

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

**Regular Meeting  
Tuesday, January 17, 2012  
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 17, 2012, in the Council Chambers at City Hall.

**PRESENT WERE:** Mayor Joe Affronti, Sr., and Council Members Robert M. Boss, Alison M. Fernandez, Ron A. Govin, Mary Jane Neale, and David Pogorilich, City Manager Kim Leinbach, City Clerk Lisa Small, and City Attorney Mark Connolly.

**ALSO PRESENT WERE:** Public Information Officer Michael Dunn, Police Chief Ken Albano, Community Development Director Charles Stephenson, Public Works Director Robert Gordon, Leisure Services Director James Chambers, Code Compliance Director Joe Gross, Fire Chief Keith Chapman, Human Resources Director Aleicia Latimer, Senior Planner Brad Parrish, Planner Mary Samaniego, James Moore, Krista Kelly, Tony LaColla, Steve Weinberg, Kay Beckner, Tom DeLama, and several other persons.

Mayor Affronti called the City Council Meeting to order at 6:00 p.m., after which he led the Pledge of Allegiance, followed by a brief invocation.

**There were no Proclamations, Recognitions, or Special Presentations.**

**Minutes of Previous Meetings:**

1. **Minutes of the December 20, 2011, City Council Meeting.**
2. **Minutes of the January 3, 2012, City Council Meeting.**

Upon motion of Council Member Pogorilich, seconded by Council Member Boss, and unanimously carried, the **MINUTES** of the December 20, 2011, and January 3, 2012, City Council Meetings were approved as presented.

**Public Hearing:**

1. **Golf Cart Ordinance.**

Mayor Affronti opened the Public Hearing and called on City Manager Kim Leinbach who stated the Community Development Director Charles Stephenson and Police Chief Ken Albano would present the topic of the public hearing.

The Community Development Director stated that the Police and Community Development Departments jointly, along with the Code Compliance Department, initiated a text amendment to the City Code of Ordinances, Section 20.225, and titled "Use of Golf Carts upon Certain Designated City Streets."

Utilizing a PowerPoint presentation, the Community Development Director stated the purpose of the amendment is to encourage the expanded use of golf carts upon certain designated City streets, while establishing operating regulations consistent with Florida Statutes that govern motorized vehicles.

The Community Development Director explained that the current ordinance, which is proposed to be repealed in its entirety, only allows for the use of golf carts while in transit to and from the Temple Terrace Golf and Country Club. As an overview of the proposed ordinance, he said the proposed ordinance is comprised of about 18 sections, establishes new rules, definitions, registration, required equipment, and a new map designating the streets on which golf carts may be operated. He briefly reviewed the new provisions of the ordinance, which include the following:

- All golf carts must be registered with the City of Temple Terrace; whereas, at this time the City does not keep track of them at all;
- Drivers must possess a valid driver's license; and, in accordance with State Statutes, that means drivers must be 15 years old or older;
- Drivers must obey all the rules of the road; and
- Basic golf cart equipment, such as a braking system, adequate steering; night driving requires additional equipment, such as head lights, tail lights, brake lights, etc.

Relative to the registration process, the Community Development Director noted the application form, which was designed to be as easy as possible, can be completed online or at the Community Development Department and carries a \$10 fee per calendar year, renewable annually; registrants will be issued a decal to affix to the golf cart. He explained that questions asked on the application form are primarily for the applicant to verify the basic equipment on the golf cart.

The Community Development Director continued that the proposed amendment prohibits the use of carts on or across state and county roads, with the exception of Bullard Parkway, where the existing tunnels may be utilized as a means to cross the county road. He said a new map with the designated streets that golf carts can use is a part of the amendment. He added there are five different areas that were excluded from the map because golf carts cannot possibly get there unless they traveled on a state or county highway, which included, as an example, Wells Fargo Bank on 56<sup>th</sup> Street. He noted that the Department of Transportation (DOT) is very adamant about golf carts not being allowed on sidewalks or crossing its roads.

The Community Development Director commented that staff believes it has met due diligence in establishing the rules and regulations and recommend the ordinance amending Section 20.225 be considered for adoption. He noted that he and the Police Chief were both present to answer any questions of Council or the public, adding that Police Chief Albano and Code Compliance Director Gross were very helpful with the preparation of this ordinance.

The Police Chief affirmed a lot of thought was put into the development of the ordinance, as well as reviewing several other existing plans throughout the state for ideas.

Mayor Affronti commented that golf carts are currently registered at the Temple Terrace Golf and Country Club. He asked whether the carts would also be required to be registered separately at the City, which would mean completing two registrations.

The Community Development Director commented they have met with the General Manager at the Club and reviewed the Club's registration form, adding that the General Manager is aware of the City's proposed ordinance, and he has commented on some areas, such as crossing Bullard Parkway. He continued the Club's Director was concerned with carts crossing the street from green to green or tee-off points while playing a round of golf, which this ordinance will not affect. He said this ordinance is intended to encourage an additional means of transportation around Temple Terrace.

The Community Development Director responded the registration with the City is required, adding the City would not recognize the registration required by the Club for its members. He said it is not the City's intent to have two registrations.

Mayor Affronti clarified if an individual has a registration with the Club whether that would be sufficient. The Community Development Director reiterated that would not be sufficient and the City would not acknowledge the Club's registration.

The Police Chief explained that the City's registration is a mechanism for the City to be able to identify the cart owners, if the cart was found to be misused or abandoned.

Council Member Pogorilich questioned whether the ordinance specified the location of the sticker, to which the Community Development Director responded he believed the location was the front left bumper of the cart.

Council Member Boss commented that he believed the Club registers the golf course golf carts to members of the Club, so that they know they are members of the Club, who are using the golf course.

Council Member Fernandez clarified that every golf cart in the City, whether being used for golfing or not, if the plan is to drive it on the street to get to the golf course, must be registered. The Police Chief confirmed if the cart is driven on the street from a person's home to the golf course, it does need to be registered.

Council Member Fernandez referred to Section 20.225.2 (b) 5, stating it appears to be somewhat confusing, because it mentions being operated on sidewalks, yet in 20.225.2 (b) 6, it clearly says operation on sidewalks is prohibited. With regard to the decals, she questioned whether the decal would be dated or have a color change each year to indicate whether it is current.

The Community Development Director responded they anticipate using a different color each year.

Council Member Fernandez questioned on initial enactment whether there would be a period of time when only warnings would be issued, since this is a new procedure from what has been done in the past.

The Community Development Director responded affirmatively, adding that this program will involve a lot of outreach to the community. He noted currently there is some problematic use of golf carts in certain cases; this ordinance is intended to be strictly enforced, but to put some regulations in place to encourage the safe use of golf carts in designated areas. He assured the Council there would be a period of "warnings."

The Police Chief confirmed the Police Department has no plans for aggressive golf cart police actions; however, there have been several citizens who have expressed concerns about bringing obvious safety hazards under control. He continued that the Police Department's goal will be to focus on being able to contact the parents of the younger cart drivers to explain the situation and safety concerns. He emphasized the importance of educating the public with this and any other new ordinance before aggressively looking for violations.

