

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

**Regular Meeting
Tuesday, June 1, 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, June 1, 2010, in the Council Chambers at City Hall.

PRESENT WERE: Mayor Joe Affronti, Sr., and Council Members Alison Fernandez, Ron A. Govin, Ken Halloway, Mark A. Knapp, 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, Leisure Services Director James Chambers, Public Works Director Joe Motta, Human Resources Director Woody Hubbard, Police Chief Ken Albano, Fire Chief Keith Chapman, Community Development Director Charles Stephenson, Finance Director Diane Reichard, Code Compliance Director Joe Gross, Senior Planner Brad Parrish, Deputy Public Works Director-Water & Sewer Mike Darrow, Acting Deputy City Clerk Jeannie Barlow, Fire Department Local 3582 Representative Roger Chewning, Joe Bell, Joyce McKenzie, Al Latina, Jane Latina, Dawn Headland, William Brady, J. Brady, Marcia Paulson, Roy Paulson, Dolores Buffington, Kathleen Spaulding, David L. Spaulding, Judith A. Rose, Tom Ash, Cheri Donohue, Grant Rimbey, Linda Saul-Sena, David Pogorilich, Lisa Montelione, Harold Falls, Russ Patterson, Howard Johnston, Lucinda Johnston, Dr. Richard Garrity, and several other persons.

Following an Out-of-Sunshine Meeting regarding pending litigation, which convened at 5:00 p.m. and terminated at approximately 5:30 p.m., and a second Out-of-Sunshine Meeting regarding Fire labor agreement negotiations, which convened at approximately 5:30 p.m., and terminated at approximately 6:00 p.m., Mayor Affronti reconvened the City Council Meeting, calling it to order at 6:04 p.m., after which he led the Pledge of Allegiance to the flag and offered a brief invocation.

Proclamations, Recognitions, and Special Presentations:

1. Proclamation – “National Garden Week.”

Mayor Affronti presented a Proclamation to Al Latina, President of the Temple Terrace Garden Club, and several Garden Club Members, proclaiming June 6-12, 2010, as “National Garden Week” in Temple Terrace, and urged the community to observe this week by planting, feeding, and trimming their gardens to make this community even more beautiful than before. President Latina expressed appreciation for the recognition and noted the Club is in its 65th year.

2. Proclamation – “Code Enforcement Officers Appreciation Week.”

Mayor Affronti presented a Proclamation to Code Compliance Director Joe Gross, proclaiming June 7-11, 2010, as “Code Enforcement Officers Appreciation Week,” and called on all citizens and civic organizations to join in expressing appreciation for the dedication and outstanding service provided by the individuals who serve the City as Code Enforcement Officers.

Minutes of Previous Meetings:

Upon motion of Council Member Holloway, seconded by Council Member Fernandez, and unanimously carried, the **MINUTES** of the May 18, 2010, 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, and there was no Correspondence, Communications, or Petitions for Council's consideration and action.

Presentations:

1. Voluntary Annexation – 7911 Harney Road (Lovelace) - Presenter: Brad Parris, Senior Planner, Community Development Department.

Utilizing a PowerPoint presentation, Senior Planner Brad Parrish presented the request of Beatrice Lovelace to voluntarily annex into the City an approximate one-acre parcel of property located at 7911 Harney Road, on the south side of Harney Road and approximately 1,300 feet east of 78th Street. The Senior Planner noted the property is the site of a single-family home and is adjacent to the M & B Products, Inc., property. He commented that the property currently has a Hillsborough County zoning designation of Agricultural-Rural and a Hillsborough County Comprehensive Land Designation of Residential-6. He pointed out on the general area map that once the M & B Products, Inc., (also known as the dairy farm) is annexed, the single family residence becomes contiguous.

Senior Planner Parrish reported the administration has reviewed the request and determined City services are available, and the annexation would not impact the City's levels of service or personnel; in addition, the annexation will generate approximately \$463.56 in annual tax revenue. He concluded that based on these findings, the administration recommends proceeding with the annexation, adding that the First Reading of the ordinance is scheduled to occur later in the meeting.

The City Attorney confirmed with the Senior Planner that Hillsborough County had been properly notified, and the City received no objections to the annexation request.

2. Presentation – Local Business Taxes – Presenter: Finance Director Diane Reichard.

Finance Director Diane Reichard explained to the Council that Florida Statute §205.0535(4) provides that Local Business Tax Rates can be adjusted by 5% every other year since the City's Equity Study Commission review in 1995. She noted that the rates were last adjusted on July 18, 2007, with the billing for Fiscal Year 2007-08. She recommended that the rates for each category be increased by 5% as shown in the schedules for Chapter 19 of the Temple Terrace Code of Ordinances, and that the rate changes be effective for Fiscal Year 2010-11. She concluded this will generate an additional \$11,500 annually.

Council Member Fernandez questioned how the City's Local Business Tax Rates compare with other jurisdictions in this area.

The Finance Director responded that Hillsborough County charges a minimal amount in the range of \$18-\$30; however, she noted that our City checks out the businesses and handles enforcement. Comparing a random selection of categories to Plant City, she commented that Temple Terrace is relatively the same, with Plant City being higher in categories including inventories; compared with the City of Tampa, Temple Terrace's rates are about half in most categories used in the comparison.

