee reviewed every response, for the purpose of narrowing the field to three finalists. He said all responses were excellent, making it a difficult choice, which resulted in four finalists. The next step, he said, was to invite the four firms to meet with the Committee to make a presentation and address questions of the Committee, which he characterized as similar to a hiring procedure or interview process.

Council Member Halloway continued that those persons/firms interviewed were asked the identical 18 questions, many of which were subjective, to give the Committee an idea as to how these firms would react in various circumstances. There were no tie-breakers, he said, and no questions were “weighted” over another. He noted that one firm dropped out before the interview process because of “too much on their plate,” leaving three firms for the interview process.

Council Member Halloway explained that the Committee took the responses to the questions and together, as a Committee, evaluated every answer, graded all responses, and utilizing a system of awarding a “1” if it was a top response, “2” if in the middle, and “3” for the lowest response, all of the responses were added up to determine the evaluation score. He reported that the Committee was all in accord, voted the same way, and came out with the identical same answer.

Putting himself as an “outside observer,” Council Member Halloway said this was the fairest and most thorough system he has encountered for making a selection of this type. He emphasized the importance of this selection, commenting that the financial records, reports, and procedures are very vital to City operations, and it is essential that the City obtains the best qualified firm they can find. As a result of this selection process, he said he believes they have done so. In closing, he said every one of those three firms is perfectly qualified to do the job, and he wouldn’t hesitate to trust any of them to do an effective job; however, in any selection process there has to be winners and losers. He thanked those who participated in the process, and he believes they have found a top quality firm.

Mayor Affronti commended Council Member Halloway for the summary of how the selection procedure was carried out. Mayor Affronti then called on those persons wishing to address the Council on this issue.

Mr. Gil Hernandez of ValienteHernandez, P.A., 1715 N. Westshore Boulevard, Tampa, thanked the Council for the opportunity to present their points of view. In over 24 years of practice together, Mr. Hernandez said they have never seen the need to take steps such as the one here tonight. He explained they are here because it is their deep-rooted belief that the process of ranking and selecting the auditing firm may have had an unintended result. He said their work for the City has been to the City’s complete satisfaction, noting they have worked with five Finance Directors and two City Managers.

Mr. Hernandez said their firm followed the RFQ carefully, and their answers were honest and without fluff. He said the criteria for evaluating the responses are clearly shown as Item D, Page 5, and on the evaluation criteria, the firm of ValienteHernandez was ranked first. Reviewing why they are present tonight, Mr. Hernandez explained that late last Tuesday, they received a letter from the City notifying them that their firm had been ranked third; after the initial shock he called the Finance Director, who was out of state at a conference, so he requested her secretary provide the supporting documentation for the selection process. He continued that Mr. Valiente picked up the documentation the next morning and saw that they were ranked first after the written responses, but third after the oral presentation. He said that they felt that perhaps, totally unintended, an inequity had taken place.

Mr. Hernandez stated that the criteria for ranking are shown in the RFQ on Page 5, as *Evaluation Procedures*. He said the oral presentation is outside of the evaluation procedures, but as it turned out, it drove the final ranking, adding that there was no indication that any points would be given to the oral presentation. Mr. Hernandez acknowledged that it is customary that oral presentations are for any questions that the review committee may have, based on the written proposal; in fact, nowhere was it indicated that the oral presentation was to be given an equal number of points as the written proposal. He suggested the fair way to approach the grading would be to use a proper weighted average, whereby the written response is given a higher weight than the oral presentation. Mr. Hernandez commented that as Council Member Halloway stated, there are 18 questions asked at the orals, some of which are subjective, with no right or wrong answer. If points were to be given to the answers to any or all of these questions, he said, they strongly believe these questions should have been included in the RFQ.

Mr. Hernandez said that he failed to understand the communication from the Finance Department Secretary that only the high ranking team members should attend the meeting; instead, he thought their staff person should accompany him to the presentation. He said that decision was made not only because they are proud of the quality of their staff, but because two of their staff members were praised by City staff. With the retirement of the Assistant Finance Director, he said they felt it would be very valuable for the audit to have the same team. He said the audit staff actually does most of the work, although he is the responsible partner; however, he feels his firm was penalized because they brought to the interview the people who do the substantial portion of the work. He said he is not questioning the right of the City to ask questions, but these questions should have been put in the RFQ, and the ranking process should have given more weight to the written response than the oral presentation.