Council Member Fernandez expressed concern that it is very clearly spelled out in the ordinance the streets that golf carts are not allowed to cross, including 56<sup>th</sup> Street and Fowler Avenue, or to come up from the 78<sup>th</sup> Street area. She questioned what the City will do to address that, because if she was living in one of those areas, such as Raintree, it is an obvious impact on her lifestyle and property values that she does not currently have. Theoretically, she agreed she should probably not be crossing Fowler Avenue from Raintree Boulevard, but there is currently nothing in black and white telling her she cannot; however, it would be prohibited with the passage of the proposed ordinance. She continued that people who live in those areas will not be happy, once they are specifically prohibited from getting to the golf course from their homes.

The Police Chief responded that it is expressly prohibited now by State Statute for golf carts to cross the state road. He commented on a recent meeting with DOT, stating there have been areas where there were exceptions, but he doesn't know of any exceptions for a roadway with as many lanes that would have to be crossed as Fowler Avenue, and if there was, the cart crossing could not then travel up a state road or on a sidewalk to reach its destination or to cross the street.

Mayor Affronti thought one location, the corner of Glen Arven Avenue and Bullard Parkway, could be a problem; there is a stoplight there and he has seen many carts cross Bullard at that location.

The Community Development Director commented Bullard Parkway is actually a county road under county jurisdiction, and that crossing with the traffic light is marked, according to DOT standards, as an approved crossing for golf carts. He said the meeting last week with DOT was specifically to address anticipated Council concerns as to how to gain state approval to cross Fowler Avenue and 56<sup>th</sup> Street; they were immediately told Fowler Avenue would never be approved because of the number of lanes. Relative to 56<sup>th</sup> Street, he thought it may be possible at some point because of intersections, such as Whiteway Drive and Mission Hills Avenue, which have traffic signals and fewer lanes than Fowler Avenue to cross. He said it becomes problematic when they try to cross more than two lanes each direction with an island between.

Council Member Fernandez commented on the importance of the City figuring out that issue, because she was personally aware of Raintree residents who golf and who will be unhappy they cannot cross Fowler Avenue; even though it has been in State Statutes, it has never been enforced, and they have been able to cross. As this prohibition becomes more local, she said it will be more difficult to address.

The Community Development Director concurred it is difficult and that is why they addressed the issue with DOT. He said there is another residential area by the Ramada Inn that they cannot include in this map. He commented that DOT suggested the City put in a flyover for golf carts; however, a flyover, which would cost the City \$1 million, is not feasible. He said they considered petitioning them later on to cross 56<sup>th</sup> Street and Fowler Avenue, but that would be a separate exercise.

Mayor Affronti commented that would have to be a safe crossing, adding he wasn't aware of how many people actually cross Fowler Avenue now from Raintree Boulevard. The Police Chief stated that was not a safe idea, which is likely why DOT is so stringent in their regulations with Fowler Avenue and other state roads of that size.

Council Member Govin questioned why the City wants to pass a law that is already a state law.

The Police Chief explained that, in keeping with the desires of the Council and citizens at the time, the purpose was to provide an opportunity for the wider-spread use of golf carts, because the current ordinance limits the use of golf carts to traveling to and from the golf course, while the proposed ordinance would allow the wider-spread use of golf carts to go to the redevelopment area for shopping and restaurants, etc., on approved roadways. He said it does not supersede the ability of the Police Officers to enforce state law, but it does provide for options, upon Council's approval, not allowed under the current ordinance.

Council Member Govin commented he believed they were getting into areas that perhaps they should not; however, if they are going to go there, to have someone come to City Hall to file a second registration when they already have one with the Club, seems unreasonable. While he understands what they are saying, he said applicants would register at City Hall, without the cart present for someone to verify the presence of the required equipment; it would seem a golf cart would have to be inspected, which couldn't be done for \$10. He challenged staff to show the cost of inspection could be covered by the \$10 registration fee.

The Police Chief concurred they could not do an inspection for \$10; however, if all they are doing is asking the citizen to fill out a registration form, he believed it is doable for \$10. He continued that if they falsify what they put on the registration, and they were stopped by an officer and were not in compliance, they could be cited under state law or the City Code, whichever applied.

Council Member Govin questioned whether there is a penalty in the City Code for having a golf cart without a windshield, or if they were going to have to write up a new set of penalties. The Community Development Director responded at the last meeting, the incorporation of a citation program was discussed; this type of violation would be addressed in that program. Regarding someone verifying they have good brakes on the golf cart, he equated the same sort of thing applies with a golf cart as it does when one registers a motor vehicle; to simplify, they are asking the applicant to verify they have the safety equipment as required. He emphasized they are trying to keep the registration process as simple as possible and they believed the \$10 fee would sufficiently cover the costs of the decal and one person handling this process for a month or two at the first of the year.

Council Member Govin questioned whether someone would have to send out notices and/or decals. The Community Development Director responded that is all covered in the proposed ordinance, adding the City could be pro-active the first couple of years, suggesting that after doing it once or twice, hopefully the citizens who utilize the golf carts would remember when to come in to the City to renew their registration.

Mayor Affronti commented that the advantage of having the ordinance is to put rules in place for the use of golf carts in the City, which are now operating all over the place with no controls. He continued that by registering the golf carts the City would have better control over what is happening in the City.

The Community Development Director commented that after meeting with the General Manager at the Club, they know for a fact that the Club is not doing anything with their registration. He continued that the City is asking citizens some simple questions verifying they have good brakes and steering and if they want to drive at night that they have the proper equipment with which to do so.

Council Member Pogorlich suggested perhaps they could work with the Club to have one sticker on the cart rather than two, i.e., a combo-registration, which covers both registrations for those who are members of the Club.

Council Member Neale commented that she believes the purpose of the Club's registration is to say that an individual is a member of the Club and allowed to play golf; whereas, there are many people who have golf carts that do not play golf, but want to be able to use the carts to travel from place to place in the City. She said the Club registration and the City's registration are two different things. As a resident of Raintree, Council Member Neale also commented she knows a lot of people who live in Raintree and drive their golf carts across Fowler Avenue, knowing it is against the law, but no one has said to them that they are not supposed to be driving them across Fowler Avenue.

The City Manager apologized to the Council, stating it was his understanding that the proposed ordinance was precipitated for Council from complaints of children piling into golf carts that were not safe and were being driven recklessly throughout the City; in addition, they have talked about for some time citizens being able to utilize golf carts in the redevelopment area, which was previously prohibited. He explained he thought that was the direction given by Council. He suggested that in terms of the duplication, the administration could charge its \$10 fee and let the Club append the affidavit for their membership so that it would coincide with the information the City needs and perhaps it will eliminate an extra step.

Mayor Affronti called for comments from the public, reiterating it is a public hearing.