Council Member Govin noticed that No. 19, Astrologists, Fortune-Tellers, etc., on the Business Tax category listing is prohibited; he questioned the basis on which that business listing is prohibited. The Finance Director responded she was not here in 1995 when the City's Equity Study Commission was established, which set up the initial categories. She added that the category listing cannot be changed unless the Legislature changes the law.

Council Member Govin suggested that if a category listing is prohibited, at some time Council must have voted to prohibit that particular type of business. He questioned whether the City has good legal basis for prohibiting something of that nature. The City Manager said he would research that and report back to the Council.

There were no Site Plan Reviews before the Council for consideration and action.

Resolutions for Consideration and Action:

Following the City Manager's brief review of the proposed Resolutions for consideration and action, Council Member Fernandez requested that Resolution E-5 be pulled for further discussion.

Upon motion of Council Member Neale, seconded by Council Member Fernandez, and unanimously carried, **Resolutions E-1 through E-4, E-6, and E-7** were adopted by consent, as follows:

RESOLUTION NO. 053-10, supporting the Tampa Bay Regional Planning Council's "Project Get Ready Tampa Bay."

RESOLUTION NO. 054-10, approving, based upon the City of Largo's Request for Proposals #6-P-164, the one-year extension to the agreement between the City and DRC Emergency Services, LLC, for disaster recovery services. *Council Member Govin confirmed with the City Manager there is no increase in fees with the extension.*

RESOLUTION NO. 055-10, awarding the contract to construct the 56th Street, Maroldy Drive, Richlyne Street, and Holland Avenue water main improvements to the low bidder, Seavy & Associates, Inc., in the amount of \$124,201.61; payment for said contract to be made from account 440-1922-533.63-32 (Water Improvement Fund.)

RESOLUTION NO. 056-10, rejecting two bids for the Whiteway Water Treatment Plant lime slurry feed system. *The City Manager commented that the bids received were more than double the estimates received from vendors; therefore, they will re-assess and develop a plan to move forward.*

RESOLUTION NO. 057-10, approving the Interlocal Agreement between the City and Hillsborough County for the distribution of boat registration fee revenue. *The City Manager explained this revenue funds the City's Marine Patrol Officer.*

RESOLUTION NO. 058-10, authorizing the administration to apply for an Edward Byrne Memorial Justice Assistance Grant in the amount of \$12,426. *The City Manager explained this is a request to seek grant funds in order to fund a replacement canine for the Police Department.*

Regarding Resolution No. E-5, the City Manager explained that this Resolution would implement a proposal in accordance with the Family Recreation Complex Expansion Project's Strategic Plan to offset Fiscal Year 2010-11 operating costs, with a 15% increase in membership fees to be effective October 1, 2010. He said this policy has been in effect since 1995 for facility maintenance and to maintain the hours of operation; it is expected to generate an estimated \$39,600, if Council chooses to go forward with this proposal.

Council Member Fernandez commented that when rate increases are proposed for such an important and well-used facility, she believes the services provided by Leisure Services and the reason for the increase should be discussed in further detail for the benefit of the public. She cited the example of the City's Leisure Services Department continuing to maintain ball fields, whereas some municipalities require the sports teams to maintain the fields or keep track of the maintenance. She concluded that the public should be aware of the benefits they are receiving.

The City Manager called on Leisure Services Director James Chambers to comment, with the caveat recognizing that the City provides a high level of services by comparison to other jurisdictions. The Leisure Services Director commented that the Membership Package for those involved in special classes or sports activities allows the members to pay by the day or by the year. He mentioned that the City does not charge Sports Leagues any additional fees for field maintenance; swim team members have to have a membership to be on the team, which is common throughout the City's programs. He noted there are about 2,500 individual membership packages sold each year, with about 580 resident family memberships. He said the next largest membership package includes 431 senior citizen-resident members.

As an example, relative to a resident family membership package with an annual cost of \$265.00, Council Member Fernandez questioned whether the City was going to continue to allow people to pay the fee through their utility bill if the rate increase goes into effect. The Leisure Services Director confirmed they would continue to allow people to pay through their water bill, adding that credit cards are also accepted. He mentioned that for residents who apply for hardship, there is a scholarship program.

Council Member Fernandez summarized that she does not have a problem supporting this rate increase. She reiterated her belief that any time they talk about increases for services, the public becomes concerned and wants to know why. She commented that the recreation center is an extremely important part of this community. Mayor Affronti added that it is also a tremendous value.

Council Member Holloway confirmed with the Leisure Services Director that the fees return about 40 - 45% of operational costs. He questioned whether the rate increase would also increase the rate of return. The Leisure Services Director responded somewhat; however, the anticipated \$39,600 in additional revenue is small in comparison to the Leisure Services overall budget. He delineated several of the self-sufficient programs, such as swimming and tennis lessons, contrasting them with parks crews who mow the medians and parks – there is no revenue to offset those costs.

Council Member Knapp asked whether anyone has noticed that the County has put a fee on all of their boat ramps, which he believes has multiplied the number of boats being launched on the City's "free" boat ramps. He suggested something should be done because the City's facilities are being "over-used" as a result of the County's fee program.

Leisure Services Director Chambers informed the Council that he and Code Compliance Director Gross have met with Hillsborough County and some of the Park Rangers to see how their program works, and with the Marine Patrol Officers to get ideas on enforcement, since it does take people, with the ability to write tickets, driving through the facilities. He concluded they are continuing to explore the issue.

