

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

**Regular Meeting
Tuesday, June 15, 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 15, 2010, in the Council Chambers at City Hall.

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

ALSO PRESENT WERE: Public Information Officer Michael Dunn, 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, Assistant City Engineer Michael Hall, Leisure Services Division Director Karl Langefeld, Joyce McKenzie, Barbara Sparks-McGlinchy, Steve Dutch, and several other persons.

Mayor Affronti called the meeting to order at 6:00 p.m., after which he led the Pledge of Allegiance to the flag and offered a brief invocation.

Proclamations, Recognitions, and Special Presentations:

Mayor Affronti announced that City Clerk Lisa Small received the 2010 Robert N. Clark Memorial Award, the highest recognition awarded by the Florida Association of City Clerks for promoting and advancing the goals and ideals of the City Clerk profession by actively participating in the improvement of municipal government in the State and local community. It was noted that this was the second time a Temple Terrace City Clerk has received this award; former City Clerk Patricia Jones was honored in 1997.

Minutes of Previous Meetings:

Upon motion of Council Member Halloway, seconded by Council Member Knapp, and unanimously carried, the **MINUTES** of the June 1, 2010, Council Meeting were **APPROVED**. Council Member Neale was **ABSENT** and did not vote.

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

Barbara Sparks-McGlinchy, 507 Terrace Hill Drive, Executive Director of the Temple Terrace Chamber of Commerce invited the Mayor and Council and the community to the 4th of July parade and festivities, which will be held on Saturday, July 3rd, beginning with VIP Breakfast at 8:00 a.m. at the Family Recreation Complex. She distributed strands of red, white, and blue beads to kick-off the celebration.

Ms. McGlinchy reviewed that at last year's event, the Florida Wind Band, comprised of a group of professional musicians from USF and other orchestras in the area, entertained for free prior to the start of the fireworks. She continued that this year they have requested \$6,000 to perform; however, the Band has been able to obtain donations of staging, sound system and other items needed to put on the production.

Ms. McGlinchy commented that the Chamber Board voted to provide \$1,500 for the band and is requesting that the City contribute \$1,500 to share in the cost, to be able to give the band at least half of their request. Mayor Affronti remarked that musician John Carmichael performed all of John Phillip Sousa's marches last year.

The City Manager responded that he would get together with the Finance Director to see what they could do, to which Mayor Affronti commented they should first see whether the Council would like to contribute. Council Member Knapp questioned whether the Council still has a discretionary fund; the Finance Director indicated it was removed from next year's budget. The City Manager commented that if it is the Council's desire to go forward with this request, the Council Contingency would be the first place they will look for the funding. Council Member Knapp indicated he would support the request.

Upon motion of Council Member Govin, seconded by Council Member Knapp, **RESOLUTION NO. 063-10(m)** was **ADOPTED**, supporting the Temple Terrace Chamber of Commerce's desire to have The Florida Wind Band perform at the 4th of July festivities and the Chamber's request for funds to match the Chamber's \$1,500 payment for the band, and requesting that the City Manager look for available funds for this \$1,500 request. Vote on the motion being: Council Members Fernandez, Govin, Holloway, and Knapp voting "aye," no "nay." Council Member Neale was ABSENT and did not vote.

There were no Public Hearings before the Council, and there was no Correspondence, Communications, or Petitions for Council's consideration and action. There were no Presentations before the Council, and there were no Site Plan Reviews for consideration and action.

Resolutions for Consideration and Action:

The City Manager briefly reviewed the proposed Resolutions.

