



City Hall Commission Chambers
3650 NE 12 Avenue
Oakland Park, Florida 33334

DRAFT MINUTES
CITY COMMISSION MEETING
OCTOBER 19, 2016, 6:30 P.M.

The regular meeting of the City Commission of the City of Oakland Park, Florida was called to order at 6:30 p.m. by Mayor Lonergan.

Special Note: A CRA meeting was held prior to Public Comments.

Roll Call

Present:

Mayor Tim Lonergan

Vice Mayor John Adornato

Commissioner Jed Shank [arrived at 6:34]

Commissioner Sara Guevrekian

Commissioner Michael Carn

Also Present:

City Manager David Hebert

City Clerk Renee Shrout

City Attorney D J Doody

Pledge to the Flag

A moment of silence was followed by the Pledge to the Flag. Tom Hardy, president of the Friends of the Ethel M. Gordon Oakland Library led the Pledge to the Flag.

Proclamations

FIRE PREVENTION WEEK

Vice Mayor Adornato moved to approve the proclamation. Commissioner Carn seconded the motion, which prevailed by the following vote:

YES: Commissioner Carn, Vice Mayor Adornato, Commissioner Guevrekian, Mayor Lonergan

Fire Rescue Chief Don Widing; Assistant Fire Rescue Chief Stephen Krivjanik; and members of the Fire Rescue Department accepted the proclamation. Chief Widing thanked the city commission for the additional fire prevention staff. Fire Marshall John Preston explained the theme for this year's Fire Prevention Week "Don't wait; check the date." was a reminder to check the dates on their smoke alarms and to replace any that were more than 10 years old because the isotopes that detected smoke wore out over time.

NATIONAL RED RIBBON WEEK

Vice Mayor Adornato moved to approve the proclamation. Commissioner Carn seconded the motion, which prevailed by the following vote:

YES: Commissioner Carn, Commissioner Shank, Vice Mayor Adornato, Commissioner Guevrekian, Mayor Lonergan

Young Marines Corporal Sauer and Melissa Sauer accepted the proclamation. Ms. Sauer thanked the city for its support.

NATIONAL FRIENDS OF THE LIBRARY WEEK

Commissioner Shank moved to approve the proclamation. Vice Mayor Adornato seconded the motion, which prevailed by the following vote:

YES: Commissioner Carn, Commissioner Shank, Vice Mayor Adornato, Commissioner Guevrekian, Mayor Lonergan

Mr. Hardy accepted the proclamation and announced the library was holding a book sale on Friday and Saturday, October 21 and 22.

Additions/Changes/Deletions

At this time, any member of the City Commission or the City Manager may request to add, change, or delete items from the agenda.

- Commissioner Carn pulled items 3 and 7 from the Consent Agenda to be discussed under resolutions and miscellaneous.
- City Manager Hebert added a presentation from Atlantic Shores Hospital.

Commissioner Shank moved to approve Additions/Changes/Deletions. Commissioner Guevrekian seconded the motion, which prevailed by the following vote:

YES: Commissioner Carn, Commissioner Shank, Vice Mayor Adornato, Commissioner Guevrekian, Mayor Lonergan

Presentations

*** ATLANTIC SHORES HOSPITAL DONATION TO PARKS AND RECREATION**

Manny Llano, Chief Financial Officer for Atlantic Shores Hospital, presented the city with a \$10,000 donation to be put toward school after-care services. Heidi Burnett, Director of Parks and Leisure Services, accepted the donation on behalf of the city.

*** PRESENTATION BY FDOT ON THE I-95 EXPRESS LANES PROJECT WITH FOCUS ON LANDSCAPE AT OAKLAND PARK BLVD. INTERCHANGE**

FDOT landscape architect Sunshine Bullock provided the presentation. The estimated completion date for the roadway project was 2019. They were already working on the landscaping portion of the project. Ms. Bullock reported the city would have a significant net gain of trees in the Oakland Park Boulevard/I95 area.

*** POP STAR AWARD: RESIDENTIAL, KEVIN BALAWENDER & GARY BAHR, 320 NW 37 STREET, OAKLAND PARK, 33309.**

Charles Livio, City Horticulturist, provided a presentation on the property and said it was a perfect example of Proud Oakland Park. Commissioner Guevrekian presented Mr. Balawender and Mr. Bahr with the award.

