

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

**Regular Meeting
Tuesday, January 5, 2010
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 5, 2010, in the Council Chambers at City Hall.

PRESENT WERE: Mayor Joe Affronti, Sr., Council Members Alison Fernandez, Ron A. Govin, Mark A. Knapp, Ken Halloway, and Mary Jane Neale, City Manager Kim Leinbach, City Clerk Lisa Small, and City Attorney Mark Connolly.

ALSO PRESENT WERE: Public Information Officer Michael Dunn, Code Compliance Director Joe Gross, Leisure Services Director James Chambers, Community Development Director Charles Stephenson, Public Works Director Joe Motta, Human Resources Director Woody Hubbard, Fire Chief Keith Chapman, Finance Director Diane Reichard, Deputy Police Chief Pat Powers, Deputy City Clerk Donna Spano, Bill Newkirk, David Pogorilich, Judy A. Govin, Christina Griffin, Joyce McKenzie, Elizabeth Kuehl, Richard Reina, Jack Ritter, Rod Jurado, Mel Jurado, Liz Affronti, Joe Bell, Sharon Terrill-Elfers, Barbara Sparks McGlinchy, Steve Dutch, Sal Albustami, and several other persons.

Mayor Affronti called the meeting to order at 6:03 p.m., after which he led the Pledge of Allegiance to the flag and offered a brief invocation.

Proclamations, Recognitions, and Special Presentations:

1. Recognition and Welcome – “Reverend Elizabeth Kuehl, Temple Terrace Presbyterian Church.”

Mayor Affronti presented a Certificate of Recognition welcoming Reverend Kuehl, Temple Terrace Presbyterian Church, to the Temple Terrace community. Reverend Kuehl thanked the Mayor and Council for the recognition.

2. Recognition and Welcome – “Pastor La Jun M. Cole, Sr., and Pastor Valora Cole, Perfected Love International Fellowship.”

Pastors La Jun M. Cole, Sr. and Valora Cole, Perfected Love International Fellowship, were unable to attend the meeting and instead will be at the next City Council Meeting.

3. Special Presentation – “Sharon Terrill-Elfers, Temple Terrace Representative to the Hillsborough County Citizens Environmental Advisory Committee.”

Mayor Affronti presented a plaque to Sharon Terrill-Elfers, in recognition for her service from 2002-2009, as the City’s representative on the Hillsborough County Citizens Environmental Advisory Committee. Ms. Terrill-Elfers expressed gratitude for the opportunity to serve the City in this capacity.

Minutes of Previous Meetings:

Upon motion of Council Member Halloway, seconded by Council Member Govin, and unanimously carried, the **MINUTES** of the December 15, 2009, Council Meeting were **APPROVED**.

There were no Persons Wishing to be Heard on Items NOT Listed on the Agenda. There were no Public Hearings before the Council for consideration and action. There was no correspondence, communications, or petitions, nor were there any Presentations or Site Plan Reviews before the Council for consideration and action.

Resolutions for Consideration and Action:

The City Manager reviewed the proposed Resolutions for consideration and action.

Upon motion of Council Member Govin, seconded by Council Member Fernandez, and unanimously carried, Resolutions **E-1 and E-2** were adopted by consent, as follows:

RESOLUTION NO. 001-10, accepting an Edward Byrne Memorial Justice Assistance Grant in the amount of \$45,000 and adjusting the 2009-2010 Budget accordingly; further, approving the Police Department's expenditures for five helmet-mountable night vision devices and a pole-mountable data recorder, in the amount of \$19,425; twelve night-vision helmet mounts, GPS tracking device, portable radio earpieces, ear skeletons, and Kevlar duty gloves, in the amount of \$8,025; and web-based document management program, web-based scheduling program, and twelve-month GPS tracking service, in the amount of \$17,550; payment for said expenditures to be made from the following accounts: 001-1421-521.64-99 - \$19,425.00; 001-1421-521.51-42 - \$8,025.00; and 001-1411-521.34-99 - \$17,550.00.

RESOLUTION NO. 002-10, awarding the contract to replace the City Hall third floor air handlers and condensers to the low bidder, Air Masters of Tampa Bay, Inc., in the amount of \$27,988; payment to be made from account 160-1719-519.62-41.