Upon motion by Council Member Fernandez, seconded by Council Member Neale, **RESOLUTION NO. 059-10** was **ADOPTED**, implementing, in accordance with the Family Recreation Complex expansion project's strategic plan and to offset 2010-11 operating costs, a 15% membership fee increase, to be effective October 1, 2010. Vote on the motion being: Council Members Fernandez, Govin, Halloway, Knapp, and Neale voting "aye," no "nay."

Before proceeding, Mayor Affronti paused to welcome City of Tampa Council Member Linda Saul-Sena.

Proposed Ordinances for Consideration and Action:

Following the Second and Final reading of the caption of the proposed ordinance to voluntarily annex into the City an approximate 139.80 acre parcel and the abutting right-of-way along the south side of Harney Road, addressed as 8601 Harney Road, Mayor Affronti called for comments from the public concerning the ordinance. Hearing no comments from the public, Mayor Affronti called for a motion to adopt the ordinance.

Following **SECOND** and **FINAL** reading, by caption, upon motion of Council Member Halloway, seconded by Council Member Neale, **Ordinance No. 1272** was **ADOPTED**, being: **AN ORDINANCE OF THE CITY OF TEMPLE TERRACE, FLORIDA, PROVIDING FOR THE VOLUNTARY ANNEXATION OF FOUR PARCELS OF REAL PROPERTY AND THE ABUTTING RIGHT-OF-WAY ON HARNEY ROAD, LYING WITHIN THE UNINCORPORATED AREA OF HILLSBOROUGH COUNTY, GENERALLY LOCATED FRONTING THE SOUTH SIDE OF HARNEY ROAD, WITH AN ADDRESSABLE LOCATION OF 8601 HARNEY ROAD AND THE ABUTTING RIGHT-OF-WAY ON HARNEY ROAD, AND AS LEGALLY DESCRIBED IN EXHIBIT "A," ATTACHED HERETO AND MADE A PART HEREOF; REDEFINING THE CORPORATE BOUNDARIES TO REFLECT SAID ANNEXATION; PROVIDING A SEVERABILITY CLAUSE, EFFECTIVE DATE, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.** Vote on the motion for adoption being: Council Members Fernandez, Govin, Halloway, Knapp, and Neale voting "aye," no "nay."

Council then heard **FIRST** reading, by caption, of a proposed Ordinance being: **AN ORDINANCE OF THE CITY OF TEMPLE TERRACE, FLORIDA, PROVIDING FOR THE VOLUNTARY ANNEXATION OF AN APPROXIMATE ONE ACRE PARCEL OF REAL PROPERTY, LYING WITHIN THE UNINCORPORATED AREA OF HILLSBOROUGH COUNTY, GENERALLY LOCATED APPROXIMATELY 335± FEET SOUTH OF HARNEY ROAD, WITH AN ADDRESSABLE LOCATION**

OF 7911 HARNEY ROAD, AND AS LEGALLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF; REDEFINING THE CORPORATE BOUNDARIES TO REFLECT SAID ANNEXATION; PROVIDING A SEVERABILITY CLAUSE, EFFECTIVE DATE, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

Council then heard **FIRST** reading, by caption, of a proposed Ordinance being: **AN ORDINANCE OF THE CITY OF TEMPLE TERRACE, FLORIDA, AMENDING CHAPTER 19, TAXATION, TEMPLE TERRACE CODE OF ORDINANCES, AS IT RELATES TO LOCAL BUSINESS TAXES, BY AMENDING SECTION 19.195.16 TO PROVIDE FOR A LOCAL BUSINESS TAX INCREASE IN ACCORDANCE WITH FLORIDA STATUTES §205.0535(4); PROVIDING A SEVERABILITY CLAUSE, EFFECTIVE DATE, AUTHORITY TO CODIFY, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.**

The City Attorney confirmed with the City Clerk that the two ordinances, for which First Reading was held, will be placed on the agenda of the next regular City Council Meeting on June 15, 2010, for Second Reading.

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

City Manager's Report:

The City Manager reviewed the City's previous involvement in organizing Memorial Day activities several years ago, explaining that a former Council Member had led that effort, but it was not well-attended; therefore, it was a consensus that the City's efforts would be concentrated on Veteran's Day events. He said he wanted to be clear that the City is not placing less importance on Memorial Day, nor is it in any way reflecting disrespect for Memorial Day and the personal sacrifices behind this holiday.

New Business:

1. House Bill 325 – Red Light Cameras.

The City Attorney reviewed the impact of the recently approved legislation, specifically House Bill 325 related to the use of cameras to enforce traffic control signal violations, and presented options for the Council to consider. (A copy of the Memorandum from the City Attorney to the Mayor, Council, and City Manager is attached hereto and made a part of the permanent record.) He noted the law will take effect on July 1 of this year; at the time this law takes effect, the systems for enforcing red light programs throughout various jurisdictions in Florida will be pre-empted by Florida Statutes. He continued that if the City wishes to proceed with a program to enforce red light violations through the use of cameras, he would like to obtain direction from the Council to prepare an ordinance to effectuate the new law, and have that ordinance placed on the agenda for a First Reading at the next regularly scheduled City Council Meeting.

In response to the City Attorney's request for direction concerning preparation of an ordinance to effectuate the new law relative to red light camera enforcement, a motion was offered by Council Member Govin.