The Police Chief commented that when he has seen violations, he has taken the time to stop and talk with the residents to explain the safety ramifications and what is allowed and not allowed; it has been his experience that the dialogue he has with the residents has always been friendly and cooperative. He added that he has not encountered repeat violations from those with whom he has spoken. With respect to issues concerning children and blatant violations, he reported that during Halloween there were blatant violations and parents were contacted; the Police Department did not turn a "blind eye." He stated one other issue that has come up in discussions was the use of golf carts by United Parcel Service (UPS) delivery personnel during the holidays; there is a specific State Statute that allows UPS to use golf carts to deliver packages from October through December on certain designated roads unless the City Council passes a specific law that restricts that activity on that specific road, and they are allowed to travel at speeds up to 35 miles per hour; therefore, UPS was not in violation.

Council Member Boss questioned whether they can expand the ordinance in the future, to allow golf carts to be used within the neighborhoods like Raintree and in other neighborhoods. The City Manager said he believed they could come back with something to address that usage.

The City Attorney suggested, relative to the point made by Council Member Fernandez, that the first sentence of Section 20.225.2(b)5, where it states, "Golf carts may not be operated on any City street other than designated City streets or on sidewalks, rights-of-way, or any other location in which a motor vehicle is prohibited by statute or City Code" duplicates the next sub-paragraph; therefore, he recommended, since it is repetitive, that the first sentence be removed. He added that he did not realize that there is an area where the crossing of Bullard Parkway has been approved by the County above-grade and not in the tunnels; therefore, in that same subpart 5, where it states, "Golf carts shall not be driven across any state or county right-of-way or road," needs to be modified to provide that there is the location crossing Bullard Parkway has been approved by Hillsborough County and crossing is approved at that intersection.

The City Attorney commented, relative to Council Member Govin's questions concerning Fowler Avenue, the Statutes do provide that the DOT can grant approvals for crossings over state roads under certain circumstances. While staff has indicated that DOT will not grant approval at this time, he said it does not mean that it couldn't be approved in the future. He said the language could be included to state, "...except as approved by appropriate County or State approvals," so that in the event they do have approvals from the DOT in the future, those crossings could take place. He recommended the proposed ordinance be modified to delete the sentence he indicated and add the verbiage in subpart 5 to allow for the crossings as permitted by the County and State if those approvals are granted.

Council Member Govin recommended postponing the First Reading of the Ordinance because of the number of changes that need to be made, in addition to the City Manager speaking with the Club regarding a mutual registration, to avoid two registrations, which he believes is very important. He said he would like to see all of those items incorporated into the proposed ordinance so that they will be approving a document that is written out. In addition, he said he would like consideration of bringing back the schedule of citations, commenting that they need to know how this will be. While the Police Chief is saying they will take time and be nice, Council Member Govin said he believes Council needs to know so they don't get unequally applied law; he doesn't believe they went far enough, and the document needs to be finished and brought back to Council.

Upon motion of Council Member Govin, seconded by Council Member Pogorilich, **RESOLUTION NO. 004-12(m)**, was **ADOPTED**, postponing the First Reading of the Ordinance revising Chapter 20 of the City Code of Ordinances related to the operation and use of golf carts on City streets, until the revisions discussed this evening are incorporated into the ordinance and a schedule of the proposed citations related to the operation and use of golf carts has been brought to Council. Vote on the motion being: Council Members Boss, Fernandez, Govin, Neale, and Pogorilich voting "aye," no "nay."

Prior to vote on the above motion, Mayor Affronti questioned whether the ordinance would be brought back at the next meeting, to which the Community Development Director responded he would be meeting with the Club, and the First Reading would be rescheduled as soon as possible.

Council Member Fernandez questioned whether those neighborhoods that are not allowed to cross the street could be added to allow golf cart usage within their own neighborhoods. The City Manager requested the administration be allowed the chance to review her request and come back to Council with a recommendation.

There being no further questions or comments, Mayor Affronti closed the Public Hearing.

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

Kay Beckner, 5212 Holland Avenue, addressed the Council concerning Municipal Code Enforcement Board (MCEB) Case No. 10-1286, City of Temple Terrace vs. Kalid Mohammed, for the lien on the property located at 9239 Overlook Drive, in which the Council granted a lien reduction from \$35,800 to \$5,000 on December 20, 2011. She said they were unable to meet the original December 27<sup>th</sup> closing deadline, because Bank of America was unable to complete their preparations for closing in time due to credit problems with the buyer; therefore, it was necessary to find a new buyer for the property. She continued they now have a new buyer, who is paying mostly cash and wants to close on the sale by February 15th. She requested a 30-day extension to the previously granted lien reduction, which is due to expire on Friday, January 20, 2012, to enable them to close on the property and disburse the funds, including the \$5,000 to the City for the outstanding lien. She offered a copy of the new contract if the Council desired to review it.

Upon motion of Council Member Govin, seconded by Council Member Pogorilich, **RESOLUTION NO. 005-12(m)** was **ADOPTED**, granting a 30-day extension to the lien reduction approved December 20, 2012, by Resolution No. 157-11(m), accepting the recommendation from the Municipal Code Enforcement Board to reduce the fine in MCEB Case No. 10-1286, City of Temple Terrace vs. Kalid Mohammed, for the lien on the property located at 9239 Overlook Drive, from \$35,800.00 to \$5,000.00, contingent upon the fine being paid to the City within three days of the closing on said property; if said payment to the City is not made on or before the extended deadline of February 20, 2012, the lien would revert to the original amount of \$35,800.00. Vote on the motion being: Council Members Boss, Fernandez, Govin, Neale, and Pogorilich voting “aye,” no “nay.”

The City Attorney commented that he had just closed on a residential loan with Bank of America and suggested to Ms. Beckner that she keep in close contact with the bank to ensure they meet the closing deadline. Ms. Becker expressed appreciation for the extension and assured the Council she would push for a timely closing.

**There was no Correspondence, Communications, or Petitions before the Council for consideration and action.**

**Presentations:**

**1. Revised and Consolidated Plan Amendment Procedures Manual.**

The City Manager called on Hillsborough County City-County Planning Commission staff member Krista Kelly to present the summary of revisions to and consolidation of the Hillsborough County City-County Planning Commission’s Comprehensive Plan Amendment Procedures Manual.

Planning Commission staff member Krista Kelly said she is here to present a consolidated Comprehensive Plan Amendment Procedures Manual. She explained that while they were updating the manual to meet new statutory requirements, it made sense to coordinate with all jurisdictions to make them consistent where possible.

Ms. Kelly described their process in reviewing and consolidating the amendment procedures, with efforts to make the manual more user-friendly, eliminate redundancies, and expedite the plan amendment review process. She briefly reviewed the revisions, which allow for quarterly Plan Amendment application submissions, revised and standardized the format and requirements for local governments countywide, reduced the advertising requirements prior to Planning Commission Public Hearings from two legal advertisements to one, and improved the readability of the manual. She noted the Comprehensive Plan Amendment Procedures Manual was adopted by the Planning Commission on December 12, 2011, and recommended approval by the various jurisdictions.