Council Member Knapp questioned whether the GPS tracking service would be a recurring expense from the Police Department's budget, to which the City Manager confirmed it would be, adding that the Police Department is aware that if there are no budgeted funds available in future years, the service would be discontinued.

There were no Proposed Ordinances for Consideration and Action.

Unfinished Business:

Council Member Govin expressed concern that at the last meeting a day off for all employees was approved; however, that item was not "noticed" in the agenda that Council received. He said he believes that in the future, something of that magnitude should be included in the agenda that Council receives. The City Manager apologized and assured the Council such items will be included in the agenda in the future.

City Manager's Report:

The City Manager reported that construction has started on 56th Street and upcoming will be Temple Heights. He said the Public Works Director has been working with the FDOT (Florida Department of Transportation), pursuing stimulus money, in lieu of using City funds for these projects, and it appears the City has a good chance of receiving \$500,000 for the improvements.

Secondly, the City Manager reviewed that some time ago the City began pursuing an annexation agreement with Hillsborough County, and there now appears to be some positive movement from the County towards such an agreement. He continued that staff anticipates a meeting in the near future and believes there is some consensus, at least at the staff level, to move forward with an agreement, which would be another positive step for the City.

Mayor Affronti asked the City Manager to explain the benefit of such an agreement. The City Manager responded that with an agreement in place, property within the City's urban service area, where the City provides sewer and water, or the defined area in the agreement, could be voluntarily annexed into the City, without meeting the criteria of having to be contiguous or not creating an enclave. He explained there was a modification to State Statute [F.S. §171.203] about three years ago to facilitate cooperation between governments. He added this agreement will be very advantageous to the City; the City has many annexation agreements that are contingent on being legally permissible to annex.

New Business:

1. Municipal Code Enforcement Board Appeal – Lien Reduction – Bank of America.

The City Manager introduced the lien reduction request and recommendation from the Municipal Code Enforcement Board (MCEB) in Case No. 09-0098. He noted that Christina Griffin, a Listing Agent with Coldwell Banker, representing the Bank of America, is here to present the request.

Ms. Griffin commented that the property is under contract to close, awaiting the decision of the Council on the lien reduction request. She reviewed that as soon as she received the listing from Bank of America, which was immediately after conclusion of the foreclosure proceedings, she communicated with the Code Compliance officers and immediately cleared all of the issues. She noted that she has a number of Bank of America listings; the Bank tries hard to bring their properties into compliance with any code enforcement issues. She requested that Council approve the recommendation of the MCEB.

The City Manager confirmed the recommendation of the Municipal Code Enforcement Board to reduce the fine assessed in MCEB Case No. 09-0098, from \$17,900 to \$3,800, with payment to be made within 30 days or the fine reverts back to the full \$17,900.

MCEB Chairman David Pogorilich explained that the \$3,800 recommended by the Board represents the amount of the fine for the two weeks that it took the Bank to clear up the compliance issues after it took title. He said the Bank does have a buyer for the property and a closing date set; the Board believes \$3,800 to be a fair amount and supports the reduction.

Upon motion of Council Member Knapp, seconded by Council Member Halloway, **RESOLUTION NO. 003-10(m)** was **ADOPTED**, accepting the recommendation of the Municipal Code Enforcement Board, to reduce the fine assessed in MCEB Case No. 09-0098, from \$17,900 to \$3,800, contingent on the receipt of payment within 30 days of approval, or the lien shall revert back to the full \$17,900. Vote on the motion being: Council Members Fernandez, Govin, Halloway, Knapp, and Neale voting “aye,” no “nay.”

Prior to vote on the above motion, Council Member Fernandez commented that she had some knowledge of this particular property and that it was empty for quite a long time. She expressed concern that if they reduce the fine, it provides incentive to stave off foreclosure until the last minute, adding the property was empty almost two years before the foreclosure action. She said it was an “eyesore” to the neighborhood and in some ways a danger, but no one took responsibility. She questioned if they reduced the fine because the bank took so long to start the foreclosure action, it does not address the bigger problem that it is not just the City’s cost, but an intangible cost to the neighborhood. She suggested the property was under the bank’s control for two years and was concerned that the lien reduction may set a precedent that would keep an owner/entity from taking responsibility for the property.