Upon motion of Council Member Govin, seconded by Council Member Knapp, **RESOLUTION NO. 060-10(m)** was **ADOPTED**, authorizing and directing the City Attorney to prepare an ordinance to effectuate the new law, relative to the enforcement of red light violations through the use of cameras, and have that ordinance placed on the agenda for a First Reading at the next regularly scheduled City Council Meeting on June 15, 2010. Vote on the motion being: Council Members Fernandez, Govin, Halloway, Knapp, and Neale voting "aye," no "nay."

Prior to vote on the above motion, Mayor Affronti called for discussion.

Noting that the City does not actually own the major roads, Council Member Fernandez questioned whether this law will allow the City to place additional signs on the roads where the City has previously been unable to do so.

The City Attorney responded that there are quite a few issues that remain open for discussion with the Florida Department of Transportation (FDOT), advising that a meeting has been scheduled for June 8, which he will be attending by teleconference, along with the Police Chief and several officers of the City's Police Department, to discuss the many issues associated with implementation of this new Statute; among the issues will be the specifications for the cameras to be used, signage, and other issues. While he cannot answer the question raised by Council Member Fernandez at this time, he said they will be working with the FDOT to make sure that whatever program the City puts into effect will be in full compliance with the law and meet the FDOT requirements.

Council Member Fernandez also asked whether the law would assist the City in getting a better response from DOT regarding concerns about light timing. The City Attorney responded there is nothing in the new law to address that. The City Manager commented he believes the timing of the lights is determined in accordance with DOT's goal of moving traffic. He expressed his belief that a standardization of caution lights will occur as a result of the law, because there have been unfounded allegations that the timing is set for the purpose of ticketing; he suggested they can talk with DOT to suggest they study the traffic situation.

Council Member Fernandez commented that DOT has studied it in the past, but there have been no resulting changes. She continued that some of the public comments have been that if they miss the light, they will be sitting at the intersection for another four minutes, which can add a lot of time to one's trip. She said that was why she was wondering whether there is anything, now that this is a State Statute, which would help the City in its negotiations with DOT. The City Manager expressed doubt that it would; however, the administration will push for better signage.

The City Attorney stated that as far as other issues, he and the administration continue to have discussions with American Traffic Solutions (ATS) and will come back to the Council at a later date with respect to the issue of the existing contract with ATS, and an amendment of the contract versus termination of the contract and putting the matter out for a Request for Proposal.

With regard to the last item in the Memorandum regarding the transition of the City's program to the State Law authorized program, the City Attorney reported that in speaking with other jurisdictions in the area, including the County and other jurisdictions that have operational programs, some jurisdictions are continuing to have Notices of Violation issued through June 30, and turning off the Notices of Violation as of that time, while others are planning to do so earlier than June 30. He concluded that his research does not indicate a need to stop the Notices of Violation prior to that date, although Council does have a meeting on June 15, so if he finds this is needed, he will bring that to Council's attention at that time.

Following discussion, Council Member Neale offered a motion in accordance with the City Attorney's request and Council Member Fernandez offered a second; however, the motion to proceed in that manner was already on the table and ready for the vote of Council; at that time the vote on the motion on the floor was taken, which passed unanimously.

In the interest of the extra time anticipated to be required for Agenda Item I-2, Mayor Affronti requested the Council address Agenda I-3 first, which he believed could be handled more expediently. There was no objection from the Council.

3. Hillsborough County Pain Management Ordinance.

The City Attorney informed the Council that this item is on the Agenda because both Hillsborough County and the City of Tampa recently adopted emergency ordinances regulating pain management clinics. He explained the problem is that certain of these so-called clinics are not true clinics, but are instead mills for illegal activity. He continued that the City of Tampa adopted its own ordinance, which all jurisdictions within Hillsborough County are able to do under the County Charter. Having numerous discussions with the City Manager and Police Chief Albano about the problems relating to pain management clinics, and in consideration of the fact that a State Statute is going into effect as of October 1, which will be regulating pain management clinics to a large extent, the City Attorney said the administration is recommending that the City of Temple Terrace not take any action on its own to adopt its own ordinance. He continued that the recommendation is to work with Hillsborough County in the implementation of their pain management ordinance, which includes a moratorium on new clinics through October 1, 2010, a very comprehensive registration process so that they know the clinics have provided certain information required by the State under existing State law, and that there are no new pain management clinics popping up within the City of Temple Terrace until such time as that new law goes into effect.

The City Attorney commented that Code Compliance Director Joe Gross has had the opportunity to speak with his counterpart at Hillsborough County; unless advised by the City otherwise, Hillsborough County is in the process of sending out letters to the clinics located within the City of Temple Terrace, as well as the unincorporated areas of Hillsborough County and Plant City, to advise them of the need to come into compliance with the new Hillsborough County regulations, which he believes requirements for registration are in effect June 15th.

The City Attorney continued that the recommendation from a legal perspective, which he believes is shared by the Police Department and City administration, is to work with Hillsborough County, coordinate with them, and assist them in implementation of their new ordinance, as opposed to the City adopting its own.

A brief discussion of the necessity for a motion followed, with the City Attorney commenting that if the City does nothing, the Hillsborough County ordinance will go into effect. He said a motion to support it and that the City will cooperate with them with respect to their ordinance would be appropriate.

Upon motion of Council Member Govin, seconded by Council Member Neale, **RESOLUTION NO. 061-10(m)** was **ADOPTED**, expressing support of Hillsborough County's Pain Management Ordinance and cooperation in the implementation of said ordinance. Vote on the motion being: Council Members Fernandez, Govin, Halloway, Knapp, and Neale voting "aye," no "nay."