Jose Valiente, 6302 Running River Place, thanked the Council for allowing him the opportunity to share his observations. He said he is here to attempt to understand the results of the auditor ranking process that just took place. He noted that his firm has had a stellar relationship with the City for many years, having received many accolades and commendations for their work and the quality of their audit team. For those reasons, he said they were quite surprised to learn their firm was ranked third, and shocked to find that they ranked first after the initial evaluation based on the criteria specified in the RFQ. He reviewed several favorable handwritten comments made by Committee members on their paperwork, stating there were no such comments on the paperwork from other candidates. Based on this information, he said the Council can see why they have difficulty understanding the final results, additionally citing the commendations, the institutional knowledge they have about the City, their impeccable track record, and their years of experience in the governmental audit area. He concluded that the oral presentation appears to have driven this decision, which was not part of the ranking criteria, and if his partner, Gil Hernandez, an authority in the governmental area, had fielded all of the questions, they would not be here tonight, but they are proud of their staff; he questioned whether that was enough justification to override their firm, and select a firm from Orlando or Bradenton.

Mayor Affronti asked whether the representative from CPA Associates, the recommended firm, would like to comment.

Tommye Barie of CPA Associates, 1301 6<sup>th</sup> Avenue West, Suite 600, Bradenton, said she doesn't have the scoring sheets, so she can't comment on those or anything about the process past their interviews and presenting their qualifications. She commended the Committee for conducting the process in the spirit in which the Statute was written, whereby the qualifications were received and evaluated, the oral presentations took place, and then the rankings would come before Council prior to negotiation with regard to fee. She stated they all received the same information, the same RFQ, and all played by the same rules. Whether or not they interpreted it differently, she said, is for the Council to judge and score. She said they are thankful for the opportunity to serve the City of Temple Terrace, adding that they do work all the way from Marco Island to Alachua, so a 45-minute drive is not a concern of theirs. She also noted that when they came for the oral presentations, they also brought their field staff person, who very capably answered the questions and provided information for the staff.

Finance Director Diane Reichard stated that she followed the Florida Statutes in their procedures and felt they had an excellent Audit Committee, who put a lot of time and effort into reviewing everything they did; it was not just her doing. In conclusion, she said there was no intended outcome of the process, noting that they had no idea when they started the process how many firms would apply, and it is Council's pleasure as to how they will move forward.

Council Member Fernandez commented there is a loss in time and money when they change auditors. She questioned the justification to change firms, if they are happy with the current firm's service.

The Finance Director responded that it is a dreaded thing for staff to undergo such a change; however, they have a new Assistant Finance Director, so they are up to the task if a change is made. She continued that in their [CPA Associates] responses to the questions fielded to them, they assured the Committee they could get up to speed to make the process smooth. She noted that the audit process should start in July, adding that CPA Associates had several situations to illustrate how they would go about the process.

Council Member Fernandez inquired as to the reason behind the auditor selection process. The Finance Director responded that it was a requirement passed by the Florida Legislature a couple of years ago, which included a requirement for the City to utilize an Audit Selection Committee. She said the law required compliance when the current audit contract expired; the contract with ValienteHernandez ended last fiscal year, and, therefore, she started the process in January of this year to allow sufficient time to complete the process by July.

Relative to the weight and ranking, Council Member Fernandez asked whether the City is required to rank based on the results of the written proposal, with the oral interview as clarification to that, or if the City is correct in giving equal weight to both of them.

The Finance Director responded that as far as the weight, when they designed the RFQ as a Committee, they had determined not to assign different point values for items in the written proposal; when they did the questions, she said she would not say they weighted one or the other. She said she believed in the written proposals, ValienteHernandez was "1" and CPA Associates was "2."

When the oral interviews came through, the Finance Director said that was when things changed. In the Statute it does require oral interviews, she said, adding that the Committee relieved the Council of having to conduct those interviews, noting that each interview lasted about one hour.

Council Member Fernandez said she has to have a compelling reason to change, and she hasn't necessarily heard a compelling reason to change from the auditors about whom they have been complimentary.

The Finance Director responded that it did not have anything to do with being unhappy with ValienteHernandez. In her experience with the Florida Government Finance Officers, she said she has come into contact with a number of fine auditors, which is why the RFQ went out to 15 audit firms. She said going into an RFQ process, they have to look at it objectively and be open-minded. She said she was proud of the Committee, because they did their "homework."