MCEB Chairman Pogorilich responded it was not entirely accurate that it was the bank’s property for two years; until such time as the foreclosure action, the bank did not own the property. He said he doesn’t believe there was any malicious intent, adding that the bank moved as fast as the process allowed. He concurred that the Board doesn’t want to send the message that people can take as long as they want and when they do finally come in, they will reduce the fine. He briefly mentioned other cases where the resulting property owners have not been as diligent in bringing properties into compliance following foreclosure; however, in this case, Bank of America responded almost immediately upon taking title and should be applauded for doing so.

2. Municipal Code Enforcement Board Appeal and Request to Stay Pending Action – Holland.

Mayor Affronti commented there are two persons who wish to address the Council concerning this agenda item, and he called on Jack Ritter to address the Council.

Jack Ritter, 227 Willowick Avenue, said he would not be redundant and repeat his comments from the last time this issue was brought before the Council. He implored the Council to not reduce the \$77,800 fine. He stated this homeowner has done nothing to help himself or the neighborhood. He expressed concern that if the Council reduces this fine, the reduced amount will be the new starting point for the mediation that the court directed be held relative to the foreclosure action. He strongly encouraged the Council to not reduce the fine, adding that Mr. Holland does not appear to want to perform the rest of what needs to be done to the home.

Municipal Code Enforcement Board (MCEB) Chairman Pogorilich said he would not rehash the two years’ of excuses the MCEB has received from Mr. Holland relative to this case. He reviewed that Mr. Holland came before Council a couple of months ago and requested a seven-month stay in the foreclosure; the reason given was that he needed seven months to get the tile for the roof. He continued that Council did not agree to the stay, and the tile miraculously arrived in about three weeks and the entire roof was completed in less time than Mr. Holland originally wanted for the stay.

Referring to the letter from Mr. Holland to MCEB Chairman Pogorilich, dated November 23, 2009, a copy of which is part of the record and included in the Council agenda packet, Chairman Pogorilich stated that at the last MCEB meeting, the Board was given this letter, which contained another series of excuses, some of which the MCEB had not heard before; however, the letter did not explain the two-year delay. He noted the attachment to Mr. Holland's letter from the Business Professional Regulation dismissed Mr. Holland's complaint, inferring that filing the complaint was just another excuse. Chairman Pogorilich opined that Mr. Holland was someone who knew what he should have been doing and made his own personal decision *not* to do it; rather than do what he needed to do or was told to do, Mr. Holland came up with excuses. Chairman Pogorilich respectfully reminded Council that the citizens of Temple Terrace elected them and suggested that as Council makes its deliberations, they put themselves in the house next door to Mr. Holland, or in the car that has driven by the house for the last two years considering moving to Temple Terrace, and do the right thing.

Mayor Affronti recognized Mr. Ritter, who asked to make a further comment. Mr. Ritter stated he was holding a list of 16 properties in Hillsborough County owned by Mr. Holland. He said if money was an issue in this case, there is a source. While this has been a two-year code enforcement issue, he said it has been a four-and-a-half year process without a proper roof on that home. As pointed out by Chairman Pogorilich, he suggested Council Members put themselves in *his* position of having to look out his front door every day and be sickened by what he sees.

Mayor Affronti asked Mr. Holland whether he had anything to add.

William Holland, 228 Willowick Avenue, handed the City Clerk a letter, which the City Clerk immediately handed to the City Attorney. Mr. Holland questioned whether he has an opportunity to question Mr. Ritter. Mayor Affronti responded that he had three minutes to present his case.

Mr. Holland questioned whether the Council had an opportunity to review his letter of November 24, 2009, which explains the issues of getting his roof on, to which Council Members responded they have the letter. Mr. Holland said they finally got the roof on, adding that he cannot explain all the problems he encountered, one of which included a roofer with internal problems. He stated he is in compliance and would like to be treated like any other citizen in Temple Terrace. He continued that he understands historically these fines have been greatly reduced and at times, knocked out. He said he still has some work to do on the house, which will be more difficult if the fines are not reduced. He concluded that he appreciates their consideration.