Prior to vote on the above motion, the City Manager commented that he knows Police Chief Albano has spoken with his counterparts at Hillsborough County, and he just asked that Hillsborough County makes sure the City is informed and that they work together, even though it is a County ordinance. Secondly, the City Manager said that if in the future it looks like it is not working out as anticipated, the City can opt out at a later date and adopt its own ordinance.

2. Environmental Protection Commission – Fertilizer Use and Landscape Management Rule.

Mayor Affronti called on Code Compliance Director Joe Gross to present the topic for discussion.

The Code Compliance Director reviewed that recently enacted State legislation governing the use of fertilizers requires local governments to adopt rules related to fertilizer use and landscape management in conformance with State Statutes. He continued that in working with the Environmental Protection Commission of Hillsborough County (EPC) over the last year, jurisdictions in Hillsborough County have looked at the possibility of an EPC Rule versus individual jurisdictional rules for uniform enforcement throughout the County. He said everything was moving forward in that vein until last week when one of the jurisdictions has elected to opt out. He commented that this evening's discussion is in anticipation of EPC's Board Meeting later this month to discuss the various options available as far as what Rule to adopt and how strict it should be. He reminded the Council that the Legislature has said every jurisdiction that has impaired waters, which includes Temple Terrace, is required to have a Rule; the question is how strict that Rule should be. He explained the proposed EPC Rule takes the minimum requirements of the State and adds some additional requirements regarding enforcement, to make it more reasonable.

The Code Compliance Director commented that tonight there are representatives from a variety of groups present who would like to address the issue.

Council Member Govin asked for clarification of the Rule that EPC is considering. The Code Compliance Director responded that the most contentious part of the Rule is to try to limit the amount of potassium and nitrogen that are getting into our waterways and further impairing them, adding that a generalized link between that and Red Tide has been made. He continued that the issues that have come out of EPC's dealing with this issue and from looking at other jurisdictions, including the Estuary program, has been the idea of a retail sales ban during the rainy season months, as well as restricting application into yards during that same period. He said there is some debate in the university regarding this issue, and EPC has met with various agencies to determine the actualities.

The Code Compliance Director stated that Pinellas County and St. Petersburg are the most recent jurisdictions to have adopted ordinances, and they have decided to go the route of the retail ban with some application restrictions; the City of Tampa has also adopted a Resolution proposing the same thing.

Mayor Affronti said he believes they are looking for a ban on nitrogen fertilizers from June 1st through September 30th.

Council Member Knapp questioned whether the ban is for the *sale* of the product. The Code Compliance Director responded that the EPC Board will be presented with a possible ordinance or variations; one of the strictest would include a retail ban, with the idea that if the sale is prohibited during the rainy season, it won't be accessible to the consumer and subsequently end up on the grass.

Council Member Knapp interjected that the product would still be available in areas where this ban is not in effect. He asked whether it is directed towards residential or commercial, to which the Code Compliance Director responded that he believes it is a combination, adding that EPC has a delegation here tonight, since they crafted this Code, and could answer questions. He commented that if the City chooses not to support the Rule, the City will have to craft its own regulations.

Council Member Govin asked confirmation as to whether the Code has been written. The Code Compliance Director responded that for the final version, EPC staff will make recommendations; however, because this Rule has had so many groups providing input, there are options available to the EPC Board, such as whether to go with the sales restriction or variations.

Council Member Govin asked whether the City is being asked to vote on this or whether they are simply gathering information to prepare a final document on which they will vote. He questioned how they could vote on a final document, if there is a chance it will be changed.

Mayor Affronti asked Dr. Richard Garrity, Executive Director of EPC, to clarify what the EPC is looking for.

Dr. Garrity offered to answer any questions Council may have on the proposed fertilizer Rule. Commenting that Code Compliance Director Gross accurately described the proposed Rule, Dr. Garrity reviewed that the State Legislature passed a law that any governmental bodies with impaired waterways are required to at least pass the State Model Ordinance, which restricts the amount of nitrogen fertilizer that is applied to turf lawns when it is known that it will rain. Council Member Knapp commented that is the exact opposite of what the packaging tells the consumer to do. Dr. Garrity acknowledged that was determined to be confusing, and since in this area, most rain occurs during a concentrated number of months – June, July, August, and September – and the idea is to try to keep nitrogen out of the waterways, they followed the considerations of the Tampa Bay Estuary Program, which believes the best thing to do is to have a summertime restriction on the application of nitrogen fertilizer. Dr. Garrity said the next question was how to enforce the Rule; since the easiest way to enforce it was to have the product not for sale during that 4-month summer period, that restriction was also included in their Rule for County Commissioners to consider. He clarified that is for nitrogen-based fertilizer for lawns. He noted that agriculture, golf courses, and theme parks, such as Busch Gardens, are exempted out because they have their own restrictions and guidelines on how to apply fertilizer through best management practices.

Dr. Garrity continued that their Commissioners instructed them to do something stricter than the State Model Ordinance – something between the Tampa Bay Estuary Program model, which calls for the summertime restriction of application and the retail sales ban, and Orange County, which passed an ordinance, which also has a summertime restriction on the application of nitrogen fertilizer for lawns, but has an exemption for certified professional applicators, provided they go through training from the Extension Service and become certified. He added there is also an exemption for citizens who obtain some sort of a certification, although he was not exactly sure how that would work. He reiterated that the EPC Board wanted something in between those two guidelines, which is what they propose to bring them next week. He said the proposed Rule does have the restriction on application during the summer; there is a paragraph in the Rule that allows the Board to exempt certified professional applicators, if they choose to do so, and a section to include a sales ban, if they so choose. He said there is nothing in the proposed Rule to exempt any individual citizens; doing so would make it impossible to enforce.