Council Member Govin said the tough question that cannot be answered is the question of price; that would make a difference.

The City Attorney commented that in this case, unlike with engineering firms, they are allowed to talk about the cost.

Council Member Knapp said he is always concerned with price and generally can't ask that question; he was under the assumption they can't ask about money. He asked why, if they were allowed to ask the question and fee can be part of the proposal, they didn't, since they know that is something the Council always wants to know when a professional services contract comes to them.

When the Audit Committee met, the Finance Director said one of the options was to ask for price. She continued that was why it became an RFQ (Request for Qualifications) instead of an RFP (Request for Proposals). She commented her Finance Officers' conference applauded governments that did an RFQ solely without price. She said they may find out when they start negotiations with CPA Associates that the City is not willing to pay their price and may have to move to the second-ranked firm.

Council Member Knapp said that wasn't his question; his question was if they had the ability to ask how much their fees would be and use the response in their decision-making process, why didn't they?

The Finance Director responded by questioning whether they should have accepted the lowest fees – should that have been the reason for selecting a particular firm?

Council Member Knapp said he didn't say that; he asked why they didn't ask what the fees would be so that it would be part of the decision-making process. He said at this point it is not part of the process at all, and he can't stand that. In response to Mayor Affronti's statement that it will be discussed when they sit down to negotiate, Council Member Knapp disagreed because they will only be negotiating with one firm. [Several persons spoke at the same time leaving the balance of the discussion unable to be transcribed.]

Council Member Govin said the fee issue bothers him; now knowing it could have been asked, he would encourage that. Secondly, he said it would seem that before a fee is asked, someone who has been doing the job and has an “inside track” would be cheaper because they don’t have the startup work. That being the case, he said, they need to look at this and take the fee into consideration. He concluded he would not vote in support of it tonight, because the fee should have been part of the consideration.

The City Attorney interjected that, as stated earlier, there has been a lot of activity relative to this pending issue, so he had made a point of familiarizing himself with it before tonight’s meeting. He stated that this does not fall under the Competitive Negotiation Act, which deals only with design professionals, such as architects, engineers, surveyors, etc. He said Florida Statutes Chapter 218.391 sets forth in detail auditor selection procedures, and as far as compensation, it was “gone into” in a way, in the City’s Question No. 17, which asked what the additional charge would be if the audit firm produced the City’s CAFR (Comprehensive Annual Financial Report). He said when one looks at the recap of the interviews, No. 17 is titled, “Cost for Auditor to Produce Report,” which is not quite the same thing; responses varied from \$0 to \$6,000-7,000 to “unknown.”

The City Attorney said the Statute sets forth a specific “roadmap” relative to whether compensation is or is not one of the factors considered, acknowledging it is not an easy Statute to follow. He said the “bottom line” in subparagraph 4, says the governing body shall inquire of qualified firms as to the basis of compensation, select one of the firms recommended by the audit committee, and negotiate a contract using one of the methods listed in the Statute. He continued that subparagraph (a) explains the procedure when compensation is *not* one of the factors that was established. In subparagraph (b), he explained, if compensation *was* one of the factors, it states that the governing body shall select the highest-ranked qualified firm or must document in its public records the reason for not selecting the highest-ranked qualified firm. He said the problem here is some folks who looked at this question think that compensation was not brought up and yet, the paper trail indicates that compensation was brought up; perhaps not the totality in compensation, but a piece of the compensation. He said that is why he believes, respectfully, this matter is before the Council tonight in the context in which it is being presented.

The City Attorney summarized that the process is different for auditor selection, and is not done with much clarity by the Legislature in his opinion, but he believes the Audit Committee did the best they could under the circumstances and made a good faith effort to follow the mandates of the Statute.

Council Member Chillura commented that some of the information presented doesn’t make sense; the Audit Committee is very knowledgeable and experienced, as are the audit firms. He stated emphatically that *whenever possible* that cost or price can be included, it should be done. He commented he is not saying he would select the lowest bidder, but price or cost should be part of the consideration. Looking at the positive comments noted on the evaluation forms about ValienteHernandez from Committee Members Halloway and Hanna, which he briefly reviewed, Council Member Chillura said it caused him to wonder why the ranking ended up as it did. If they are basing something on a written response, he said that is factual and carries a lot of weight; oral presentation can be as good as the presenter and that concerns him.