Council Member Govin commented the manual was very difficult to review, because there was no clear indication of the changes that were being made from the previous manual; in the future, he would prefer to see a document that shows the additions and deletions highlighted or italicized. Ms. Kelly responded that would have been difficult to do in this instance, because all of the previous individual manuals were essentially deleted and a new consolidated manual was created. Council Member Govin requested she take the message back for future revisions in order to make the Council review process simpler as they make their determinations concerning proposed revisions.

Upon motion of Council Member Pogorilich, seconded by Council Member Neale, **RESOLUTION NO. 006-12(m)** was **ADOPTED**, approving and adopting the Hillsborough County City-County Planning Commission's Comprehensive Plan Amendment Procedures Manual. Vote on the motion being: Council Members Boss, Fernandez, Govin, Neale, and Pogorilich voting "aye," no "nay."

**There were no Site Plan Reviews for Council's consideration and action.**

#### **Resolutions for Consideration and Action:**

Mayor Affronti called on the City Manager who briefly reviewed the two resolutions before the Council for consideration and action. The City Manager stated both items were for budgeted expenditures from the City's gas tax funds.

Upon motion by Council Member Neale, seconded by Council Member Pogorilich, and unanimously carried, **RESOLUTIONS NO. E-1 and E-2** were **ADOPTED** by consent, as follows:

**RESOLUTION NO. 007-12**, awarding the contract to furnish and install an emergency generator at the 127<sup>th</sup> Avenue Stormwater Pump Station to the low bidder, Tampa Armature Works, Inc., in the amount of \$36,926; payment for said contract to be made from Account 130-1721-541.64-99. *The City Manager noted this was a carry-over item from the previous Fiscal Year.*

**RESOLUTION NO. 008-12**, awarding the contract to develop a pavement management plan to Roadway Management, Inc., under the Sun 'n Lake of Sebring Improvement District Contract, in the amount of \$39,969; payment for said contract to be made from Account 130-1724-541.63-11. *The City Manager commented this program will assist the Public Works Director and staff to analyze the condition of paving throughout the City to more effectively and efficiently use the City's funds when resurfacing or maintaining City streets.*

Council Member Boss commented that he had discussed the resolution with the City Attorney and disclosed he has already been doing business with Tampa Armature Works, and he knows the owner of the company, who was a previous board member at the school where his wife is employed.

The City Attorney confirmed Council Member Boss discussed his concern about a possible conflict of interest prior to the meeting; according to his understanding of the Florida Statutes is that there is no conflict. He explained that a voting conflict occurs when there is an issue that could result in a pecuniary gain to a Council Member or members of his/her immediate family; merely having a friendly relationship with the gentleman as described by Council Member Boss would not fall within something that would require him to abstain from voting, but he appreciates Council Member Boss bringing the issue to his attention.

### **Proposed Ordinances for Consideration and Action.**

#### **1. Countryway Townhomes Phase 2 – Planned Development Modification.**

Mayor Affronti called on the Community Development Director to present the proposed ordinance.

The Community Development Director stated this is the second and final reading on the ordinance modifying the Planned Development zoning on the property located at 7822 Harney Road. He reviewed the purpose of the ordinance is to modify the approved site plan from nine townhomes to six single-family lots. He noted Planner Mary Samaniego and the applicant were present to answer any questions Council may have.

Mayor Affronti then called for public comments regarding this proposed ordinance. Hearing none, he called for the **SECOND** and **FINAL** reading, by caption, of an ordinance modifying the Planned Development zoning on the property located on the north side of Harney Road, approximately 400 feet east of North 78<sup>th</sup> Street.

Following **SECOND** and **FINAL** reading, by caption, upon motion of Council Member Neale, seconded by Council Member Pogorilich, **ORDINANCE NO. 1306** was **ADOPTED**, being: **AN ORDINANCE OF THE CITY OF TEMPLE TERRACE, FLORIDA, REZONING PROPERTY LOCATED ON THE NORTH SIDE OF HARNEY ROAD, APPROXIMATELY 400 FEET EAST OF N. 78TH STREET, LEGALLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF, FROM ZONING CLASSIFICATION PD (PLANNED DEVELOPMENT) TO ZONING CLASSIFICATION PD (PLANNED DEVELOPMENT); PROVIDING FOR AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY; 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 Boss, Fernandez, Govin, Neale, and Pogorilich voting “aye,” no “nay.”

#### **2. Golf Cart Ordinance.**

Mayor Affronti announced the First Reading of the proposed ordinance was withdrawn from the agenda for further revisions.

**Unfinished Business:**

The City Manager presented information requested by the Council relative to the pursuit of a “developer reference source” for the Council when changes or revisions are presented relative to the downtown redevelopment project. He noted his report to Council on the subject, dated January 12, 2012, a copy of which is part of the record, was delivered to Council with their Friday report. He reviewed that he had spoken with Owen Beitsch, Real Estate Research Consultants, and Michael Slater, TRIAD Research & Consulting, Inc., and he suggested that Council retain Owen Beitsch, who was previously retained to assist with the Master Development Agreement and has familiarity with the project.

The City Manager continued that the City has also benefited from the expertise of Dr. James Moore, who has worked with the downtown Tampa master plan and serves as Chair of the Tampa Bay District Council at Urban Land Institute, and Senior Vice President of HDR. He said that Dr. Moore has graciously come to offer comments on the downtown redevelopment project.

James Moore, 658 Riviera Drive, Davis Island, Tampa, commented that much of his professional work is with urban redevelopment. He noted that eight or nine years ago the City created an impressive vision for downtown Temple Terrace, knows many of the “players” and has seen what has already been done, adding that it looks great. Dr. Moore continued that the City also created an overlay district, stating that was the vision that they wanted for the downtown area. He said the overlay essentially becomes the DNA for the work to take place. He said he went back through the analysis that was done as part of that process and found there was a caveat that because real estate is a very cyclical industry what may apply in 2004 may not apply in a future time; however, the vision of live, work, and play in a mixed-use, pedestrian-oriented environment still applies here and all over the world. He explained his company helps communities try to create those environments. He noted it is generally easier to rebuild a downtown that was already in place than to build a downtown from the ground up; he offered several examples in Florida where that is occurring including Brandon and Sarasota.

Dr. Moore continued that there are several issues generally considered, including the mix of uses; the mix of uses in the City’s original plan was fairly specific, but with market and demographic changes, they have to reconsider the right mix of uses. As an example, he cited increased online shopping, which impacts where and how people shop. He said another important issue is the mass, or how much of each use; in a redevelopment scenario, the building stays the same, but the types and mix of uses changes. He mentioned the last issue is “mesh” or how it physically sits on the ground and fits in the plan, and then comes the phasing. He commented that the plan that was laid out eight years ago in 2004 presented thoughts on that, with the caveat that things change, adding a typical real estate cycle is seven years.

Dr. Moore suggested probably the best strategy at this point is to reassess whether they have the right mix of uses and the right amount of each use and how they physically go together. Given what he has learned about the current situation, he said “the vision is the vision” and it’s a great vision, adding that downtown Tampa is trying to do that on a much larger scale. He commented it would make a lot of sense to have someone come in to help them revisit the market analysis – not necessarily re-do it entirely, but consider some of the changes that have taken place.