Council Member Knapp commented the fertilizer application doesn't differentiate between liquid or granular. Dr. Garrity responded the most pertinent thing is the nitrogen in the fertilizer; it does not distinguish between liquid or granular. Council Member Knapp stated that in the City of Temple Terrace it is particularly important to have something, because all of the runoff water from the streets goes directly into the Hillsborough River; having been constructed in 1922, that was common practice. He continued, commenting there is no area for the runoff to be treated prior to hitting the River.

Harold Falls, 3005 Via Roma Court, Plant City, said he wanted to talk about the science of not fertilizing the grass from June to September, referring to a University of Florida publication entitled, "Unintended Consequences Associated with Certain Urban Fertilizer Ordinances," which he distributed. He said that grass is growing during those months, and if it is not fertilized with the nutrients required, it will deteriorate and die. He cited case studies done by the University of Minnesota, adding that there is a video about this issue. He noted that grass improperly fertilized retains more water, but if left to deteriorate, the water will run off and cause problems. He interjected that he was speaking on behalf of Hugh Grammling, Executive Director of Tampa Bay Wholesale Growers, who was unable to be here. Mr. Falls said he personally has a vast experience in the fertilizer business. He asserted that Hillsborough County does not have the science to back up their claims; even the Estuary Board only claims that 3% of the fertilizer applied goes into Tampa Bay, which is a very small amount. He suggested an educational piece is needed, and he questioned how the fertilizer ordinance could be enforced.

Mr. Falls continued, asserting that dogs and other animals put more than 10% of the nitrogen into the Bay, suggesting that something would have to be done about these animals, if they were going to do something about the fertilizer. He stated that State Law says that in order to be more stringent, the ordinance must be science-based and economically and technically feasible. Regarding liquid versus solid fertilizers, he noted there are slow-release fertilizers that are polymer-based and when applied to the grasses, the fertilizer sticks to the grasses and doesn't wash off. He reiterated that Hillsborough County does not have the science to back up what they are talking about, and, therefore, in his opinion, they are violating the State Statute.

Russ Patterson, 6050 River Trace Road, addressed the Council, stating that he lives on the River across from Boy Scout Park. He expressed the importance of considering the fertilizer ban, because he is seeing more and more algae on the River. He encouraged Council to "fix it" before they have a real problem, adding that they also encourage folks to go with Florida native plants and lawns, which would not need to be fertilized.

Cris Costello, 1365 Fruitville Road, Sarasota, introduced herself as a Coordinator for the Sierra Club's harmful algal blooms campaign, which is a statewide campaign. She distributed a packet of information to the Council, a copy of which is part of the record, which included a map of the Hillsborough County area, showing the impaired waters. She noted that Temple Terrace is in the middle of the most nutrient-impaired area of the County. She referred Council to statements in a press release included in the package, to show that the pest control industry has embraced the fertilizer application ban.

Ms. Costello referenced a portion of the Evaluation of Current Stormwater Design Criteria within the State of Florida, prepared in 2007 for the Florida Department of Environmental Protection, which was also included in the packet of information, stating that there are 1.93 days during the summer between rain events, which means this area receives rain during the summer about every two days. She also referred to a page from the Scotts Fertilizer Company that was included to illustrate they are aware of the efficiency of slow-release fertilizers. She explained this is an example to show that there are products on the market that work throughout the rainy season period. She commented that the last item included is a survey of landscape contractors in the Sarasota area, who have had to abide by the four-month rainy season application ban for the last two rainy seasons. She noted that there has been no complaint in Sarasota about the ban by the landscape industry. She remarked that she has been involved with these issues since Sarasota passed its ordinance in August 2007. Regarding Plant City, she suggested that when they made their decision last week, they ignored that nutrient pollution is everyone's problem; it comes from both urban and rural areas and to think the entire job of protecting the water quality should be left to the agricultural community is not fair.

Lucinda Johnston, 1201 N. Riverhills Drive, said she and her husband have lived along the Hillsborough River, for 20 years. She remarked that every summer they get a little algae bloom; sometimes it is minor, but last year they got a thick algae "goo" that one can hardly paddle through with a kayak paddle. She shared that her common sense tells her it is not good to put fertilizer in the River, adding that they have a nice yard on which they have used no chemicals in 14 years. She asked the Council to please consider the ban, remarking that it will help to keep anything out of the River. She added the boaters should pay \$5.00 to use the City's boat ramps and also noted the fees to use the City's Recreation Complex are ridiculously low. She thanked the Council for their leadership.

Howard Johnston, 1201 N. Riverhills Drive, commented that he is here to speak in favor of the ban. He explained that they are essentially being given a chance to stop something that they know is bad for the River. As Council Member Knapp pointed out, he said everything that hits the street goes into the River. He remarked that the City may not have a lot of extras, but it has a beautiful River. He relayed an incident last year when his wife had to literally cut a path in the algae to lead ducks across the River back to their habitat in the cypress knees. Noting that the River is the centerpiece of the City's redevelopment and the magnet that brings people here, Mr. Johnston stressed the need for the new restrictive ordinance.

