

**CITY OF TEMPLE TERRACE, FLORIDA
MAYOR AND CITY COUNCIL
MINUTES**

**Regular Meeting
Tuesday, January 19, 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 19, 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, Finance Director Diane Reichard, Police Chief Ken Albano, Assistant Fire Chief Ian Kemp, Deputy Public Works Director Ray LeBlanc, Deputy City Clerk Donna Spano, Senior Planner Brad Parrish, Joe Bell, Jimmy Ciaccio, Patsy Ciaccio, Judy A. Govin, Joyce McKenzie, Pastor Valora Cole, Pastor La Jun M. Cole, Sr., Minister Myron A. Roberson, Minister Adrienne Clark, Valerie C. Smith, Lottie Ponder, 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 invited Pastor La Jun Cole to offer a brief invocation.

Proclamations, Recognitions, and Special Presentations:

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

Mayor Affronti presented a Certificate of Recognition and Welcome to Pastors La Jun M. Cole, Sr. and Valora Cole, Perfected Love International Fellowship, welcoming them and their new church to the City of Temple Terrace. Pastor Cole mentioned they are looking for a location for their church within the Temple Terrace area, adding this is where their heart is.

Minutes of Previous Meetings:

Upon motion of Council Member Knapp, seconded by Council Member Govin, and unanimously carried, the **MINUTES** of the January 5, 2010, Council Meeting were **APPROVED**.

Public Hearings:

1. Conditional Use and Site Plan – Gaspar’s Patio Bar & Grille.

Mayor Affronti opened the Public Hearing relative to CU#09-01/SPR#09-02, Site Plan and Conditional Use Approval for Expansion of Lounge for Gaspar’s Patio Bar and Grille.

Utilizing a PowerPoint presentation, Senior Planner Brad Parrish presented the conditional use and site plan application from James Ciaccio, owner, to expand and modify the existing conditional use.

The Senior Planner briefly reviewed the current zoning designations of the property, which are CG (Commercial General) and R-10 (Single-Family Residential), and the zoning of surrounding properties. He noted the buildings are constructed on the area zoned CG, and the two lots on the west side, where the parking lots are located, are zoned R-10. He explained the applicant is proposing to expand the existing use, labeled "A" on the site plan, *lounge and patio*, to the retail space just north, labeled "B" on the site plan; a copy of the site plan is part of the record. He restated the purpose of the application is to expand the existing lounge, with outdoor seating area, at 8448 N. 56th Street into the adjacent retail building at 8450 N. 56th Street.

The Senior Planner noted that the property is generally located between Beverly Drive and Ridgeway Road, with a parcel size of approximately 52,129 square feet, or 1.2 acres +/-; the future land use designation is DMU-25 (Downtown Mixed-Use 25) and R-4 (Residential-4).

The Senior Planner continued that after review of the application, the Development Review Committee (DRC) recommended approval, provided the Conditions of Approval are addressed as part of the site plan. He briefly reviewed the conditions, as set forth in the Memorandum to the City Manager dated January 6, 2010, a copy of which is part of the record. He commented that the applicant has requested waivers to the City's Alcoholic Beverage Code requirement of a 1,000-foot separation from other establishments that sell alcoholic beverages and certain "protected facilities," because the lounge would be less than 1,000 feet from the Fire House Pub & Grill, located at 8814 N. 56th Street, the Ruchi Indian Restaurant & Bar (now operating as Mayuri Indian Cuisine), located at 8447 N. 56th Street, and Riverside Park, located at 201 S. Riverhills Drive.