Dr. Moore continued that decisions can be made and buildings built, but they will be there for awhile and sometimes undoing those decisions are not so easy; whereas, a little tweaking and phasing over a couple of extra years, may ultimately get them to the vision that they talked about and planned for in 2004. He noted that the property by the river is phenomenal, and while real estate is in a sort of weird cycle right now, arguably the factors that worked up through 2006 and 2007 will come back. He said it may require a little bit of revisions and rethinking, but that is what those consultants the City Manager named do for a living. He concluded the original vision is good, the situation has changed, but the goals should be the same, although it would probably not be a bad thing to revisit them.

Council Member Pogorilich stated he is not opposed to bringing in a consultant as long as that particular consultant is truly independent and has no ties to Vlass or the City or anyone else. He said he doesn't know how it could hurt to have such a consultant on retainer, other than having to pay for it.

Noting that it was explained in the Memorandum to the Mayor and Council, Mayor Affronti asked the City Manager to explain how they would pay for the consultant.

The City Manager stated he has a Professional Services Account in the Executive Departmental Budget with funding available. He noted he also has a memorandum from Real Estate Research Consultants [Mr. Beitsch's firm] that outlines basic duties and hourly rates. If the Council is inclined to proceed with a consultant, he would recommend selecting Real Estate Research Consultants' Owen Beitsch, who would charge the City when the City calls for assistance with certain questions or certain work; the hourly rates range from \$100 for staff to \$285 for principals.

In response to Council Member Pogorilich's question as to the City's previous dealings with Mr. Beitsch, the City Manager responded that Mr. Beitsch was hired by the City to work on the Master Developer's Agreement (MDA) and has no other connections to the City. The City Manager believed Mr. Beitsch to be very helpful with the MDA.

The City Attorney stated that when Mr. Beitsch came on board, the developer had proposed the deal whereby the compensation to the City was essentially increased tax revenues. He continued that in order for the City to convey the property to the developer under the proposed arrangements, the City needed to have an expert to review the deal and give an opinion to the City that the City was receiving "fair value" for the property or else the City could not convey the property. He said Mr. Beitsch's role at that time was fairly limited, and he suspects Mr. Beitsch's firm provides many more services than what was just described. The City Manager confirmed there are no known ties to Mr. Vlass.

Council Member Pogorilich questioned whether the City could get a disclosure from him or some sort of confidentiality agreement. The City Attorney responded that would pose a problem with public records and the Sunshine Law. He said he could affirm from dealing with Mr. Beitsch's firm, Mr. Beitsch has no connection whatsoever with Vlass, and he is sure Mr. Beitsch would be willing to provide disclosure confirming he is independent.

A motion was offered by Council Member Pogorilich and seconded by Council Member Fernandez to approve the recommendation to retain Owen Beitsch of Real Estate Research Consultants as a consultant, upon receipt of a disclosure reflecting no connections to The Vlass Group.

Prior to proceeding, Council Member Fernandez commented that she would not want to rule out someone who has had a past working relationship or has prepared a work product for Vlass or any one of his partners. While she would like assurance that while the City is engaging Mr. Beitsch's firm, the firm is not reporting to the other side, she did not want to rule out someone because of having prepared work products for any of The Vlass Group partners in the past. Mayor Affronti suggested there may be times when the consultants may have to speak with The Vlass Group for information on what they are proposing.

Council Member Pogorilich clarified he was not proposing they could not talk to them, but once they get the disclosure, they could vet it out; if he is currently working with Vlass on any projects, that would be a different story. He suggested they see what the disclosure says.

The City Attorney commented it should not be a problem; they could request a disclosure from Mr. Beitsch and bring it back to City Council. The City Manager requested, in the interest of time, if the disclosure does not reveal any ties at all to Vlass that they proceed to retain Mr. Beitsch and only come back to the Council if there is something that needs to be disclosed.

Mayor Affronti called for an amendment to the motion on the floor to authorize the City Manager to engage Mr. Beitsch providing there are no conflicts disclosed.

Upon motion of Council Member Fernandez, seconded by Council Member Boss, **RESOLUTION NO. 009-12(m)** was **ADOPTED**, amending the motion on the floor to authorize the City Manager to proceed with engaging Owen Beitsch of Real Estate Research Consultants as a consultant provided the disclosure received from Mr. Beitsch reflects no conflicts or current business association with The Vlass Group or any of its partners. Vote on the motion being: Council Members Boss, Fernandez, Govin, Neale, and Pogorilich voting "aye," no "nay."

Mayor Affronti then called for a vote on the final amended motion.

Upon the amended motion of Council Member Pogorilich, seconded by Council Member Fernandez, **RESOLUTION NO. 010-12(m)** was **ADOPTED**, approving the recommendation to retain Owen Beitsch of Real Estate Research Consultants as a consultant for the City to serve as a "developer reference source" relative to the downtown redevelopment project, upon receipt of a disclosure from Mr. Beitsch reflecting no current conflicts or business association with The Vlass Group or any of its partners, and authorizing the City Manager to proceed with engaging Owen Beitsch of Real Estate Research Consultants as a consultant provided the disclosure received from Mr. Beitsch reflects no conflicts or current business association with The Vlass Group or any of its partners. Vote on the motion being: Council Members Boss, Fernandez, Govin, Neale, and Pogorilich voting "aye," no "nay."

New Business:**1. Municipal Code Enforcement Board Appeal – Lien Reduction – Thomas Urbanczyk.**

Mayor Affronti called on Code Compliance Director Joe Gross to present the lien reduction request on the property located at 1113 N. Riverhills Drive.

The Code Compliance Director reviewed details of the case, which originated in February, 2010, involving overgrown conditions, debris accumulation, address identification issues, and roof damage. He said the case was resolved by early November this last year. He continued the property owner appeared before the Municipal Code Enforcement Board on December 14, 2011, at which time the Board recommended that the fine be reduced from its current \$24,900 to \$2,490, which does cover the City's costs in this case, contingent upon payment by March 14, 2012, or it would revert to the original \$24,900. He noted the MCEB Chairman is here if there are questions. In conclusion the Code Compliance Director disclosed that there are lawn maintenance issues that have re-emerged; therefore, the Code Compliance Department does have an active case, and while they have requested Mr. Urbanczyk to address these issues, to date he has not been successful in complying.

Thomas Urbanczyk, 1113 N. Riverhills Drive, stated his belief that the reduced fine of \$2,490 is unfair. He said the Code Compliance Director cited City costs of approximately \$990; therefore, he doesn't believe it is in the spirit for the Municipal Code Enforcement Board to become a revenue generator for the City, which is what it is pursuing above the \$990 cost and it is not logical, fair, or reasonable. Secondly, Mr. Urbanczyk explained that as far as his lawn not being mowed, he was away on Christmas vacation and came back a week ago, and he mowed the lawn by Friday.