Phil Compton, 1430 E. Park Circle, Tampa, introduced himself as Chair of the Friends of the Hillsborough River adding that he also works with the Sierra Club, and has lived on the Hillsborough River for the last 20 years. He remarked he drinks the water that flows down the River every day. He thanked the Council for the leadership Temple Terrace has shown in this region, along with the time, money, and effort put into filtering that water to make it cleaner. He noted 42 communities on the Gulf Coast of Florida have already adopted the strict rainy-season ban.

Mr. Compton commented that the Chair of the County Commission in Sarasota wrote to the Pinellas County Commission in January that in the 3rd year of the ordinance in Sarasota, it is working well without any of the problems predicted by the opponents of the ordinance. He explained that with the use of slow-release products, the lawns will get the food they need the rest of the year. He remarked that it works to engage the public; they can have green, lush lawns. He noted that nitrogen encourages root problems and chinch bugs. He asked the Council to join with their neighbors and ask EPC to pass the Rule with the summer ban, stating it is all about public education.

Grant Rimbey, 411 Island Road, encouraged the Council to adopt the strict ordinance. He said the problem is clear when traveling on the River and coming to new developments, where the River is covered with algae; anything they can do to preserve and cleanse the River is worth looking into, as it is one of the City's greatest assets. He said a couple of years ago he did something incredibly radical, which was to kill his St. Augustine yard and replace it with Argentine Bahia, which he fertilized once this year. He said it still has to be mowed, but it has roots about six feet deep, with incredible drought resistance. He encouraged the use of plants better for this environment. He reiterated his encouragement for the Council to adopt a strict ordinance.

Linda Saul-Sena, 157 Biscayne Avenue, Tampa, addressed the Council, stating she is a member of the Tampa City Council, River Board, and the Estuary Board. She explained the Estuary Board consists of representatives of the municipalities that touch on Tampa Bay. She reported that at its meeting last week, the River Board voted 2 to 1 to adopt the recommendations of the Technical Advisory Board, which were to do as the Estuary Board and Pinellas County have done, which is the stricter ban. She explained the reason for doing the stricter ban is that everyone drains into the same Bay, the River drains into the Bay, and it makes sense to have consistent rules. She continued that many of the landscape companies work on both sides of the Bay, and the consistency and protection that the Estuary Board rules provide would give a consistent way to protect our area. She commented that everyone hates red tide, and this seems to be a very sensible approach. She also mentioned that the Tampa City Council voted to support the Estuary and Pinellas County model about two months ago. In addition, she said the Tampa City Council also asked the Environmental Protection Commission to make up a Rule countywide, because it makes sense to them to have a consistent rule countywide. She stated her belief that people live here because they value this environment. Stating she is not fortunate enough to live on the water, she said she loves to rent a kayak and go down the River or go out on the Bay; she wants to go out on a Bay that is not suffering from red tide. She encouraged the Council to support the Pinellas County/ Estuary Board model.

Judith Rose, 10402 N. Boulevard, said she deeply loves the River. She asked that whatever is needed to be done to protect the River, which is such a gem, should be done, especially with the Gulf now impaired.

Lisa Montelione, 9814 N. Pawnee Avenue, said she is also President of the Temple Terrace Democrats. While many of their members were unable to be present tonight, she said she received emails from them, many of whom live along the River, on both sides of 56th Street, in the City of Tampa and in the City of Temple Terrace. She commented that she recently took a *Friends of the River* tour. She noted that when they launched on 40th Street and traveled by pontoon boat down the River, they crossed into Temple Terrace, but there was no line saying they were crossing into Temple Terrace; it is an example to say that this River affects everyone on all sides – it is important to all of them. She said she understands the issue is how strict an ordinance is to be adopted. She said she agrees that it makes sense to have one consistent ordinance, which would be easier to implement and monitor; otherwise, it would be confusing.

There being no further persons wishing to address the Council, Mayor Affronti called for Council discussion. He noted they are looking for a “yea” or “nay” in support of the EPC recommendation for the ban, because the County Commission will be voting on this issue next week.

Council Member Govin commented that he could support it and believes it is needed, but as he understood earlier, they do not have a finished document before them to vote on. He said he could vote in support of what they have been told this evening, but he cannot vote to support a document he has not read.

Council Member Fernandez said she believes the EPC has several options they will be discussing; the Sierra Club, the Estuary Board, and the River Board are asking the EPC to enact the stronger regulation, and they are seeking Council support. Realistically, she said, whether the Council supports it or not, the EPC is going to enact something; they do not actually need the City’s approval.

Council Member Govin said he would be happy to put a motion on the table that they believe they will be supporting some kind of action by Hillsborough County, but they would like to see the document first. He said he could not describe the differences between the strong version versus the weaker version; he has only heard the general rule. Council Member Fernandez responded that she believes the stronger one says there will be no application or retail sales of the nitrogen fertilizer during the summer months. She continued that EPC could say they would allow application, but no retail sales; or EPC could say retail sales, but only commercial application. She suggested the Council could put forward its recommendation to the EPC as to what they believe the EPC should consider. For example, she said her concern is that there is nothing stated in any of them as to how they would provide the education; in addition, education costs money, and she questioned who would spearhead that.

Council Member Knapp commented that he lives on the River and acknowledged the algae is thick. He said he is in favor of supporting regulations, but he would like to know exactly what he is supporting before he supports it. He continued that he can see that the application by commercial applicators may be beneficial, but he could also see that if someone is given an opening, they could jump through it. He said he would support EPC moving forward with putting together a countywide recommendation; after the City has the recommendation, they could consider it, but to let them know they do support a recommendation. He offered to put that forth as a motion, which Council Member Govin said he would second.