*** PROUD TO BE OAKLAND PARK BUSINESS AWARDS**

Kathleen Margoles, CRA Director presented awards to businesses: Ross; Safeway; American National Bank; Funky Buddha Brewery; Switchbox Coffee Roasters; Home Depot; Lowe's; Garden Works; America's Got Soccer; Golden Crust and Hugh's Catering.

Note: The city commission meeting recessed at 7:10 for the CRA meeting and reconvened at 7:15 p.m.

1. Public Comments: At this time any person will be allowed to speak on any matter that pertains to City business for a length of time not to exceed four minutes per person.

Jeff Helyer - 740 Park Lane West - He thanked the candidates for attending the Candidates' Night last month. He also thanked BSO for keeping the evening calm and uneventful; He announced the next Lloyd Estates Homeowners' Association meeting would be held October 25 at 7 p.m. at Collins Community Center. He congratulated his neighbors on winning the POP Star award; Regarding agenda Item 8, Mr. Helyer asked the commission to review the report and to disallow it if things were not 100% satisfactory and beneficial to the city and residents.

Debbie Blakely - Big Dog Station, 3148 NE 12 Avenue - She wished all the candidates well with the election; She announced a Cook-off event on November 12 to benefit Gilda's Club of South Florida at Big Dog Station.

Jack Doren - 4431 NE 17 Avenue - He stated the old K-Mart site was a poor location for the proposed Walmart development due to the traffic impact. He felt the time to have done something was during the conditional use deliberations and the city should have asked for strong concessions then. He feared the city would lose the concessions in the proposed agreement if it was not approved.

Howard Pyle - 1238 NE 36 Street - He congratulated Ms. Margoles on her hard work to make the community an entertaining place to be; He shared a story about an incident when a homeless neighbor alerted him about a nearby property he was concerned about. Mr. Pyle spoke about the benefits All Saints Soup Kitchen provided to the homeless community.

John Michael Perez - 5275 N Dixie Highway - He spoke in favor of the commission approving the Walmart agreement. He shared Mr. Doren's concerns and feared the city would end up in a lawsuit with Walmart.

Mitchell Stollberg-Appleyard - 60 NW 47 Street - He agreed with Mr. Doren's comments regarding the commission approving the Walmart agreement. Regarding the I-95 corridor project, he said he had spoken to the FDOT project manager and provided an update on the temporary removal of the sound wall. He reported that FDOT was still considering designs for the Commercial Boulevard/I-95 on-ramp.

Consent Agenda

Those matters included under the Consent Agenda are self-explanatory, and are not expected to require review or discussion. Items will be enacted by one Motion; however, if discussion of an item is requested by the City Commission, that item may be removed from the Consent Agenda and considered separately.

Commissioner Guevrekian moved to approve the Consent Agenda consisting of items 2, 4, 5 and 6. (Items 3 and 7 have been pulled from the Consent Agenda to be discussed during Resolutions and Miscellaneous.) Vice Mayor Adornato seconded the motion, which prevailed by the following vote:

YES: Commissioner Carn, Commissioner Shank, Vice Mayor Adornato, Commissioner Guevrekian, Mayor Loneragan

2. APPROVAL OF MINUTES - JULY 6, 2016 AND JULY 20, 2016

Approved on consent.

(Item 3 was pulled from the Consent Agenda to be discussed during Resolutions and Miscellaneous.)

3. TOWING AGREEMENT RENEWAL.

4. LIEN NEGOTIATED SETTLEMENT – CODE CASE # 153799 – HESS RETAIL STORES, AT 3300 N. ANDREWS AVENUE.

Approved on consent. Approved staff recommendation to accept offer of \$12,300 plus \$225.00 in recording and processing fees for a total of \$12,525. The total settlement offer is to be paid within 60 days of the City Commission's approval. Failure to pay within the 60 days would void the settlement.

5. LIEN NEGOTIATED SETTLEMENT – CODE CASE #S 158046 & 158827 – JOHN MASULLO, AT 5440 NE 4 AVENUE.

Approved on consent. Approved staff recommendation to accept offer of \$5,000 plus \$450 in recording and processing fees for a total of \$5,450. The total settlement offer is to be paid within 60 days of the City Commission's approval. Failure to pay within the 60 days would void the settlement.