Upon motion of Council Member Holloway, seconded by Council Member Knapp, and unanimously carried (Council Member Neale was ABSENT and did not vote), **Resolutions E-1, E-2 and E-3** were adopted by consent, as follows:

RESOLUTION NO. 064-10, approving the Interlocal Agreement between the City and Hillsborough County to distribute \$13,575.55 of the State Department of Health Emergency Medical Services Grant. *The City Manager commented these funds would be used to replace the Fire Department's "special events" vehicle.*

RESOLUTION NO. 065-10, awarding the Contract for the 56th Street Improvement project verification testing results to Tierra, Inc., under its continuing contract with the City, in the amount of \$33,170; payment for said contract to be made from Account 130-3099-541.31-26 (Street Improvement Fund/Gas Tax). *The City Manager commented the Florida Department of Transportation requires another layer of testing to ensure the accuracy of the test borings that the contractor is required to do, and that they meet the FDOT specifications.*

RESOLUTION NO. 066-10, approving the request to extend for six months the Planned Development Zoning Classification for the property located east of North 56th Street, South of Bullard Parkway, and within the Downtown Community Redevelopment area. *The City Manager explained Vlass Temple Terrace LLC has requested to extend the planned development zoning classification until January 8, 2011, which the City supports.*

Prior to vote on the above motion, Council Member Govin asked whether there is already an approved site plan, to which the City Manager responded affirmatively, but added it is set to expire within the next few weeks. The City Manager confirmed that is the “old” site plan; the proposed site plan will be presented to Council for consideration of modifications at the Special City Council Meeting scheduled for Tuesday, June 22, 2010, at 2:00 p.m.

Proposed Ordinances for Consideration and Action:

1. Voluntary Annexation – Lovelace, 7911 Harney Road.

Following the **SECOND** and **FINAL** reading of the caption of the proposed ordinance to voluntarily annex into the City an approximate one-acre parcel, addressed as 7911 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.

Upon motion of Council Member Knapp, seconded by Council Member Govin, **Ordinance No. 1273** was **ADOPTED**, 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.** Vote on the motion for adoption being: Council Members Fernandez, Govin, Halloway, and Knapp voting “aye,” no “nay.” Council Member Neale was **ABSENT** and did not vote.

2. Local Business Taxes.

Following the **SECOND** and **FINAL** reading of the caption of the proposed ordinance amending Chapter 19, of the City Code of Ordinances, to increase local business taxes by five percent, 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.

Upon motion of Council Member Fernandez, seconded by Council Member Govin, **Ordinance No. 1274** was **ADOPTED**, 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.** Vote on the motion for adoption being: Council Members Fernandez, Govin, Halloway, and Knapp voting “aye,” no “nay.” Council Member Neale was **ABSENT** and did not vote.

3. Red Light Camera Enforcement.

Council then heard **FIRST** reading, by caption, of a proposed ordinance being: **AN ORDINANCE OF THE CITY OF TEMPLE TERRACE, FLORIDA, AMENDING AND RESTATING SECTION 20.230 OF THE CODE OF ORDINANCES OF THE CITY OF TEMPLE TERRACE, ENTITLED "THE TEMPLE TERRACE RED LIGHT TRAFFIC SIGNAL CAMERA ENFORCEMENT SYSTEM " BY DELETING SECTIONS 20.230.1 THROUGH 20.230.13 IN THEIR ENTIRETY, RENAMING SECTION 20.230 AS THE "STATUTORY RED LIGHT CAMERA ENFORCEMENT PROGRAM" AND REPLACING SAID SECTION WITH NEW CODE SECTIONS 20.230.1 THROUGH 20.230.6; AUTHORIZING THE CITY TO PERMIT AND IMPLEMENT THE USE OF TRAFFIC INFRACTION DETECTORS FOR RED LIGHT INFRACTIONS PURSUANT TO STATE LAW; PROVIDING FOR DEFINITIONS; PROVIDING FOR TRAFFIC INFRACTION ENFORCEMENT OFFICERS; PROVIDING FOR THE TRANSITION FROM THE CITY'S ORDINANCE-BASED ENFORCEMENT PROGRAM TO THE STATE AUTHORIZED ENFORCEMENT PROGRAM, INCLUDING AUTHORIZATION FOR THE CONTINUATION OF APPEAL HEARINGS, PENALTIES, IMPOSITION OF ADMINISTRATIVE CHARGES AND COLLECTION FOR NOTICES OF VIOLATION ISSUED BY THE CITY ON OR BEFORE JUNE 30, 2010; AUTHORIZING CITY ADMINISTRATION TO TAKE ALL STEPS NECESSARY TO IMPLEMENT AND OPERATE THE ENFORCEMENT PROGRAM PURSUANT TO THE REQUIREMENTS OF STATE LAW; PROVIDING FOR THE LOCATION OF TRAFFIC INFRACTION DETECTORS WITHIN THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.**

Council Member Govin asked for a brief explanation of the ordinance being proposed.