The City Attorney commented that before proceeding further, he was just handed the document that Mr. Holland prepared, indicating he preserves any and all due process rights, including legal and equitable objections, afforded him by the Temple Terrace Municipal Code and Charter, Constitution and laws of the State of Florida, the United States Constitution and federal law, and by appearing he does not waive any Constitutional right to procedural challenges and rights to reasonable notice of any and all proceedings held in these matters.

The City Attorney asked Mr. Holland if the City Attorney's understanding was correct that at the Municipal Code Enforcement Board meeting, Mr. Holland made a presentation to the Code Enforcement Board with respect to the lien reduction request; Mr. Holland responded that was correct.

The City Attorney questioned Mr. Holland whether he was advised at that Code Enforcement Board meeting that the recommendation of the Code Enforcement Board would come before the City Council at the next scheduled City Council meeting. Mr. Holland said that was not his recollection.

The City Attorney continued that Mr. Holland has indicated he has not had adequate time to prepare for tonight's meeting. He questioned Mr. Holland as to what additional presentation he would make if he had received adequate notice of tonight's meeting, as he alleges in the letter that he did not receive. Mr. Holland asked the City Attorney if he knew when Mr. Holland got word of this. The City Attorney responded that he did not know, but Mr. Holland could tell them. The City Attorney continued that he was advised that Mr. Holland was told this would come before the City Council meeting at the Municipal Code Enforcement Board meeting.

Council Member Fernandez interjected that it is in the minutes of the Municipal Code Enforcement Board (MCEB) meeting.

The City Attorney questioned Mr. Holland whether it is an accurate statement that the minutes are incorrect and that Mr. Holland was not advised of that. Mr. Holland responded that he was in touch with the City Attorney's office this afternoon to find out if this hearing tonight was regarding the request to stay the proceedings or the lien reduction request.

The City Attorney responded that the request to stay the proceedings is something he [the City Attorney] brought up before the City Council, shortly after Mr. Holland presented the letter to them, and he suggested to the City Council that they should stay the proceedings so that Mr. Holland could allow his lien reduction request to proceed. He asked Mr. Holland if he was aware the City Attorney's office had called Mr. Holland's office and entered into a Stipulation to Stay the Proceedings.

Mr. Holland responded by asking whether the City Attorney wanted his [Mr. Holland's] understanding of what was going on now. The City Attorney asked Mr. Holland whether they executed the Stipulation to delay mediation in the matter so that they could go forward with the lien reduction process. Mr. Holland confirmed he asked to stay the proceedings. The City Attorney questioned Mr. Holland as to whether the City Attorney's office has taken any action or done anything to move the case forward since entering into the Stipulation. Mr. Holland confirmed they have not.

The City Attorney responded that effectively the case has been stayed so that they can move the mediation back and Mr. Holland can go forward with the lien reduction request. Mr. Holland responded that he understands the stay was effective through December 10, 2009, or December 11, 2009, or whatever that date was.

The City Attorney explained the mediation was supposed to take place by that date. He said they agreed to move the mediation back until sometime no later than the end of February so that the lien reduction request could go forward. As Mr. Holland began to respond, the City Attorney read aloud the stipulated Order to Mr. Holland, first explaining to Council that Mr. Holland had asked for a stay and the City Attorney indicated to Council that delaying the mediation, as Mr. Holland had suggested, was a good idea so that Mr. Holland could go forth and have his lien reduction request considered by the Code Enforcement Board and the City Council, which leads them to where we are now.

The City Attorney continued, stating the City Council agreed, so at the City Council Meeting the end of November, the Council made a motion to direct the City Attorney to do so, and as a result, the City Attorney's office contacted Mr. Holland's office and entered into a stipulation, and he has the stipulated Order.

The City Attorney read and paraphrased, "This cause, having come before the court on the joint stipulation for extension of time to mediate, filed by the Plaintiff, City of Temple Terrace, and the Defendant, William Holland, after due consideration, it is ordered and adjudged as follows: the extension of time to mediate is granted." The City Attorney continued that the order indicates the parties shall mediate no later than February 28, 2010. He said the whole point was that Mr. Holland would have the ability to come before Council with the lien reduction request. He said that although there is not an order staying the proceeding entirely, this has effectively stayed the proceeding for awhile so that we could go forward with this process.