Council Member Neale said she would like to see what she is supporting. Council Member Holloway concurred that he would support something with firm scientific evidence. He said he didn’t see a lot of scientific evidence, while they are proposing a ban on a legal product. He expressed concern that people will lose their lawns; however, if there is true scientific evidence, he will support it.

Council Member Fernandez clarified that she believes they are not being asked to support EPC; they are being asked to tell EPC what options the City would like to see included in the regulation.

Mayor Affronti said he would not be in a position to do that either, without more facts. He said if they are asking whether the City would like more stringent guidelines for fertilizer, he believes they would, because they want to keep the River clean. However, he questioned what kind of restrictions they are talking about.

Council Member Knapp mentioned that someone talked about a time-release product that would suffice; if a time-release product is applied prior to the months of the ban or three months into the period of the ban, what the difference would be.

Cris Costello responded the beauty of slow release is once put down, it continues to release; however, it, like anything else, when first applied, is more likely to come off the lawn with a heavy rain. She said the idea is to apply it before the rainy season so that it has a chance to sink in and start to open up and actually stick to the turf; when the rainy season comes, it is not likely to roll off or float off.

Todd Josko, a representative of the Scotts Fertilizer Company, stated that Florida has a turf rule, which limits the amount of nutrients in fertilizer that was passed in 2009, which reduced nitrogen by 30% and phosphorous by 90%. He remarked the Florida turf rule limits the amount of nitrogen that can be applied throughout the calendar year; in studies in Sarasota that had 50 - 60% slow release, the nitrogen in that exceeds the amount allowed under the Florida turf rule; therefore, one can have a product of 60% slow release that theoretically could deliver enough nutrients throughout the ban, but they would have to have far in excess of overall nitrogen that is allowed under Florida law, which is counterproductive.

In response to Mayor Affronti's question as to whether there is such a product, Mr. Josko responded that was a study done under laboratory conditions; he is not aware of such a product on the market.

Linda Saul-Sena explained the Tampa City Council approved the St. Petersburg plan of no nitrogen-based fertilizers during the 4-month period in the summer. She clarified there are fertilizer products without nitrogen; secondly, the idea of making it comprehensive and educational is critical. She informed the Council that the Estuary program committed funding to start educating the public.

The City Manager recommended that Dr. Garrity clarify that issue for them. Dr. Garrity mentioned that next week is a public hearing for the County Commissioners sitting as the EPC to adopt the Rule; a public workshop has already been held. He continued that all of the information has been gathered, and they believe they have sufficient scientific information to recommend adoption of a stringent rule. He noted that they will be presenting for adoption something between the Estuary program and Orange County's program; the difference is whether to exempt professional applicators. He suggested Tom Ash, their fertilizer coordinator, address the Council to answer specific questions.

Council Member Govin asked whether the plan bans the four months during the summer on the application, and a ban on the sale of nitrogen turf fertilizer during those four months. Dr. Garrity responded affirmatively, adding that the Commission can decide whether to allow professional applicators.

Tom Ash, Staff Member of the Hillsborough County Environmental Protection Commission, commented that the City of Tampa adopted a resolution recommending the EPC to adopt the strictest, most protective version of the Rule, which would be the model ordinance put forward by the Estuary Board. He noted that Council can decide whether to be more restrictive, or like Orange County, where a professional applicator can apply fertilizer or a trained citizen can also apply fertilizer during the summer months. He reviewed they are being asked to make their recommendation somewhere between those two models. He mentioned the Rule is available to read on their website.

Mr. Ash continued that their Board does have some leeway with the same options the City has been presented tonight. Regarding Plant City, he commented they can ask to be opted out/exempted from the Rule; however, if the EPC Board adopts this Rule, it will apply countywide; they cannot opt out or cannot be less restrictive than the EPC Rule. He explained that is one of the reasons it was proposed to be an EPC Rule and not a County Ordinance. While the municipalities can choose to opt out, he explained the EPC was enacted by State Law; therefore, whatever they adopt will be, basically, the “law of the land” and would layer on top of any less restrictive law that might be adopted by one of the municipalities.

Upon motion of Council Member Knapp, seconded by Council Member Neale, **RESOLUTION NO. 062-10(m)** was **ADOPTED**, recommending EPC move forward as they see fit with their expertise in this field, and that the City of Temple Terrace will support whatever decision they make regarding the nitrogen-based fertilizer ban. Vote on the motion being: Council Members Fernandez, Halloway, Knapp, and Neale voting “aye,” with Council Member Govin voting “nay.”

Council Member Fernandez noted that if the EPC adopts a less stringent rule, the Council can always go back and adopt a more stringent rule, if they later choose to do so. Council Member Govin suggested that if this is only in support of what the EPC is doing, that once EPC adopts a rule, that it come back before Council for Council’s vote at that time. The City Attorney commented that his understanding is that there will be a public hearing on June 10, at which time the EPC will adopt a rule, and once they do, that is the law countywide, unless they make a provision to exempt out a particular municipality. Therefore, he said that bringing it back once EPC has adopted it, would be an act of futility, because it is a countywide rule, and the City will be bound by it.

There being no further business to be considered, upon proper motion, the meeting was adjourned at 7:55 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