While sometimes change is good, Council Member Chillura also questioned, as Council Member Fernandez had questioned, having a new auditing firm *and* a new assistant finance director. Looking at what is before him, Council Member Chillura said, in his opinion, he believes it is better to stay with what they know, if they are satisfied with the current auditing firm. He said that whatever the rest of Council says in this regard, he would not support the recommendation before them this evening. He said he would support to either remain with ValienteHernandez, based on the comments from the Committee Members, or to send it back to the Audit Committee for them to show what the costs would be from these firms; then he would have more of a comfort level.

Council Member Knapp said he has some concerns relative to making a selection this evening, commenting he is not comfortable about whether the law was correctly followed in the process of selection. He said he believes it was not intentional, but because compensation was somewhat discussed, perhaps a different process should have been followed. As long as there is something that could be questioned, he said he is unsure about whether they should make a decision tonight on the information presented.

A motion by Council Member Knapp, seconded by Council Member Chillura to send the recommendation back to the Audit Committee for compensation information and that the process be followed as detailed by the City Attorney, was later withdrawn after further comments set forth below by the City Attorney.

After hearing the above motion, the City Attorney commented he doesn't want to put the City in jeopardy in any way. Under these circumstances, he suggested the most prudent course might be to reject the Committee's recommendations, effectively throwing out the process, reconstitute the Committee, effectively starting the process over again, and have the RFP (Request for Proposal) that goes out to firms carefully reviewed first by the City Manager to be sure the compensation factor is clearly set forth. He noted that he didn't see where oral interviews are required in the Statute. Commenting that this is not a statement against the Committee, he said there are enough questions that have been raised and this is an important matter for the City and the parties involved, adding the majority wants to do what is best for everyone.

The City Attorney suggested a motion stating that Council will reject the Committee's recommendation, not the recommendation of the rankings or the process, but effectively throwing them all out; the City Manager will reconstitute the Audit Committee however he sees fit, making sure the RFP that goes out is as clear as it can possibly be, and with no issue about the fact that oral presentations will be considered, that they will be a factor, and that there is weighting and recommendation, but they will not be given a specific number, in that he doesn't believe the Statute envisions that there be a point for this and two points for that, etc. He concluded that way, however it turns out, the governing body will make the decision based on pure clarity of the turf, it will all be made clear, and the playing surface will be absolutely without question.

Council Member Chillura made a motion to proceed as the City Attorney stated, "that Council will reject the Committee's recommendation, not the recommendation of the rankings or the process, but effectively throwing them all out; the City Manager will reconstitute the Audit Committee however he sees fit, making sure the RFP that goes out is as clear as it can possibly be, and with no issue about the fact that oral presentations will be considered, that they will be a factor, and that there is weighting and recommendation, but they will not be given a specific number," and Council Member Knapp seconded the motion.

Prior to proceeding to a vote on the motion, Mayor Affronti commented that he had reviewed the notes read by Council Member Chillura, which were made in May, when ValienteHernandez were ranked No. 1; in June, after the oral interviews, is when the rankings changed. Expressing his great respect for ValienteHernandez, Mayor Affronti said that in all fairness many times when hiring people, it isn't just the resume. He said he never hires solely from the resume; he reviews the qualifications, see who has what he is looking for, and brings them in to talk to them, adding that perhaps there are fresh approaches to things or perhaps they are more creative. He said he believes they have to have the same understanding when hiring; the oral interview means more to him than the resume when he hires someone in his business. In all fairness, he believes the Audit Committee decided after the oral interview and reading the RFQs that CPA Associates should be ranked No. 1. He concluded by commending the character of the Committee Members.

Council Member Holloway clarified that the written comments he made on the evaluation sheets to which Council Member Chillura referred were notes he made to himself, after reading the RFQs, for discussion purposes when the Committee met to discuss the RFQs, emphasizing they were by no means his final comments on the selection process; that occurred much later. He acknowledged that ValienteHernandez did submit a fine RFQ, but concurring with Mayor Affronti's comments, he said he would not select anyone based on a resume alone. He said the competition for this particular job is intense; they were all good firms who would be able to do the job. Assuming the Council is suggesting they go for the low bidder, he said he wouldn't be alarmed at whatever firm is selected in this case; however, he does believe the Audit Committee recommended the best representative firm of the three.