The City Manager commented that the City Attorney and Police Chief have been working on this in order to bring the City's ordinance into compliance with recent State legislation.

The City Attorney explained that he prepared an ordinance to replace the City's existing ordinance-based system with the State's new Statutory-based system; the proposed ordinance is similar to ordinances of other jurisdictions that have already proceeded with First Reading, including the City of Tallahassee, City of Pembroke Pines, and one other. He continued that under the new Statutory program, the City will have traffic enforcement officers designated by the Police Chief, that must meet certain Statutory requirements, who will be responsible for Notices of Violation; if the Notices of Violation are not paid, Uniform Traffic Citations would be issued that would then, if *they* are not paid, go forward through the Traffic Courts. He said the City will no longer have a Hearing Officer here at the City; instead, the City will have a designated officer that will testify on arranged dates through the Traffic Court system at the Traffic Court. He commented that this system brings the City in line with the new Statutory program that goes into effect as of July 1.

The City Attorney further explained that, as of June 30, the City will no longer be issuing Notices of Violation under the City's currently existing ordinance-based program. He said that after Second Reading and adoption, the proposed ordinance will allow the City to go forward with a new program in line with the State Statutory program. He commented that representatives from the City's Engineering Department met with representatives from the Department of Transportation to discuss implementation issues under the new statutory program.

The City Attorney said that he attended a meeting at Hillsborough County that included various representatives of the Hillsborough County Sheriff's office, the County Attorney's office, and the Clerk's office to discuss implementation of this new program. He added there is a lot of work to be done; however, step number one is adoption of an ordinance to bring the City into compliance with the new law.

Council Member Govin asked whether the supplier of the service has seen the proposed ordinance. The City Attorney responded affirmatively, noting that the vendor, ATS (American Traffic Systems), did not have to see the ordinance, but out of courtesy he sent the draft ordinance to the Attorney, Carlton Fields, who represents ATS, for them to review, and as part of the process, spoke with the attorney about "tweaking" the ordinance in some respects. He said the ordinance was also sent to City staff, including Police Chief Albano and Deputy Chief Patricia Powers, for their review and comments. He concluded that at this point, he believes they have an ordinance that gets the City where it needs to be.

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

City Manager's Report:

The City Manager reported that in connection with the new legislation regarding the red light camera enforcement system, the current contract with ATS can no longer be valid, as it is not in line with the State Statutes and must be changed. He said the administration is asking for Council's authorization to terminate the contract with ATS as of June 30, 2010. He continued that secondly, the administration would like to come back to the Council with alternatives, such as piggy-backing another jurisdiction in terms of camera enforcement or possibly going out for an RFP. He said they would like to further investigate the alternatives and report back to Council with a recommendation. He deferred to the City Attorney for the legal basis for the contract termination.

The City Attorney explained that the new statutory program does not allow for payment to ATS, as the City currently has in its contract. He reviewed that in 2007 when they considered this program, the City piggy-backed off of a contract that Port Richey had put out for competitive bidding and awarded to ATS; under Port Richey's contract, payment was to be made to ATS at \$40 per paid citation; the new law does not allow payment in that manner. He continued that ATS is proposing to its customers an alternative where the customers would pay ATS a flat fee per intersection or a sliding scale, depending on how big the intersection is and the number of cameras. The City Attorney commented that his research indicates the City cannot modify the existing contract with ATS; the City would need a new contract, which would need to be a piggy-back off another contract, as done in 2007, or that would be put out for a brand new RFP.

The City Attorney informed the Council that, beginning about a month ago, he raised this issue with ATS, asking for their input and analysis on that which he just described to the Council. He said he received no authority from ATS that would indicate they can simply modify the existing piggy-backed contract; his research indicates the safest route for the City is to terminate and award a new contract, pursuant to an RFP, or pursuant to a newly piggy-backed contract. He said the administration is now investigating what RFPs have been put out by other jurisdictions, so that the City can determine its options, with the plan of coming back to Council as quickly as possible to describe the options and discuss how to proceed. Therefore, he said they believe they need to terminate the existing contract services as of June 30, 2010, and are seeking the authority to do that tonight.