Council Member Pogorilich commented that Mr. Urbanczyk was looking at the fine backwards; the fine is \$24,900; in a sense, what the MCEB is doing is extremely fair as the reduced amount of \$2,490 is only 10% of the original fine. He said he would be in favor of the reduction with the caveat that it be linked to the current violation and that if both of those cases do not stay in compliance or if the fine is not paid within 30 days, the fine will revert back to the original amount of \$24,900.

Upon motion of Council Member Pogorilich, seconded by Council Member Neale, **RESOLUTION NO. 011-12(m)** was **ADOPTED**, accepting the recommendation from the Municipal Code Enforcement Board to reduce the fine in MCEB Case No. 10-0313, City of Temple Terrace vs. Thomas Urbanczyk, for the lien on the property located at 1113 N. Riverhills Drive, from \$24,900 to \$2,490, contingent upon the fine being paid to the City within 30 days and contingent upon this case and the brand new case, mentioned by the Code Compliance Director tonight, remaining in compliance, or the lien would revert to the original amount of \$24,900. Vote on the motion being: Council Members Boss, Fernandez, Govin, Neale, and Pogorilich voting "aye," no "nay."

Mr. Urbanczyk made a brief comment questioning why the Council chose the real estate consultant based on a previous association when there are a thousand consultants out there. Mayor Affronti thanked him for his comment, but responded the Council has made their selection.

## 2. Clarification – Red Light Camera Enforcement Remedies.

Mayor Affronti called on the City Attorney to present the formal resolution clarifying the City's intentions regarding enforcement of certain remedies in Ordinance 1217, Red Light Camera Enforcement System.

The City Attorney explained this resolution was drafted in part relating to an issue that came up in the pending Kelly litigation related to the red light camera program. Before proceeding, he commented that there is a mediation coming up on February 14, and prior to the mediation, they need to have a shade meeting to discuss the status of the case and recommendations regarding settlement. He requested a shade meeting prior to the next City Council meeting on Tuesday, February 7, beginning at 5:00 p.m. There was Council consensus as to the date and time proposed for the meeting.

The City Attorney commented that the proposed resolution is fairly self-explanatory. He explained that under the City Code, as it existed prior to the statutory revisions, the City had the ability to suspend certain rights of individuals, but the City never utilized that remedy. He continued that one of the individuals who is a party to the Kelly litigation stated during the deposition several weeks ago that she wasn't using the City's recreational facility because she was afraid she would be denied access if she tried to sign up. For purposes of clarifying that would not be an issue for anyone who did not pay their fine under the old red light camera system and to assist the City in context of the litigation, they wanted to have this resolution adopted to confirm the City did not utilize a certain remedy available to it and that it will not be utilizing that remedy on a go-forward basis, which should not surprise anyone, since the City has been operating under a new ordinance for over a year now.

The City Attorney summarized with a recommendation for the Council to adopt the resolution as part of their Agenda package to clarify that certain enforcement remedies available under the pre-statutory scheme, which is not longer on the "books," were not used and will not be used in the future.

Upon motion of Council Member Fernandez, seconded by Council Member Boss, **RESOLUTION NO. 012-12** was **ADOPTED**, to clarify the City's intentions with regard to the enforcement of certain remedies available under the Red Light Camera Enforcement System adopted pursuant to Ordinance No. 1217. Vote on the motion being: Council Members Boss, Fernandez, Govin, Neale, and Pogorilich voting "aye," no "nay."

## 3. State Congressional Redistricting Maps.

Mayor Affronti commented that because of the 2010 census, the 2012 State Legislature is redefining the districts throughout the state. He briefly reviewed the three House bills that affect Temple Terrace: House Bill 6003 includes Temple Terrace at 100% of its population, keeping it where it is now; House Bill 6005 also retains 100% of Temple Terrace, but includes a large number of Polk County residents and fewer City of Tampa and unincorporated Hillsborough County residents, essentially splitting Hillsborough County; and House Bill 6007 keeps Temple Terrace at 100%, but still has a low percentage of Tampa residents, as well as a large number of Polk County residents. He recommended that the City endorse House Bill 6003, which keeps the City "whole," much as it is currently, with the highest number of Hillsborough County residents. He noted there will be a vote in the House on the redistricting on January 20<sup>th</sup>; therefore, the City will send an email tomorrow to Representative Will Weatherford, following Council's action tonight, with the Council's selected endorsement.

Upon motion of Council Member Neale, seconded by Council Member Pogorilich, **RESOLUTION NO. 013-12(m)**, was **ADOPTED**, endorsing Map 9009, as amended in House Bill 6003, and authorizing the administration to send an email to Representative Will Weatherford seeking support of the City's endorsement. Vote on the motion being: Council Members Boss, Fernandez, Govin, Neale, and Pogorilich voting "aye," no "nay."

**City Manager's Report:**

The City Manager mentioned the Referendum that Temple Terrace voters are currently entertaining in early voting and at the actual Presidential Preference Primary election on January 31st, which is for the proposed property tax incentive program for new and expanding businesses. He noted that he circulated a draft ordinance that outlines how the program is proposed to be set up, which is identical to the City of Plant City's ordinance and similar to Hillsborough County's, in that it does not include retail, which he believes would be a wide-open and widespread challenge to administer. He reviewed that Council discussed this proposal and authorized the administration to proceed with the Referendum last year. He explained this is a program that is an economic development tool - a strategic approach that is consistent with the City's goals of redevelopment to improve the economic well-being of our citizens, and is the result of Florida Statute requirements.

The City Manager continued that the proposed annual property tax exemption would be available only after a specific ordinance is approved and that a business would enter into an agreement with specific job creation criteria for capital investment and a requirement to repay any portion of property taxes otherwise payable, but for the exemption itself. He said the program will only be offered as an inducement prior to the commencement of economic activity by the business, and he briefly explained how a business would qualify for the exemption. He mentioned the City of Tampa, City of Plant City, and Hillsborough County have all approved this program through their individual referendum processes, and his fear is that if Temple Terrace does not do likewise, in this highly competitive culture, it will severely hamstring the City to bring in businesses to our City. He noted the City has been dealing with international companies in addition to national companies, such as Time Warner. He said this program is where the company's taxes up to 50% are deferred for a four-year period, they have to apply, it is monitored and verified each year that they maintain the qualifications for the tax exempt program. He summarized the program is an inducement to bring quality companies to our community. He concluded that he hopes our residents will vote favorably.

Council Member Fernandez commented on the requirement for businesses to apply, questioning whether there are circumstances under which the Council cannot approve an applicant. The City Manager responded affirmatively, explaining that this is an option for the Council, and he briefly described the verification process, there would be an ordinance for each exemption granted detailing the specifics, and approval is at the sole discretion of the Council.

Council Member Fernandez questioned whether the Woodmont Charter School, a for-profit school, would have qualified under this type of program. The City Manager offered his opinion that the school would have had to qualify under the City's program criteria of above average state-minimum salaries and/or capital investment, just like every other business. He opined that if the school is a for-profit school and meets the eligibility criteria, his answer would be "yes"; however, if the school turns non-profit, the answer would be "no."