The Senior Planner briefly commented on other conditions, which included occupancy limitations – seating based on off-street parking spaces; sound/music in accordance with City Code Noise Control; evidence of the 4-COP license obtained to expand the current use to the Automotive Engineering building at 8450 N. 56th Street; adherence to hours of operation contained in Chapter 3 of the City Code; site lighting requirements per City Code; submission of the final site plan signed and sealed by a licensed Civil Engineer; establishment of the conditional use within six months from date of approval; and incorporating previous approvals and waivers from the December 18, 2007, Conditional Use & Site Plan Approval. He affirmed the petitioner is aware of the City's site plan expiration requirements as stipulated in the City Code. He noted that the Planning Commission has reviewed the Conditional Use and Site Plan and finds it consistent with the City's Comprehensive Plan, recommending that measures are taken to ensure that adequate buffering is afforded the single family residential lots adjacent to the proposed parking areas.

Council Member Halloway questioned why the application is being treated as a new establishment, when they are simply expanding an existing establishment. The Senior Planner responded that because Mr. Ciaccio is expanding his business into the adjacent space, the City Code requires a new public hearing and a new site plan for the expansion of the previously approved conditional use.

Council Member Fernandez questioned the purpose of a landscaping plan requirement when the area bordering 56th Street will be torn up for streetscaping. The City Manager responded that a lot of the required improvements are on Mr. Ciaccio's property, but the City will certainly be coordinating the 56th Street improvements with Mr. Ciaccio, not wanting anyone to be spending money on landscaping that the City would be tearing out.

Regarding the sound/music, Council Member Fernandez commented that there were concerns expressed in the past, relative to the outdoor patio area. She questioned whether the expansion to the enclosed, existing building would have any effect on the neighborhood, when the patio area is not being expanded. The Senior Planner said the applicant will have to adhere to the noise provisions in the City Code. He acknowledged there was one call from a resident with questions about the previous conditional use, but the City did not receive any concerns. The City Manager interjected that adjacent residents were advised of the application for the expansion.

Council Member Neale said the proximity of the protected facility has not changed; however, the park was not there when the initial conditional use was granted.

Council Member Govin questioned whether there have been any complaints since 2007 when the initial conditional use was granted. The City Manager responded that he has not heard of any, but if there were, they were evidently resolved. Council Member Neale asked if there were any concerns relative to the park's proximity, to which the City Manager said there were none.

Council Member Knapp commended Mr. Ciaccio for taking an existing empty building in the downtown redevelopment area, during this economic time, investing in it, and turning it into something that will be used. He added that Mr. Ciaccio has done a great job with his business in the past, and there is no reason not to allow him to expand his business.

Mayor Affronti called for comments from the public; there were none.

The City Attorney said that from a legal standpoint, the only issue is that there are four separate lots that are part of this project; at least two of those lots are owned by different owners. He would recommend that included in the site plan approval is the preparation and recordation of a legal document between the entities who own the properties to provide perpetual cross-access, cross-parking, joint use provisions, so that there is no question that the access and parking is for the use of all the parcels.

In response to a question from Mayor Affronti as to whether Mr. Ciaccio agrees with the conditions presented, Mr. Ciaccio indicated he has no problem with any of the conditions.

Upon motion of Council Member Knapp, seconded by Council Member Fernandez, **RESOLUTION NO. 007-10(m)** was **ADOPTED**, waiving the requirements for a 1,000-foot separation from other establishments that sell alcoholic beverages and certain protected facilities. Vote on the motion being: Council Members Fernandez, Govin, Halloway, Knapp, and Neale voting "aye," no "nay."

Upon motion of Council Member Knapp, seconded by Council Member Govin, **RESOLUTION NO. 008-10(m)** was **ADOPTED**, approving the Conditional Use and Final Site Plan Application CU#09-01/SPR#09-02, with conditions as set forth in the Memorandum to the City Manager dated January 6, 2010, a copy of which is part of the permanent record, and including the recommendation of the City Attorney to include in the conditions the preparation and recordation of a legal document between the owners of the four parcels to ensure perpetual cross-access, cross-parking, and joint use provisions. Vote on the motion being: Council Members Fernandez, Govin, Halloway, Knapp, and Neale voting "aye," no "nay."