Council Member Chillura clarified that the reason for his comments was that he has the utmost respect for the Committee Members and values their comments. He said that was why he looked at those comments and put a lot of weight on it. He re-read some of the written comments that were made by Committee Members, as Council Member Holloway clarified some of his remarks.

The City Manager said if the motion on the floor prevails, he wanted to point out that the Audit Committee was selected by Council on March 6, 2007, and would continue, if Council so chooses; he believes the Members of the Committee would agree to continue to serve. He said he would assume this is the case, unless Council directs otherwise.

Council Member Holloway confirmed with the City Attorney that it was acceptable for him to vote on this issue and it would not pose a conflict.

The Finance Director expressed concern that if Council directs that they go back to a Request for Qualifications (RFQ), it will be after September 30 before they can have a contract to select an auditor back to Council for approval. She said typically the auditor begins the audit process in July and August. She said she had no problem if Council chose to re-rank the firms. Secondly, the Finance Director asked whether the question in the RFQ should be re-worded to ask if there would be an additional cost, instead of what the compensation would be, or if that question should be thrown out. Thirdly, the Finance Director commented there were some notes relative to ValienteHernandez in the materials provided to Council, but she has many other notes available about the other firms that for some reason do not appear to have been provided to Council. She explained she was secretary of the Audit Committee meeting as well as keeping the meeting moving along, so she was making notes of everything being said, which are in addition to those being read by Council Member Chillura.

Council Member Chillura said he had some other notes, if she wanted them read, but said his initial question was that if something was working well, why they would change it. He clarified and reiterated that he wanted to know why ValienteHernandez was ranked third if they were getting such positive comments from the Committee Members.

The Finance Director asked whether it was clear the comments were based on the proposals only and not on the oral interviews. Council Member Chillura responded it is stated on the evaluation process forms. Mayor Affronti added that he believes the comments there coincide with the rankings in May, before the oral interviews; evidently at the oral interviews something happened that caused that whole thing to change and they were no longer ranked No. 1.

The City Attorney interjected, as an alternative to the motion on the floor, Council could instruct the Audit Committee to reconvene and conduct an oral interview for the sole purpose of inquiring as to the issue of compensation and to reconstitute its recommendation; after that, additional clarity is brought to the process and that would not slow down the process or slow the City down. He said, in his opinion, that would be the best course of action, and he suggested to the maker of the motion that it be considered as an amendment. Council Member Chillura and Council Member Knapp concurred they would accept the amendments to their motion and second as suggested by the City Attorney.

After a brief discussion, the City Attorney clarified and restated the amended motion, which is to instruct the existing Audit Committee to reconvene at the earliest possible date, and in the interim to advise the three firms who were ranked No. 1, No. 2, and No. 3 that the Committee will expect them to provide information relative to the compensations that they anticipate charging the City for the services described in the RFQ; thereafter, the Committee will reconvene without any constraints as a result of this motion on what their findings might be, and report back to the Council and to the City Manager with their recommendation; also, if Council wants to ask the Committee to have additional oral interviews to deal with compensation, they can include that.

Upon amended motion by Council Member Chillura, seconded by Council Member Knapp, **RESOLUTION NO. 057-07(m)** was **ADOPTED**, instructing the existing Audit Committee to reconvene at the earliest possible date, and in the interim to advise the three firms who were ranked No. 1, No. 2, and No. 3 that the Committee will expect them to provide information relative to the compensations that they anticipate charging the City for the services described in the RFQ; thereafter, the Committee will reconvene, without any constraints as a result of this motion, on what their findings might be, and report back to the Council and to the City Manager with their recommendation. Vote on the amended motion being: Council Members Chillura, Fernandez, Govin, Halloway, and Knapp voting "aye," no "nay."

In response to Mayor Affronti inquiring as to when they should receive something back from the Audit Committee, the City Manager suggested July 17, 2007; however, the Finance Director thought it could be accomplished by the next City Council Meeting on July 3, 2007.