The City Attorney said he is now being handed a document from Mr. Holland saying that his due process rights, etc., are being violated. He continued, questioning Mr. Holland as to whether Mr. Holland is claiming that in this proceeding tonight his due process rights are being violated, and if so, how they are being violated and what the City Attorney can do to fix that procedural due process violation.

Mr. Holland asked to clarify something. The City Attorney said he was reading the document he was handed and he needed to know exactly what Mr. Holland is claiming tonight is being violated.

Mr. Holland responded that one thing is notice.

The City Attorney questioned Mr. Holland that if he were given some other notice of the meeting tonight, what evidence or presentation would he be making tonight that he cannot make right now.

Mr. Holland responded that he could consult an attorney, whom he called after he found out this reduction hearing was tonight, but the attorney could not be here. Mr. Holland expressed concern that the City Attorney was becoming confrontational when he [Mr. Holland] is here trying to resolve this thing if possible.

The City Attorney responded that the document Mr. Holland handed to the City Clerk at the other end of the dais just a minute ago, indicating his belief that his due process rights are being violated by the City, has made this somewhat confrontational. The City Attorney explained he is trying to figure out exactly what process Mr. Holland believes he is entitled to that he is not receiving this evening.

Mr. Holland stated that the document he gave the City Clerk says that he respectfully "preserves."

The City Attorney responded that by "preserving," Mr. Holland is saying that somehow the City is not giving him adequate due process this evening. He added that it is *his* right to ask Mr. Holland what due process rights he is requesting from the City Council. He clarified for Mr. Holland that he is speaking about the proceeding this evening.

Mr. Holland said he would stand on his letter about notices. The City Attorney commented that if that is all he has to say, that is fine. He said he is asking what Mr. Holland would like to be done to correct what he appears to be indicating is a procedural defect.

Mr. Holland said that he believes the letter says he is preserving any and all due process rights, and so forth. He asked the City Attorney if he was incorrect.

The City Attorney responded that is what the letter says. He added that he believes Mr. Holland will agree that if he is claiming some sort of procedural due process irregularity, the City Attorney has the right to ask him what irregularity Mr. Holland believes is taking place, so that it can, in fact, be corrected.

Mr. Holland said he doesn't believe the City Attorney does at this point; Mr. Holland said he does not have the right to cross-examine witnesses or people who have come up and testified.

Referring to the persons who came up and presented statements – Mr. Ritter, who lives across the street from Mr. Holland, and Mr. Pogorilich, the Chairman of the Municipal Code Enforcement Board, the City Attorney asked Mr. Holland what questions he [Mr. Holland] would ask them.

Mr. Holland said he would ask Mr. Pogorilich to explain when, where, and in what manner that he believes Mr. Holland either misrepresented or inferred that he lied to either this panel [City Council] or to the Code Enforcement Board.

The City Attorney stated due to the pending litigation and given the legal issues involved in the pending litigation, it is his recommendation that Chairman Pogorilich come forward and answer the question.

MCEB Chairman David Pogorilich responded that the first point is the letter the MCEB received dated November 23, 2009. At their Code Enforcement Board Meeting [on December 9, 2009], he said he asked Mr. Holland why he was bringing this to the Board's attention now and why he didn't bring it to their attention previously. He said Mr. Holland responded to Chairman Pogorilich that he [Chairman Pogorilich] never asked. He asked Mr. Holland to confirm the statement and Mr. Holland said that was true.

MCEB Chairman Pogorilich continued that when he asked Mr. Holland about the seven months Mr. Holland had told the Council it would take to get the tile, the fact that the tile showed up weeks later is a prima facie lie; it is not true. Chairman Pogorilich commented that whether it was maliciously said or inadvertently said, it is still not a true statement. He continued that throughout the two years, Mr. Holland gave the MCEB one reason after another. As an example, Chairman Pogorilich said that one reason given about two years ago was that he had to wait until the roofers were back from Katrina. Chairman Pogorilich said the roofers have been back for awhile; therefore, that statement, on the face of it, whether it was maliciously stated, accidentally stated, or whatever the reason, is not a true statement.