6. LIEN NEGOTIATED SETTLEMENT – CODE CASE #S 161703 & 163140 – JAC MANAGEMENT, AT 515 W. OAKLAND PARK BOULEVARD.

Approved on consent. Approved staff recommendation to accept offer of \$4,550 plus \$450 in recording and processing fees for a total of \$5,000. The total settlement offer is to be paid within 60 days of the City Commission's approval. Failure to pay within the 60 days would void the settlement.

(Item 7 was pulled from the Consent Agenda to be discussed during Resolutions and Miscellaneous.)

7. BUDGET AMENDMENT FOR ENGINEERING AND COMMUNITY DEVELOPMENT.

Resolutions and Miscellaneous

3. TOWING AGREEMENT RENEWAL.

Owner Sal Bellasai explained memorabilia signs were removed once he was made aware they were offensive.

After discussion, Commissioner Shank moved to adopt the resolution. Vice Mayor Adornato seconded the motion, which prevailed by the following vote:

YES: Commissioner Carn, Commissioner Shank, Vice Mayor Adornato, Commissioner Guevrekian, Mayor Lonergan

The resolution, as adopted, carried the following title:

RESOLUTION R-2016-110

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF OAKLAND PARK, FLORIDA, APPROVING AND AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXTEND THE TERM OF THE AGREEMENT WITH SAL'S TOWING, INC. FOR TOWING SERVICES FOR AN ADDITIONAL THREE (3) YEARS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

7. BUDGET AMENDMENT FOR ENGINEERING AND COMMUNITY DEVELOPMENT.

At the request of the commission, City Manager Hebert explained his rationale for requesting the additional resources. Commissioner Shank requested the item be tabled as City Manager Hebert had indicated that the organizational chart was still in draft form and he wanted to examine a corrected document.

Commissioner Shank moved to table the item to next meeting. Motion died for lack of a second.

Commissioner Guevrekian moved to adopt the resolution. Vice Mayor Adornato seconded the motion, which prevailed by the following vote:

YES: Commissioner Carn, Vice Mayor Adornato, Commissioner Guevrekian, Mayor Lonergan

NO: Commissioner Shank

The resolution, as adopted, carried the following title:

RESOLUTION R-2016-111

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF OAKLAND PARK, FLORIDA, ADOPTING THE CITY STAFF'S RECOMMENDATION TO AMEND THE FISCAL YEAR 2017 BUDGET FOR ENGINEERING AND COMMUNITY DEVELOPMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

<p><u>8. WAL-MART REQUEST FOR RELIEF - CONSIDERATION OF SPECIAL MAGISTRATE'S RECOMMENDATION</u></p>

Mayor Lonergan recused himself from the discussion and vote on this item, citing a conflict.

City Attorney Doody stated this was a quasi-judicial proceeding and swore in speakers and recited the legal events that led them to this point regarding this process pursuant to section 70.51 of the Florida Statutes, Florida Land Use Environmental Resolution Act. In accordance with the Act the recommendation of Special Magistrate Mr. Gary Held are for consideration. The city commission must take one of three actions: accept the special magistrate's recommendation; modify the special magistrate's recommendation; or reject the special magistrate's recommendation. Accepting the recommendation would conclude the process and would have the legal effect of approving the plat and granting the waiver.

The public hearing was held as advertised.

Mitchell Stollberg-Appleyard - 60 NW 47 Street - He said he had not originally supported the project, but he recommended the agreement be approved to avoid any further litigation.

Jack Doren - 4431 NE 17 Avenue – He stated Walmart should be ashamed for what it had put the city through. He respected the struggle the commission was having with this difficult decision, but recommended they accept the special magistrate's recommendation.

Howard Pyle - 1238 NE 36 Street - He spoke about being a good neighbor and said Walmart would be a bad neighbor for Oakland Park and Wilton Manors.

After discussion, City Attorney Doody explained that the special magistrate was an attorney, not a judge, and this had not been a judicial proceeding but a dispute resolution process. He stated this recommendation was not binding, but the special magistrate's opinion that the city's denial of the plat application was unreasonable and would unfairly burden the owner's use of the

property may serve as an indication of sufficient hardship to support modification, variances or special exceptions.

