

CITY OF GREENACRES

OFFICIAL MINUTES TRACKING

Council/Board: city Council

Meeting Date: 2-22-16

Transcribed by: muf No. of Pages: 30 Transcription Time: _____

REVIEW OF MINUTES

Reviewed By: _____

| Name/Initials | Date | Revisions | |
|---------------|----------------|---|-----------------------------|
| <u>Dmc</u> | <u>3-29-16</u> | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| | | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

APPROVAL OF MINUTES

Meeting Date: 4-4-16

Motion By: Dugo Seconded By: Rivera

Check One: ☒ Approved ☐ Tabled ☐ Denied Vote: 5/0

Changes requested by Council or Board? ☐ Yes ☒ No

If yes, note changes: _____

Date Scanned and Filed: _____ By: _____



OFFICIAL MINUTES

**CITY OF GREENACRES
5800 Melaleuca Lane
Greenacres, FL 33463**

**CITY COUNCIL MEETING
Monday, February 22, 2016– 7:00 PM**

1. Call To Order and Roll Call.

Mayor Ferreri called the City Council Meeting of Monday, February 22, 2016 to order at 7:00 p.m. Denise McGrew, City Clerk/Administrative Services Director, called the roll.

ROLL CALL:

Council Present:

Samuel J. Ferreri, Mayor
Jonathan G. Pearce, Deputy Mayor
Lisa Rivera, Councilwoman
Peter A. Noble, Councilman
Judith Dugo, Councilwoman
Paula Bousquet, Councilwoman

Staff Present:

Andrea McCue, City Manager
Thomas Lanahan, Assistant City Manager/P&E Dir.
James D. Stokes, City Attorney
Denise McGrew, City Clerk/Admin. Services Director
Michael Grimm, Director/Building
Thomas Hughes, Director/Finance
Mark Pure, Acting Fire Chief/Fire Division
Michele Thompson, Director/Leisure Services
Carlos Cedeño, Director/Public Works
Melody Larson, Assistant to the City Clerk

Attendees from Public: 18
Press: 1

2. Pledge of Allegiance to the Flag.

Mayor Samuel J. Ferreri led the Pledge of Allegiance.

3. Comments From the Public for Agenda Items Only.

Mayor Ferreri asked if there were comments from the public on an Agenda item.

Vern Quigley, long time resident of 5930 Melaleuca Lane, asked how can the public discuss agenda items prior to knowing what Council's stance is on the issues. He pointed out that at the end of a recent Council meeting, City Attorney James Stokes discussed a proposed format for Council Agendas that eliminated public comments. Mr. Quigley believed that the current agenda format works fine. He asked how can the

public participate without knowing Council's position and asked the City Attorney which Councilmember requested the change.

Mayor Ferreri explained that some policy changes had occurred to procedures and now Council can raise items for action that were once considered for discussion which would have let the public know that an issue was being considered. Now, if an item is raised at a meeting, the public does not have a chance to discuss it and by the time the agenda is set, comments for agenda items only are already over. He suggested restructuring the agenda.

Mr. Quigley confirmed speaking with two board members and three Councilmembers and no one was aware that new language was being proposed. He was concerned that this would be the same ongoing conspiracy of the 3/2 majority vote of the past year. He asked, "Why doesn't the public get a chance to speak?" The same issue came up with the funding of the sidewalks.

Mayor Ferreri requested that the City Attorney research public comment on items the public is not made aware of.

Mr. Quigley stated that he did not have a problem with discussion items because it allows public input, but to shut out the public where they have no say or opinion; the topics are railroaded and policies are changed. "No one's opinion matters. "It's a 3/2 conspiracy and it has to stop."

Deputy Mayor Pearce asked the City Attorney to respond.

City Attorney James Stokes explained that as an attorney in local government for the past 20 years, he recognized that out of the two (2) Special Meetings held to date, that the one held on October 22, 2016, followed the firing of the former City Manager. Mr. Stokes explained that he called for a Special Meeting to discuss the selection process of hiring a new City Manager and on that Special Meeting Agenda, there was a section for "Comments From the Public" that he raised (as reflected in the minutes), since it should not have been included in the Agenda. He stated that according to Florida law, Councilmembers cannot talk to each other outside of a meeting. If it is a Regular City Council Meeting, Councilmembers may discuss anything at the meeting; however, if it is a Special City Council Meeting, only the items on the Special Meeting Agenda can be discussed. He explained that is the purpose of the public notice to prevent elected officials from meeting at 3:00 a.m., posting notice 24 hours before giving little or no notice to the public. Mr. Stokes noted that Regular Council Meetings are known to be held on the first and third Mondays of the month and the public is welcome. If the Council wants to meet at a different date and time, discussion must adhere to what is on the Agenda with no public input. Unfortunately he was not present at the January 28, 2016 meeting which is when this issue occurred. Mr. Stokes stated that at Regular Council Meetings, items "walked" onto the agenda either by Council, staff, or by the public, can have action taken unless otherwise dictated by Council policy. With the exception of zoning matters, "Council can direct itself based on its own regulations and can transact any business it wants."