**Proposed Ordinances for Consideration and Action:**

Following **SECOND** and **FINAL** reading, by caption, upon motion of Council Member Chillura seconded by Council Member Govin, **ORDINANCE NO. 1206** was **ADOPTED**, being: **AN ORDINANCE OF THE CITY OF TEMPLE TERRACE, FLORIDA AMENDING TEMPLE TERRACE ORDINANCE NO. 544, AS AMENDED BY ORDINANCE NO. 585, ORDINANCE NO. 600, ORDINANCE NO. 682, ORDINANCE NO. 717, ORDINANCE NO. 821, ORDINANCE NO. 1001, ORDINANCE NO. 1133, ORDINANCE NO. 1150, ORDINANCE NO. 1162, ORDINANCE NO. 1187, AND ORDINANCE NO. 1201 TOGETHER CONSTITUTING A DEVELOPMENT ORDER ISSUED PURSUANT TO CHAPTER 380, FLORIDA STATUTES, FOR GTE/COLLIER-326 (ALSO KNOWN AS TAMPA TELECOM PARK DRI), A DEVELOPMENT OF REGIONAL IMPACT; PROVIDING FINDINGS OF FACT; PROVIDING CONCLUSIONS OF LAW; MAKING CERTAIN CHANGES TO SECTION 4, PARAGRAPH R.R. OF THE DEVELOPMENT ORDER REVISING THE DESIGN STANDARDS AND DEVELOPMENT CRITERIA FOR PERMITTED SIGNS; 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."

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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 25.710.3(d)(1) IN ITS ENTIRETY AND BY ENACTING A NEW SUBSECTION 25.710.3(d)(1) TO ALLOW A WAIVER PROVISION TO SUBSECTION (1) HEIGHT, IN THE PROF (PLANNED RESEARCH OFFICE FACILITIES) ZONING DISTRICT; PROVIDING A SEPARABILITY CLAUSE, EFFECTIVE DATE, AUTHORITY TO CODIFY AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.**

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

**City Manager's Report:**

The City Manager informed the Council the recent activity of the Florida Legislature has been the most challenging of his 37-year career. As a brief report, he stated the first phase is the rollback, with the caveat that Council can go back to the *current* levy with a 4/5 vote, and *exceed* that with a unanimous vote. He said the administration plans to come to Council with a rollback rate when they prepare the budget. He said he had to "toot the City's horn," because it was stated in the Tribune that some of the other cities around Temple Terrace have to cut deeper, but St. Leo, Port Richey, and Temple Terrace would not have to cut because of their thrifty ways compared to the average municipal tax increases around the State. Stating it could be worse, and may be in subsequent years, he said, staff is taking this very seriously. He briefly advised the Council of some of the challenges the City will be facing, including rising insurance and fuel costs, and personnel costs, which are about 70% of the budget, because the City provides service, and that doesn't leave much to work on in terms of reducing expenditures. He noted that reducing personnel will be left as an absolute last resort. Under the new scenario in the coming fiscal year, he said the City will see \$65,000 in new property tax due to new construction versus the increases in expenditures mentioned. He said the administration will come to Council with the areas they will need to trim to meet the budget, areas where they think they may need to raise revenues, and a combination of both. He said it will be a challenge for everyone, including the residents, because the effects will be felt.

The City Manager said he was planning to report on the nuisance alligator program, but he just received the information yesterday. He has now talked to the person in charge of the program at the State, and will make a report as soon as possible with a recommendation for consideration.

Finally, the City Manager reminded the Council of the School Concurrency Workshop to be held on July 17, where there will be representatives from the Department of Community Affairs in Tallahassee, the School District, the Planning Commission, and staff. He added he is hopeful they can resolve the issues at that time, reminding Council if they have any questions or areas they would like to be examined, to let him know as soon as possible.

**New Business:**

Council Member Halloway expressed his displeasure at the changes made by the Tampa Tribune to eliminate the Temple Terrace News and dramatically change the Northeast Community Focus section. Previously, he said, these had both been excellent sources of information, and he commended Mike Dunn, George Wilkins, and Joyce McKenzie for their marvelous work with the newspapers in producing information about Temple Terrace. He said this was evidently a management decision at the Tribune, to abolish the Temple Terrace News and change the format of the Northeast section, making it not a very good publication, with very little Temple Terrace information. He predicted that the management will abolish it also sometime in the near future.

Council Member Halloway continued that while they may not have always agreed with what was written, the City has lost this important source of communication with the citizens of Temple Terrace. He said he understands that newspapers all over the country are having problems because people don't read anymore, or most of the newspapers' content is given away for free on the Internet, leaving no incentive for people to go out and buy newspapers. While he doesn't believe what he says here will change anything, he said he wanted Joyce McKenzie to know that he personally feels the City is losing a great deal of valuable information by virtue of that management decision.