Mr. Holland asked Mayor Affronti if he could question Chairman Pogorilich. Expressing concern as to whether Mr. Holland is using this evening as another part of the legal process in the pending litigation, the City Attorney advised Mayor Affronti that Mr. Holland should be allowed to ask questions of Mr. Pogorilich.

Mr. Holland asked Chairman Pogorilich when the tile was delivered, to which Chairman Pogorilich said he knew it was delivered within weeks after the meeting when Mr. Holland appeared before the Council, but he did not recall the exact date - only that he knew it was less than seven months.

Mr. Holland asked Chairman Pogorilich if he remembers how many weeks, to which Mr. Pogorilich reiterated it was less than the seven months Mr. Holland said he needed. Mr. Holland commented that based on that, Chairman Pogorilich is saying he [Mr. Holland] is lying.

Chairman Pogorilich countered that Mr. Holland told the Council the reason he needed the stay was that he needed seven months to get the tile and that, in fact, is not a true statement.

Mr. Holland asked Mr. Pogorilich where he got the statement that Mr. Holland said the roofers were tied up with Katrina. Chairman Pogorilich responded that a few years ago at a Code Enforcement Board meeting, one of the reasons Mr. Holland said he needed additional time was because the roofers needed to come back from Hurricane Katrina. He added that Mr. Holland was granted the additional time, based on that information. Mr. Holland questioned whether that was in the minutes, to which Chairman Pogorilich commented the minutes are not verbatim, but it should be included in them.

The City Attorney asked Mr. Holland whether he had any other questions to ask Mr. Ritter, to which Mr. Holland said he did not believe so at this time. Mr. Holland said he was trying not to appear before the Council in a confrontational manner to get this resolved, and unfortunately that has not happened. He said he doesn't think there was anything he misrepresented to Council, the Code Enforcement Board, or anyone else. He acknowledged it might be inaccurate, but if it was, it was because of a lack of knowledge of something he didn't know in particular. He concluded that all he is asking is that he be treated like any other citizen of Temple Terrace with his request that the fine be reduced.

The City Attorney apologized to Mr. Holland if he took a certain tone with him; however, it is very important to him and to his colleague, Jenay Iurato, to make sure that people who come before the City Council get adequate due process. He explained that his practice, when he handled the code enforcement board, when a violator wished to introduce evidence, as the prosecuting attorney to the City, he doesn't believe he ever objected to any evidence being introduced by a violator or any latitude that the Board may want to grant a violator, because he believes alleged violators should get every procedural due process that can be afforded to them.

The City Attorney continued that his statements to Mr. Holland tonight do not reflect any personal opinion on his part with respect to Mr. Holland's request for a reduction in the lien amount; that is certainly something for City Council's consideration. He concluded that the Council has the recommendation of the Code Enforcement Board that was provided to the Council as part of the procedures.

Mayor Affronti noted there are two issues – one is the lien reduction and the other one is the extension of time. He said he understands the Municipal Code Enforcement Board is recommending against the lien reduction, but is in favor of extending the mediation to the end of February.

The City Attorney interjected that the request for an extension of time has already been considered by the City Council; the Council gave him direction a number of weeks ago to delay mediation so they could go through the process of having a lien reduction request, which is what they did and why he read to them the stipulated order. Therefore, he said the request for extension of time is moot and requires no action; all that is necessary is to contemplate Mr. Holland's lien reduction request and the merits, or lack thereof, that the Council determines.

Council Member Govin asked for an explanation from the City Attorney as to what it means if it is going to mediation.