City Attorney Doody explained that if there was a writ of certiorari to approve the plat and waiver without a count for damages, he would be responsible for representing the city. If there was a count for damages, it would be assigned to the League of Cities. Walmart could seek to be reimbursed for their attorneys' fees, but City Attorney Doody did not believe there was a basis for it.

After further discussion, Commissioner Shank moved to accept the special magistrate's recommendations. Vice Mayor Adornato stated he would second if the motion if it included the additional mediated negotiations and draft settlement agreement components Walmart originally offered. City Attorney Doody clarified that this was a modification of the special magistrate's recommendations and should be worded as such.

Commissioner Shank moved to modify the special magistrate's recommendations to approve the plat, to approve the waiver of the undergrounding, provided that the terms and conditions of the stipulated settlement are agreed to by Walmart. Vice Mayor Adornato seconded the motion, which failed by the following vote:

YES: Vice Mayor Adornato, Commissioner Shank
NO: Commissioner Carn, Commissioner Guevrekian
ABSTAIN: Mayor Lonergan

Commissioner Carn moved to modify the special magistrate's recommendation, to wit: to deny the waiver to bury the utility lines and to approve the plat, provided that Walmart adopts the terms and conditions of the stipulated settlement. Commissioner Shank seconded the motion.

Kristin Nowicki, Senior Planner stated the cost was estimated at \$475,000. She pointed out that there would be additional costs for adding easements and permissions.

NOTE: MEETING EXTENDED - Commissioner Shank moved to extend the meeting to 11:00 p.m. or until business was concluded, whichever came first. Commissioner Carn seconded the motion, which prevailed by the following vote:

YES: Commissioner Carn, Commissioner Shank, Vice Mayor Adornato, Commissioner Guevrekian, Mayor Lonergan

After further discussion, Commissioner Carn's previous motion to modify the special magistrate's recommendation, to wit: to deny the waiver to bury the utility lines and to approve the plat, provided that Walmart adopts the terms and conditions of the stipulated settlement. The motion seconded by Commissioner Shank prevailed by the following vote:

YES: Commissioner Carn, Commissioner Shank, Vice Mayor Adornato
NO: Commissioner Guevrekian
ABSTAIN: Mayor Lonergan

The commission took a five-minute recess.

9. ALCOHOL BLUE LAW STATUS FOR THE CITY

City Manager Hebert provided the commission with copies of other municipalities' ordinances.

Commissioner Guevrekian explained she had brought the item forward at the request of constituents who indicated they visited stores in other municipalities to purchase alcohol earlier on Sundays. She clarified that she was only suggesting the commission consider allowing the sale of alcohol on Sundays to be the same as all other days of the week.

After discussion, consensus was reached for the city attorney to provide an ordinance to review for further discussion. The specific hour at which alcohol sales would be permitted would be left blank for the commission to discuss and determine.

10. Reports From the City Commission

Commissioner Shank – provided no comment.

Commissioner Carn – provided no comment.

Commissioner Guevrekian – provided no comment.

Vice Mayor Adornato commented as follows:

- 1) He acknowledged those people in his life who had fought breast cancer. He advised everyone to get tested.
- 2) He reported there had been a TIGER grant celebration earlier and Mayor Lonergan had done a great job speaking. The grant would help them to reduce Powerline Road from three lanes to two.
- 3) He reported the Quiet Zone grand opening had been rescheduled to November.

Mayor Lonergan commented as follows:

- 1) He thanked City Manager Hebert, Assistant City Manager Alvarez and staff for being so successful in obtaining grants.

11. Reports From the City Manager

A. FINANCIAL ACTIVITY REPORT AS OF AUGUST 31, 2016

12. Reports From the City Attorney

A. CITY ATTORNEY REPORT FOR SEPTEMBER 21, 2016

13. Advisory Board Minutes

ADJOURN: The meeting was adjourned at: 10:29 p.m.

CITY OF OAKLAND PARK, FLORIDA

TIM LONERGAN, MAYOR

ATTEST:

RENEE M. SHROUT, CMC, CITY CLERK