Mayor Ferreri asked for clarification on whether the agenda format should be revised by moving the Public Comments section under Agenda Approval instead of before.

Mr. Stokes agreed changes are needed. He reported meeting with City Manager Andrea McCue about Councilmembers requesting a workshop to discuss quorum, meeting procedures, agenda format, etc.

Deputy Mayor Pearce wanted clarification that what was done was not illegal.

Mr. Stokes agreed nothing illegal was done but urged Council to establish policies and procedures.

Councilwoman Dugo pointed out that Mr. Quigley's comments should have been heard at the end of tonight's agenda since it did not deal with an agenda item.

Mayor Ferreri agreed, however Mr. Quigley's comments were relevant since he was concerned it would happen again.

Councilwoman Bousquet believed that the public should have the right to comment on actionable items. If a new policy is in order, then Council needs to move Comments for Agenda Items Only under Agenda Approval; the public has a right to speak.

Deputy Mayor Pearce recalled one meeting where Council reopened the item for comments from the public and suggested that when items are added to the Agenda that public comments be allowed for that item.

Mayor Ferreri agreed, if Council adds an item, add a public comment section respectively.

4. Agenda Approval.

- A. Additions, deletions, or substitutions to the Agenda.
- B. Motion to approve and adopt entire agenda as set.

Mayor Ferreri inquired if there were any additions, deletions or substitutions to the Agenda; hearing none, he called for a motion.

MOTION: Councilwoman Dugo made a motion to approve the Agenda.
Deputy Mayor Pearce seconded the motion.

VOTE ON THE MOTION: **In Favor:** Deputy Mayor Pearce, Councilwoman Rivera, Councilman Noble, Councilwoman Dugo, and Councilwoman Bousquet.

Motion carried: 5 - 0.

5. Special Business. None.

6. Consent Agenda.

- A. Mayor Ferreri asked Council if they wished to pull any of the four (4) Consent Agenda items. Deputy Mayor Pearce asked to pull Item #2.

1. **Official Minutes:** City Council Meeting of January 19, 2016 – Denise McGrew, City Clerk.
3. **Proclamation:** “Problem Gambling Awareness Month” for March, 2016 – Samuel J. Ferreri, Mayor.
4. **Proclamation:** “Public Procurement Recognition Month” for March, 2016 – Samuel J. Ferreri, Mayor.

MOTION: Councilwoman Dugo made a motion to approve Consent Agenda Items 1, 3 and 4, pulling Item #2. Councilwoman Rivera seconded the motion.

VOTE ON THE MOTION: **In Favor:** Deputy Mayor Pearce, Councilwoman Rivera, Councilman Noble, Councilwoman Dugo, and Councilwoman Bousquet.

Motion carried: 5 - 0.

2. **Official Minutes:** Special City Council Meeting of January 28, 2016 – Denise McGrew, City Clerk.

Deputy Mayor Pearce requested that the minutes reflect that he chaired the meeting not Mayor Ferreri.

Mayor Ferreri suggested tabling this item to the March 7, 2016 City Council Meeting.

MOTION: Councilwoman Rivera made a motion to table Consent Agenda Item #2 (Special Meeting Minutes of January 28, 2016) to make the necessary corrections. Deputy Mayor Pearce seconded the motion.

VOTE ON THE MOTION: **In Favor:** Deputy Mayor Pearce, Councilwoman Rivera, Councilman Noble, Councilwoman Dugo, and Councilwoman Bousquet.

Motion carried: 5 - 0.

7. Regular Agenda:

- A. **PUBLIC HEARING:** **Ordinance No. 2016-03:** Second Reading; Annexing eight parcels of land totaling approximately 7.27 acres, located at the southwest and northwest corners of Lake Worth Road and South Jog Road, as requested by the Planning and Engineering Department in accordance with Chapter 171.0413 of the Florida Statutes; providing for redefining the boundary lines of the City of Greenacres to include the subject property in the City’s Official Boundary Map; providing for

repeal of conflicting ordinances; providing for severability; and providing for an effective date; pursuant to Staff Memo, Staff Report and Urban Services Report – Thomas J. Lanahan, Acting City Manager.