Council Member Holloway questioned whether the equipment would be taken down when they terminate the contract, leaving the City out of the red light camera enforcement business for a period of time. The City Attorney responded that was something ATS could do; however, he believes it is unlikely, given the chance that they either put this out for bid or find another jurisdiction on whose contract the City can piggy-back off of that is in compliance with the new State law. He said the down-time between the existing system and the new statutory system could be relatively short. He continued that the City has no desire to terminate the relationship with ATS; the intent is to make sure the relationship the City has with ATS on a go-forward basis is a proper and legal one.

Upon motion of Council Member Fernandez, seconded by Council Member Govin, **RESOLUTION NO. 067-10(m)** was **ADOPTED**, authorizing the City Attorney to terminate the contract between the City and American Traffic Solutions (ATS) for red light camera enforcement services as of June 30, 2010, with the understanding that the City is looking for the correct contract to implement the new State law requirements. Vote on the motion being: Council Members Fernandez, Govin, Holloway, and Knapp voting “aye,” no “nay.” Council Member Neale was ABSENT and did not vote.

The City Manager reviewed that the Mayor and Council have debated in the past the cost to bring the City Code up to date, and have charged the administration to do what they can in the most cost effective manner possible. He reported that he has met with the Community Development Director, Code Compliance Director, and the City Clerk to discuss and determine the most logical approach. He called on the Community Development Director to present their findings.

The Community Development Director reviewed that over the last several years there have been discussions concerning the need to update the City Code, but the outcome has been unsuccessful, primarily because of cost. He referred to the proposal several years ago of several hundred thousand dollars to rewrite the City Code. He commented staff has met in the last few months to address updating the Code and found the Code rather tedious, primarily because of inconsistencies; in recent discussions they determined that a two-step approach appears to be the most logical way to proceed in addressing the problems with the Codes and identifying the inconsistencies. He continued that in order to do that, they solicited a proposal from Municipal Code Corporation, a Florida-based corporation, to review the City Codes and codify, which includes their research and review of the existing Code to identify inconsistencies and ensure it is in compliance with State law and the City Charter. He continued that part of the work would include determining whether it is organized properly or if some rearrangement is in order; in addition, they will talk about some of the form-based Codes and determine how much of that they should incorporate into the City’s Code.

The Community Development Director continued, stating that if they move forward with the proposal from Municipal Code, staff has recommended to the City Manager that they do this as an initial step in order to codify the existing Code and from there, identify certain sections that need updating and modernization. He commented that staff is in the process of working with the section related to docks and seawalls, which they have found tedious and have spent months working to get this section drafted, which is now scheduled to be presented to Council on July 6, after having been reviewed by the Planning Commission and the River Board. He reiterated the proposal from Municipal Code is an initial step; Municipal Code performs this service nationwide and is the expert at doing this kind of work.

The City Manager added that he has discussed this with the City Attorney, and they believe they need to get the Code in proper condition before going forward, particularly because of possible complex legal inconsistencies. He commented the cost is approximately \$14,450, which they believe is extremely reasonable and is within the authority Council has given him; in addition, there are budgeted funds available in the Community Development Department's budget for such outside assistance. Finally, he said it is in line with one of Council's goals. Council Member Knapp commended the administration for the recommendation, stating it is exactly what he was looking for when they declined the \$300,000 proposal.

Upon motion of Council Member Knapp, seconded by Council Member Govin, **RESOLUTION NO. 068-10(m)** was **ADOPTED**, authorizing the administration to proceed with the proposal submitted by Municipal Code Corporation, in the amount of \$14,450, with payment to be made from Community Development Department funds. Vote on the motion being: Council Members Fernandez, Govin, Holloway, and Knapp voting "aye," no "nay." Council Member Neale was ABSENT and did not vote.