The City Attorney responded that mediation in this case may be pointless. He said this is essentially Mr. Holland's opportunity to appear before Council and to provide Council with equitable considerations as to why Council should reduce the lien and agree to take a lesser amount to resolve this matter, which he noted is something the Council does all the time. He continued that Council has heard from Chairman Pogorilich that this matter has been pending for quite some time, and they have heard some consternation from him and Mr. Ritter in the past that it took a long time for the roof to be fixed. He reviewed that City staff has indicated that the staff time spent on this matter is about \$3,400 and the attorneys' fees and costs in this matter in the pending lawsuit are roughly \$8,600; therefore, for Council's purposes, the City has a total of about \$12,000 as a City investment in this matter. He noted the amount of the lien is substantial at \$77,800. He concluded that while it is not his place to tell them what he thinks they should or should not do, as a regular matter, the City Council does, in fact, consider lien reduction requests and makes a determination based upon the equities, as they see it, of the circumstances and what they believe to be appropriate.

MCEB Chairman Pogorilich commented that ever since he has been Chairman of the Board and even before, when he sat on the Board, the Code Enforcement Board has been overly accommodating to everyone who comes before them. He said if Mr. Holland had made one inch of movement in an effort to do what he needed to do, they would have seen a different recommendation coming to them tonight, but Mr. Holland has done nothing but give them excuses and try to delay what ultimately had to be done; it wasn't until his back was against the wall that he did anything. He said they are not trying to pick on Mr. Holland, but he believes a clear message has to be indicated to others out there that they have to give; it is not voluntary. He reiterated the Board is extremely accommodating to everyone; however, there was absolutely no movement for over two years on this particular issue.

Council Member Knapp asked whether the home is in compliance now. Code Compliance Director Gross responded affirmatively, adding that they do not have a current case pending. Council Member Knapp confirmed it is in compliance as it relates to this case. He asked the Code Compliance Director's estimation of time from the first complaint on the roof until completion. The Code Compliance Director responded that the initial inspection was on January 30, 2007, and the case was closed in mid-November, 2009, concluding it was about 2-3/4 years.

Mayor Affronti called for a motion one way or the other.

A motion was offered by Council Member Hallway and seconded by Council Member Govin, to support the recommendation of the Municipal Code Enforcement Board to deny the reduction of the fine assessed in MCEB Case No. 07-081.

Prior to vote on the above motion, Council Member Fernandez commented that Temple Terrace is a neighborhood community and does not have the deed requirements that other communities require, such as specific mailboxes, and sometimes specific bushes and landscaping; they give owners wide latitude with their property, but it also works both ways. She said one neighbor's actions greatly affect their neighbors around them, and, therefore, she has to support this motion.

Council Member Knapp commented that he supports the motion as far as the point that he should be fined; however, he believes the fine is excessive, and, therefore, he will be voting against this particular motion.

Mayor Affronti asked Council Member Knapp whether he wished to recommend a different amount, to which Council Member Knapp responded he believes that \$77,800 is a large sum of money to be fined on someone; the only person who knows Mr. Holland's personal finances and what he could or could not do is Mr. Holland. In response to Mayor Affronti's question as to an alternative recommendation, Council Member Knapp stated the City has about \$12,000 invested; he would recommend that the City Council reduce the fine to the amount of the City's investment times three, for a total of \$36,000, and that Mr. Holland be given 30 days to pay or it reverts back to the \$77,800. Council Member Fernandez interjected that she would be agreeable to that recommendation.

Mayor Affronti asked whether Council Member Halloway would be agreeable to the amendment. Council Member Halloway looked toward the MCEB Chairman for his response; however, the City Attorney commented that at this point, the decision is at the Council's level and he recommended it be kept as a Council decision, because of due process issues. Council Member Halloway said he would agree to the amendment. Council Member Fernandez said the reason she would support the amendment is that she agrees that \$77,800 is a very large amount; however, at the same time, questioned how they put a price on the intangible effect on the neighborhood.

In response to Mayor Affronti's question as to whether they should vote separately on the amendment, Council Member Knapp stated that he did not make the motion; he suggested Council Member Halloway could just restate the motion. Council Member Halloway agreed to restate the motion, amended as recommended by Council Member Knapp.

The City Attorney clarified that the motion pending at this point in time is to reduce the fine amount to \$36,000, payable within 30 days or it reverts back to the full amount of \$77,800. Mr. Holland requested the Council give him 60 days, to which the Council consensus was that the timeframe for payment remain at 30 days. Mayor Affronti noted it is a substantial reduction from what it was.