Relative to their earlier discussions, Council Member Chillura said he would like to make a formal motion concerning the bidding/contract process. Upon motion of Council Member Chillura, seconded by Council Member Govin, **RESOLUTION NO. 058-07(m)** was **ADOPTED**, directing the administration that whenever there is the ability to ask for a price in a contract bidding process, that the cost be incorporated in the proposal. Vote on the motion being: Council Members Chillura, Fernandez, Govin, Halloway, and Knapp voting "aye," no "nay."

Council Member Govin asked for an update relative to the Development Agreement, adding his recommendation that Public Information Officer Mike Dunn be directed to do a press release that covers the status. He said he gets a lot of questions and feels it is important for the public to be informed. He said the current situation, as he understands it, is that the City has responded to the proposed Development Agreement and Pinnacle Ram has responded, and now it is back in the City's hands. He recommended that after staff's next response, Council be involved again, as they were previously, to try to resolve the issues as quickly as possible, so they can move forward.

The City Attorney confirmed that they did transmit a lengthy Development Agreement to the developer. He reported that he received a letter from Mr. Peak that enclosed a 12-page Memorandum that did not address the Development Agreement, but said Pinnacle Ram needed to confirm the business issues before they go forward otherwise. He said he shared that with the City Manager and the Community Services Director, adding that there is a meeting scheduled for next week to include all or part of his legal team, the Finance Director, City Manager, Community Services Director, and two or three representatives from the developer to address the situation as they see it. In his personal opinion, he said he did not feel the response was to be expected, i.e., a 12-page Memorandum that was essentially perceived to be a very much embellished Letter of Intent, as opposed to a piece-by-piece dealing with the Development Agreement. He assured the Council the work his team, the Community Services Director's team, the City Manager, and the Finance Director have not slowed the process down, and they are going to try to pick it up again. He concluded it was not his understanding that they were going to start from "ground zero" to renegotiate a business deal.

Council Member Govin said he understands that, and just wants to be sure the pace is kept up, and that people are informed. The City Attorney assured him that after that meeting, they will share any and all documents they want to see.

Secondly, Council Member Govin said he was recently informed of an action on the Tozier property, that Mr. Tozier's attorney has filed another Writ of Mandamus. The City Attorney responded affirmatively, that there is a pending petition for Mandamus in the 2<sup>nd</sup> District Court of Appeals, to which he has responded and received a reply from Mr. Tozier's attorney. He said it is now in the hands of the 2<sup>nd</sup> District Court, other than oral arguments, which they are not required to provide; he has no idea when it will be set. Council Member Govin questioned whether this is good or bad for the City, to which the City Attorney responded that in his opinion, it is without merit.

Susie Cochran, 319 Ferncliff Avenue, asked to provide a brief comment on the alligator situation, apologizing for not raising her hand to speak earlier in the meeting. She said her husband is an avid sportsman and a concerned environmentalist, who is involved in many conservation associations, including Ducks Unlimited and the Coastal Conservation Association. She said he would never advocate a program that would in any way destroy the balance of nature. While they love the river and appreciate all the good things that the river has to offer our citizens, she said, they do believe the alligator population has become very dangerous, and are advocating the removal of large alligators. She commented that the City Manager was looking into the program they had recommended be adopted by the Council. She then quoted an email dated May 29 to Mr. Cochran from Ms. Johnston, who spoke against the alligator harvest earlier this evening, in which Ms. Johnston recognized it may be that the time is right for removal.

Mrs. Cochran said that while Mr. Johnston referred to the raccoon and possum situation becoming more dangerous if the alligators were hunted, and admittedly she is no expert on the situation, she has never seen any data to connect the alligator population to the raccoon population. Following his logic, she said it would seem that communities without gator populations would be overrun with raccoons and possums. She concluded that while some of the comments were humorous, losing a pet is no laughing matter. She said she believes the role of government is to protect citizens and provide for their safety and security. She expressed hope that the City would proceed to do the due diligence, and suggested an expert, such as a State biologist, who could be called in to address the Council, may be able to shed more light on this situation.

There being no further business to consider, upon proper motion, the meeting was adjourned at 9:15 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