The City Attorney reviewed with the Council a letter sent to the City recently by the Watchtower Bible and Tract Society of New York, Inc., an organization representing the Jehovah's Witnesses, which claims there was a demand made upon their ministers to obtain a permit from the City pursuant to the City Code, countering with references to a decision by the United States Supreme Court on this issue. The City Attorney advised he is preparing a response, explaining that under the City's Code there are exclusions to the need to obtain a license under §14.140 of City Code, and that persons or organizations that obtain an exemption pursuant to §501(c)(3) of the Internal Revenue Code are exempt from the City's requirements. He clarified the bottom line is if someone wants to go around the City and speak to residents about their religious beliefs, he/she does not have to get a license from the City in order to do so.

New Business:

Mayor Affronti briefly commented on the Council Workshop relative to the City's Police and Fire Pension Plans. He said that in order to be pro-active, the Council indicated its desire to set a 75% funding ratio for the Police and Fire Pensions as a benchmark or goal, not a mandate, in order to avoid creating an unfunded liability greater than the City's ability to cover. Council Member Fernandez interjected she believes it is important to summarize from the Workshop the need to fund the City's Police and Fire Pensions, noting investment returns are down, and over the years different changes were made to the plans that resulted in the plans not reflecting as high a contribution as they should, leaving an unfunded liability for the future, although both plans are actuarially sound. She related Council's desire, as a result of that discussion, to have a goal to fund the pensions to the 75% ratio in order to avoid having such a large unfunded future liability.

Upon motion of Council Member Govin, seconded by Council Member Knapp, **RESOLUTION NO. 069-10(m)** was **ADOPTED**, setting a 75% funding ratio for Police and Fire Pensions as a benchmark/goal – not a mandate, in an effort to avoid creating an excessive unfunded liability for the City. Vote on the motion being: Council Members Fernandez, Govin, Holloway, and Knapp voting "aye," no "nay." Council Member Neale was ABSENT and did not vote.

1. Florida League of Cities Voting Delegate.

Upon motion of Council Member Knapp, seconded by Council Member Hallway, **RESOLUTION NO. 070-10(m)** was **ADOPTED**, appointing Mayor Affronti to serve as the Florida League of Cities Voting Delegate at the Florida League of Cities Annual Conference to be held August 19-21, 2010, in Hollywood, Florida. Vote on the motion being: Council Members Fernandez, Govin, Hallway, and Knapp voting "aye," no "nay." Council Member Neale was ABSENT and did not vote.

Mayor Affronti proudly announced that Newsweek Magazine picks the best high schools in the country each year, based on how hard staff works to challenge students, advanced placement in college-level courses, and tests; only 6% of the 1600+ schools evaluated made the list, with King High School ranking No. 67 of 1600.

Council Member Knapp asked for an update on escrowed funds from the red light camera program. The City Manager responded there is about \$700,000, with about \$30,000 expended to administer the program. In view of the budget shortfalls, Council Member Knapp questioned whether those funds can be released and utilized now and replaced, if needed, at a later date.

The City Attorney responded he would have to give that further consideration, referring to a South Florida case that found similar red light programs in violation of Florida Statutes; if a similar decision is made in the trial court in Hillsborough County, where the City's case is pending, there is a potential chance, if the class is certified, that substantially all funds collected under the program by City, including those paid by ATS, would have to be repaid to the violators. Therefore, he said that relying on those funds for part of the City's budget shortfall would seem to be imprudent; from a legal standpoint, whether those funds could go to the General Fund and use other contingency funds to fund a judgment in a legal proceeding or potential settlement is something he could research and advise the Council. Council Member Knapp said he agrees with the thought process, but with the situation today, the money could be well-used; whereas, two years from now they may not have same issue they are currently experiencing. He requested the City Attorney to review whether the funds could be released to the General Fund.

There being no further business to be considered, upon proper motion, the meeting was adjourned at 6:40 p.m.

Joseph A. Affronti, Sr.
Mayor

Alison M. Fernandez, Council Member

Ron A. Govin, Council Member

Ken Hallway, Council Member

Attest:

Mark A. Knapp, Council Member

Melissa E. Small, MMC
City Clerk

Mary Jane Neale, Council Member