Council Member Fernandez clarified that the City's intent is that this ordinance would only apply to businesses that are paying property taxes, and no one is going to be not paying property taxes and receive some sort of rebate. The City Manager confirmed that was correct, stating the business would pay only a portion of their property taxes upon qualification for a specified period of time – it is not indefinite. He noted that the higher the commitment to the community, the longer the possible range of property tax exemption, but it does end in a specified period of time. He concluded that hopefully the residents will approve the program and if so, the administration will come back to Council with the specifics of the program.

Council Member Fernandez commented that the Council had wanted to put the Referendum on the first available election date, which is only the Republican Primary. She said the residents need to know that the Referendum is open to every registered voter in the City. She concluded her remarks, stating that early voting is still taking place.

The City Manager asked Public Works Director Bob Gordon to report on status of Council's request to meet with the Florida Department of Transportation (FDOT) about placing a historical monument structure and other aesthetic enhancements on Fowler Avenue.

The Public Works Director addressed the Council, stating he and the City Manager met with FDOT Secretary Don Skelton and FDOT Attorney Debbie Hunt on October 5, 2011, requesting consideration for the placement of a historical monument structure in the Fowler Avenue median at the east end of the new bridge that is being constructed. He said Secretary Skelton indicated that the existing 56<sup>th</sup> Street monument, for which the City obtained a permit, was approved by mistake although it meets all the necessary requirements for crash attenuations; Secretary Skelton did not say the City had to take it down. He said Secretary Skelton also indicated their FDOT design manual prohibits structures in the median. The Public Works Director felt he and the City Manager made strong arguments since all the City was asking was to extend the crash attenuation devices a little farther and put the City's monument behind that; the same crash attenuations would exist, with the City's monument behind it, but their argument did not get anywhere. While FDOT did not tell them no at that meeting, he said they indicated they would consider it and get back to them.

The Public Works Director continued that on December 12, 2011, he emailed FDOT Secretary Skelton for a status report on the City's request, and on January 5, 2012, they received the FDOT response that the request for the monument could not be granted, nor could the monument be placed in the "recovery area," which would be at the edge of the right-of-way almost on the City's own property down by the boat ramp, which is pretty low and would require a tall tower in order to be seen. He said the City was at the end of the process to initiate an appeal of that decision.

Regarding the other enhancements the City has requested, the Public Works Director reported the City will be granted the "corral" style bridge railing, which is very attractive, at no extra cost to the City. He continued that the decorative lighting specifications were delivered to FDOT to be incorporated into their bridge construction plans, adding that FDOT has to make bridge modifications to accommodate the decorative lights, like those used in the downtown area, but FDOT has been very helpful with those kinds of modifications. He said the City will have to pay for the decorative lights, as well as the installation, maintenance, and energy costs of the lights, which will be located on the north side of the new northern bridge over the sidewalk that is to be built behind the barrier, making it more pedestrian friendly and attractive to motorists traveling by.

The Public Works Director stated FDOT indicated the extra landscaping the City requested was not viewed as problematic and could be worked out at the end of the project. He said FDOT would require a maintenance agreement between the City and FDOT, and the City would be responsible for the maintenance costs of the special landscaping. He concluded that the City was successful with three of the requests, but were not granted permission for the monument on Fowler Avenue; however, they still have the one on 56<sup>th</sup> Street that was permitted in error.

The City Attorney presented information regarding Hillsborough County's proposed "dog tethering" ordinance, which was provided to the Council and is related to animal tethering, providing very strict limitations on the dog owner. He said City staff has reviewed the ordinance and believed the ordinance to be a reasonable regulation. The City Attorney explained that certain Hillsborough County ordinances apply only to the unincorporated areas; however, this ordinance would apply to all jurisdictions within the County unless the City adopted its own ordinance to opt out on the County's regulation. He said there is a 180-day grace period before enforcement would commence, if the City wishes to regulate dog tethering in some other manner; otherwise, no motion is needed. Hearing no comments to the contrary, the City Manager said they will let the County ordinance pass through.

The City Manager said he wanted to make mention of the proposed scheduling regarding the Vlass site plan for the residential component. He reported staff has reviewed the plan and submitted their comments last Friday to the developer. He stated a Town Hall/Special City Council Meeting to address the proposed modifications to the approved site plan has been scheduled for February 9, 2012, at the Lightfoot Center, and staff is proceeding in that manner. He said he wanted to make sure the Mayor and Council are on board with the schedule.

Council Member Pogorilich commented that he was not on board with the meeting. He presented his reasoning that they have not yet seen any of the proposed plans and if the proposed site plan modification doesn't meet the approved concept plan, they would need relief from the concept plan before proceeding. With that in mind and in light of hiring a consultant, he said he believes it is too early. Secondly, Council Member Pogorilich stated that having a Special City Council Meeting on a non-Council meeting night is unfair to citizens who are prepared for the meetings to be held on the first and third Tuesdays and in order to receive maximum citizen input, he believes the meeting should be held on the same night as the Council Meeting, adding he did not mind changing the location.

Mayor Affronti commented that having it on the same night as the Council Meeting was considered; however, there is a heavy agenda for the February 7<sup>th</sup> meeting and the following week the City Manager will be out of town, adding Vlass would like to get this done as quickly as they can, one way or another. He continued that Vlass will be meeting with each of the Council Members individually to present their ideas concerning the proposed site plan modification, so that Council Members can review it and have their questions and concerns addressed. He said it would then be almost two weeks before the meeting, allowing time and opportunity to work out any issues before the final plan is presented to the citizens. He continued that the Council hasn't held a Town Hall meeting for months, and because our citizens want to know what is going on in the redevelopment area, particularly with all the rumors flying around concerning the type of apartments being proposed, he said it is time for the citizens to see exactly what is proposed.

Council Member Pogorilich said he had no problem with having a Town Hall meeting as long as the Council doesn't take action.

Mayor Affronti responded they are scheduled to take Council action that night, unless there is a reason they cannot do it.

Council Member Pogorilich stated one reason is that he cannot make the meeting.

Mayor Affronti commented he hoped Council Member Pogorilich can make the meeting.

Council Member Pogorilich responded that unless every Council Member can make it, he did not believe it was a good idea to have the meeting, adding it is too big of an issue. He continued that rather than trying to push it through for the sake of expediency, he suggested they get everyone's input and get it right.

Mayor Affronti agreed it has to be right. He said they need everyone's input, so he hoped Council Member Pogorilich would be able to attend.

Council Member Pogorilich questioned whether the meeting date is up for discussion or if it was just going to happen as stated.

Mayor Affronti confirmed he set the meeting and has the authority to do so, reiterating that he hoped Council Member Pogorilich can make it.