There were no persons wishing to be heard on items NOT listed on the Agenda. 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 Resolution for consideration and action, explaining the circumstances surrounding the need to rescind the prior Resolution and stating that once the previous Resolution has been rescinded, the City will re-bid to purchase a street sweeper.

Upon motion of Council Member Knapp, seconded by Council Member Fernandez, and unanimously carried, Resolution E-1 was adopted by consent, as follows:

RESOLUTION NO. 009-10, rescinding Resolution No. 128-08 to purchase a street sweeper from Florida Municipal Equipment, Inc., in the amount of \$159,055.

Proposed Ordinances for Consideration and Action:

Council then heard **FIRST** reading, by caption, of a proposed ordinance, being: **AN ORDINANCE OF THE CITY OF TEMPLE TERRACE, FLORIDA, AMENDING CHAPTER 1, TEMPLE TERRACE CODE OF ORDINANCES, BY REPEALING SECTION 1.180, INDEMNIFICATION IN CONTRACTS, AND ENACTING A NEW SECTION 1.180, INDEMNIFICATION IN CONTRACTS, TO ENABLE THE CITY TO OBLIGATE ITSELF TO PROVIDE INSURANCE COVERAGE FOR PARTIES PURSUANT TO WRITTEN CONTRACTS; PROVIDING A SEVERABILITY CLAUSE, EFFECTIVE DATE, AUTHORITY TO CODIFY, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.**

Council Member Fernandez expressed concern as to whether the City could be put into the position of being forced to provide insurance coverage.

For clarification, the City Attorney explained this issue came up because the City is statutorily required to have a Medical Director for the EMS (Emergency Medical Services) program; while the City's insurance program with Public Risk Management of Florida includes coverage for the Medical Director, but under the current ordinance, the City would not be able to provide the coverage. He continued that the question came up when they were modifying the ordinance for that purpose, whether the ordinance should be modified so that in the limited instances where it may be in the City's best interest to provide insurance, that the ordinance provide the flexibility to provide such coverage. Therefore, he said they are amending the ordinance to merely provide the *flexibility* to provide insurance coverage in other instances where it is determined to be in the City's best interest to do so.

Council Member Fernandez questioned who would make the determination that it would be in the City's best interest to provide insurance coverage and secondly, how someone could be prevented from requiring the City to provide insurance.

The City Manager responded that he does not believe that would be a requirement, but would come to the Council as a recommendation from the City Manager to provide coverage to some entity; he would keep it restrictive and conservative. He added his belief that the use would be very limited. Council Member Fernandez asked whether the ordinance should specifically include language to that effect. The City Attorney stated that any material contracts come before Council in the Consent Agenda; therefore, as a matter of policy, he does not see this as a situation where the administration can start executing contracts and obligate the City regarding insurance. He commented that language could be added to the ordinance, if the Council wishes, but as a practical matter, all contracts do come before the Council so he does not see that as a problem.

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

City Manager's Report:

The City Manager reported that, following the direction from Council relative to the Center for the Arts, the administration and staff have been working very hard and have had a number of meetings themselves and with the Vlass team, and will be meeting again tomorrow afternoon. He said he believes they are close to consensus in terms of the configuration and within the parameters the Council has placed upon this facility. He concluded he is very optimistic that they will have a plan to present to Council in the very near future for their consideration.

New Business:

Council Member Govin asked about the letter in their mail from Mr. Piggott. The City Manager commented the letter related to a trespassing incident at the Family Recreation Center that he would prefer to handle; if Mr. Piggott decides to come before the Council, he would like them to have proper preparation, adding that he believes the City's position is solid. Mayor Affronti interjected that he had a conversation with Mr. Piggott, in which he told Mr. Piggott that staff's action in this matter was appropriate.

Mayor Affronti asked for prayers for the people of Haiti.

There being no further business to be considered, upon proper motion, the meeting was adjourned at 6:29 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