Before the vote was taken, Council Member Govin said that he had seconded the original motion to accept the MCEB recommendation of no reduction; however, he will not agree to the motion as amended. Council Member Knapp stated he would second the motion.

Upon motion of Council Member Halloway, seconded by Council Member Knapp, **RESOLUTION NO. 004-10(m)** was **ADOPTED**, granting a reduction of the fine assessed in MCEB Case No. 07-081, from \$77,800 to \$36,000, contingent on the fine being paid in full within 30 days of the date of approval or the fine will revert back to the full amount of \$77,800. Vote on the motion being: Council Members Fernandez, Halloway, and Knapp voting "aye," and Council Members Govin and Neale voting "nay."

3. Appointments (2) – Municipal Code Enforcement Board.

Mayor Affronti announced that one of the applicants, William Newkirk, would like the opportunity to briefly address the Council.

Mr. Newkirk, a 20-year resident of Temple Terrace, stated he has served the last year-and-a-half, filling an unexpired term of a previous Board member, and he is now applying for a full appointment. He requested the Council's support to continue to serve on the Municipal Code Enforcement Board.

While the votes were being tabulated, the City Attorney commented it is exciting and refreshing to have so many citizens interested in serving on the Municipal Code Enforcement Board. Having served as Counsel to that Board, he affirmed the Board serves a very important role. Mayor Affronti added that a couple of the applicants stated their desire to serve on the Board of Adjustment if not selected for this Board, which is commendable.

By ballot vote, William Newkirk was reappointed to a three-year term and Richard Schmidt was appointed to fill an unexpired term of a previous Board member.

4. Appointment – Board of Adjustment.

By ballot vote, Sandra Piccirilli was appointed to serve a three-year term on the Board of Adjustment.

5. Temple Terrace Redevelopment Agency Recommendations.

Upon motion of Council Member Holloway, seconded by Council Member Fernandez, **RESOLUTION NO. 005-10(m)** was **ADOPTED**, accepting the recommendation of City Staff for a Facility Master Plan Option 1, as recommended by Temple Terrace Redevelopment Agency Resolution No. CRA-126(m) dated January 5, 2010. Vote on the motion being: Council Members Fernandez, Holloway, Knapp, and Neale voting "aye," and Council Member Govin voting "nay."

Upon motion of Council Member Holloway, seconded by Council Member Fernandez, **RESOLUTION NO. 006-10(m)** was **ADOPTED**, accepting the recommendation as set forth in Temple Terrace Redevelopment Agency Resolution No. CRA-127(m), to proceed with Building J for a Center for the Arts in the redevelopment area under Option 2, which includes a modification of the Developer Agreement, 14,000 square foot, with a maximum \$640,000 expenditure by the City, or if it is anticipated to exceed that amount, it would be required to come back to Council for approval to exceed that amount. Vote on the motion being: Council Members Fernandez, Govin, Holloway, Knapp, and Neale voting "aye," no "nay."

Mayor Affronti called for any other business.

Council Member Fernandez commented that some may have read about the County and the Environmental Protection Agency talking about a change in the fertilizer ordinance. She requested the City staff bring forward a plan to educate the residents about the change. She said she is not in favor of putting a law on the books, which she believes would be impossible to regulate; however, the City should help to educate the residents, since everything drains into the river and nitrates have become a problem. She said she believes there are programs that could assist the City with this task.

The City Manager called on the Code Compliance Director, who has been monitoring this issue with the county, to provide an update.

The Code Compliance Director confirmed this issue has been discussed for some time; Pinellas County has recently adopted some related ordinances. He said the Hillsborough County Commission and the EPA are moving forward with a County Rule; all of the jurisdictions will be working with them. He said as soon as the City has something “concrete,” they will get the word out to the residents. In addition, he noted there is a new tree guide now available to the residents.

There being no further business to be considered, upon proper motion, the meeting was adjourned at 7:03 p.m.

Joseph A. Affronti, Sr.
Mayor

Alison M. Fernandez, Council Member

Ron A. Govin, Council Member

Ken Halloway, Council Member

Attest:

Mark A. Knapp, Council Member

Melissa E. Small, MMC
City Clerk

Mary Jane Neale, Council Member