Council Member Fernandez commented she agrees with the Town Hall meeting. She said her concern with having to vote that night has more to do with anticipating a product that may not be what the residents have initially expected, and she would like for the residents to have the opportunity to hear the presentation, think about it, and then provide feedback to the Council. Speculating, since she has not seen the proposed plan, she said she wasn't sure whether the residents would be more concerned with having commercial on the ground floor or if ownership in condominiums, instead of rental apartments, was more important to them. While she would have seen the presentation and had an opportunity to research and ask questions, she was concerned the residents will be looking at it for the first time and would not have time to research it further or provide their feedback to the Council. She said those reasons are why she may have a problem with voting that night.

Mayor Affronti responded the Council has done that before; this is not the first time the Council has done that.

Council Member Fernandez concurred, but said whatever they decide will be with them for the next 30 years, and that is why she is concerned about making that decision specifically that night. She said it is not all about her own ability to research it further; it is more importantly about the public.

Mayor Affronti said at the meeting that night if they feel they don't have all of the information they need, they will have the ability to recommend that it be postponed or tabled, but they need to move forward.

Council Member Govin concurred with Council Member Fernandez that the meeting needs to be scheduled as a public information meeting/town hall meeting, or whatever they want to call it, let the people provide input to the Council and have time to individually send them emails or otherwise communicate with them. He said that trying to make a decision on the same night that Council Members technically voice their opinions is not good judgment.

Mayor Affronti expressed disagreement.

Council Member Govin stated they have an opportunity to disagree.

Council Member Govin offered a motion that the meeting scheduled for February 9, 2012, at 6:00 p.m., be a Town Hall meeting and not a public hearing. The motion was seconded by Council Member Pogorilich.

Mayor Affronti stated he has the authority to set a Special Meeting and that is what he is doing; the meeting will be on February 9, 2012, at 6:00 p.m. at the Lightfoot Center, and if, at that meeting, it gets to the point where Council cannot make a decision to vote one way or another on the site plan, then that could be put on the table. He reiterated his authority to set the meeting.

Council Member Fernandez questioned whether at that meeting if she was to say she needs more public input and is not inclined to make a decision that night, she could make a motion to table the discussion to the next City Council Meeting. Mayor Affronti responded she could certainly do that.

The City Attorney clarified that under the adopted Council Rules of Order and Procedure, Mayor Affronti does have the ability to call a Special Meeting. He continued that the City Council makes the decision as to what action will be taken at the meeting; no one can compel the Council to take action. As far as the manner in which the review is performed on the proposed amendment, the City Attorney said he would repeat what he had discussed with Council a few months ago with Sweetbay. He explained that at the time a rezoning takes place, it is a quasi-judicial proceeding, which means the Council's decisions should be made based upon information presented to Council at the meeting. The City Attorney continued that to the extent anyone contacts any Council Members in advance of the meeting to give them their comments before the meeting, Council Members will need to make that disclosure at the meeting, adding that the City's Code addresses that issue. He said to the extent that prior to the February 9<sup>th</sup> meeting Council Members speak with anyone associated with The Vlass Group or a neighbor or other residents, he recommended they keep notes of it so they will be able to make full disclosure as to whom they have spoken with and when; if they receive dozens of emails, nothing requires them to list each and every email, but they will need to make reference to the fact that they received "dozens" of emails at their Temple Terrace email address about the proposed amendment. He explained the whole idea behind these land use decisions is to make the decision based upon the evidence presented to them at the meeting and not based upon something said outside of the meeting.

Mayor Affronti interjected that Vlass will be meeting individually with each of the Council Members. The City Attorney said that while he is mentioning that now, he suggested they make disclosure about that at the Special Meeting, and they should also disclose if they meet with someone who opposes the plan.

Council Member Govin mentioned that he has not been invited to any meeting with Vlass because he will be out of town and had requested a different date. The City Manager commented that was passed on to The Vlass Group for them to respond with another date.

Council Member Boss questioned the motion on the floor and whether it is the City Attorney's opinion that the motion would need to be addressed at the time of the next meeting or if the motion was out of order.

The City Attorney asked the City Clerk to restate the motion so that he could adequately respond to the question. The City Clerk stated that Council Member Govin moved that the meeting to be held on February 9 would be a Town Hall meeting only and not a public hearing. The City Attorney commented that he was unsure whether the motion predetermining in advance what will take place at the meeting when a Special City Council Meeting has been called for was in order or not. He said the Mayor does have the authority to call a Special Meeting of the City Council; the appropriateness of making a motion in advance of that Special Meeting as to what action can take place at that meeting, he would have to research for the Council and report to them at the February 7<sup>th</sup> City Council Meeting, adding that he cannot tell them at this time whether Council has the authority to limit the actions taken at that meeting. He suggested they would be better off if they were to make a determination at that meeting on February 9<sup>th</sup> as to what action they wish to take.

Mayor Affronti reiterated that if the Council decides at that point that they do not have sufficient information or feedback from the residents to take action, they can vote to table it. The City Attorney added the City Council could vote at that time to continue or to table the matter to another meeting; the City Council can essentially take whatever action it wishes to take to defer a vote on the matter to another meeting if it so wishes.

Council Member Govin withdrew the motion, stating the Council has another regular City Council Meeting prior to the Special Meeting. Council Member Pogorilich concurred and withdrew his second to the motion.

Mayor Affronti commented that he thought Council had already approved the Council liaisons and County Board appointments for the coming year; however, the City Clerk did not find it in the records. He reviewed the listing from the previous year and asked if there were any requested changes. Hearing none, Mayor Affronti called for a motion to approve the listing for the coming year as adopted for the previous year.

Upon motion of Council Member Boss, seconded by Council Member Pogorilich, **RESOLUTION NO. 014-12(m)** was **ADOPTED** reappointing Council Members as liaisons to various City Boards and as Council representatives to various Hillsborough County Boards as adopted in the previous year. Vote on the motion being: Council Members Boss, Fernandez, Govin, Neale, and Pogorilich voting "aye," no "nay."

Council Member Govin requested an update on the Holland litigation at the next meeting.

The City Attorney responded he could provide an update now. He reported Mr. Holland filed an Answer to some of the defenses in November, which came after they were compelled to do so as a result of the City's legal team having to file a motion to get Mr. Holland to file an answer of the Court Order granting the City sanctions against Mr. Holland for attorneys fees in the amount of \$500.

The City Attorney said they are in the process of preparing a motion to strike affirmative defenses and otherwise try to streamline the legal issues so they can hopefully get the matter resolved on a Motion for Summary Judgment, and if not, set the matter for trial.

Council Member Pogorilich questioned if there is an anticipated timeline for the summary judgment motion. The City Attorney responded they first have to get the defenses stricken and he explained the difficulty getting hearing time from the court and getting hearing times cleared with opposing counsel, along with the number of foreclosure cases, which results in taking quite some time for the case to move forward.

There being no further business to be considered, upon proper motion, the meeting was adjourned at approximately 7:50 p.m.

Joseph A. Affronti, Sr.  
Mayor

Robert M. Boss, Council Member

Attest:

Alison M. Fernandez, Council Member

Melissa E. Small, MMC  
City Clerk

Ron A. Govin, Council Member

Mary Jane Neale, Council Member

David A. Pogorilich, Council Member