Denise McGrew, City Clerk, read Ordinance No. 2016-03 into the record on second reading.

Zoning Administrator Kara Irwin-Ferris described the City-initiated proposal to annex 8 parcels of land located at the intersection of South Jog Road and Lake Worth Road. Mrs. Ferreri noted that 6 of the 8 parcels total 6.27 acres of land are located on the southwest corner of Lake Worth Road and South Jog Road in the Crossroads Shopping Center, and 2 parcels are located on the north side of Lake Worth Road and include the Firestone Auto Care Center and PNC Bank; outparcels of Greenacres Plaza. Mrs. Ferris noted that Florida Statutes allows municipalities to annex 50% of the properties where there are no voters or electors, or 50% of the parcel owners are willing to annex. She reported that 56.4% of land area property owners consent to the annexation which meets the annexation criteria. The proposal meets the six (6) annexation criteria, the properties are contiguous to City boundaries, levels of service requirements are met and is consistent with the City's Comprehensive Plan. The Planning Commission recommended approval of this item on January 20, 2016; therefore, staff recommends approval of ANX-15-03 through the adoption of Ordinance No. 2016-03.

Mayor Ferreri called on Councilmembers for comments; hearing none, he opened the meeting to the public. He asked if anyone was in favor of, or opposed to, Ordinance No. 2016-03 to come forward. Seeing no one come forward, he closed the meeting to the public and called for a motion.

MOTION: Deputy Mayor Pearce made a motion to approve Ordinance 2016-03 on second reading. Councilwoman Bousquet seconded the motion.

VOTE ON THE MOTION: **In Favor:** Deputy Mayor Pearce, Councilwoman Rivera, Councilman Noble, Councilwoman Dugo, and Councilwoman Bousquet.

Motion carried: 5 - 0.

- B. **PUBLIC HEARING:** **Ordinance No. 2016-04:** Second Reading; Amending the future land use map of the future land use element of the City's Comprehensive Plan, to change the future land use designation of eight parcels of land totaling approximately 7.27 acres, located at the southwest and northwest corners of Lake Worth Road and South Jog Road, from a Palm Beach County designation of Commercial High with an underlying 8 units per acre (PBC CH 8) to a City of Greenacres designation of Commercial (CM), as requested by the Planning and Engineering Department; providing for repeal of conflicting ordinances; providing for severability; providing for transmittal to the Division of Community Development; providing for inclusion in the Comprehensive Plan; and providing for an effective date; pursuant to Staff Memo and Staff Report – Thomas J. Lanahan, Acting City Manager.

Denise McGrew, City Clerk, read Ordinance No. 2016-04 into the record on second reading.

Mrs. Ferris described the companion item to the City-initiated annexation just approved. She stated that this request is to change the future land use designation of eight (8) parcels of land totaling approximately 7.27 acres from a Palm Beach County designation of Commercial High with an underlying 8 units per acre (PBC CH 8) to a City of Greenacres designation of Commercial (CM). Mrs. Ferris stated that the proposal meets concurrency, it is compatible with surrounding properties; it is consistent with the goals, objectives and policies of the City's Comprehensive Plan, the Treasurer Coast Regional Planning Council's Strategic Regional Planning Policy (SRPP) and Florida Statutes. The Planning Commission recommended approval on January 20, 2016; therefore, staff recommends approval of CPA-15-06 through the adoption of Ordinance No. 2016-04.

Mayor Ferreri called on Councilmembers for comments; hearing none, he opened the meeting to the public. He asked if anyone was in favor of, or opposed to, Ordinance No. 2016-04 to come forward. Seeing no one come forward, he closed the meeting to the public and called for a motion.

MOTION: Deputy Mayor Pearce made a motion to approve Ordinance No. 2016-04 on second reading. Councilwoman Bousquet seconded the motion.

Discussion on the Motion:

Mayor Ferreri inquired about the Red Lobster. Mrs. Ferris explained that letters were sent to the business owners, however, they did not consent to annexation.

VOTE ON THE MOTION: **In Favor:** Deputy Mayor Pearce, Councilwoman Rivera, Councilman Noble, Councilwoman Dugo, and Councilwoman Bousquet.

Motion carried: 5 - 0.

- C. **PUBLIC HEARING:** **Ordinance No. 2016-05:** Second Reading; Approving the application for a zoning change for eight parcels of land totaling approximately 7.27 acres, located at the southwest and northwest corners of Lake Worth Road and South Jog Road, from a Palm Beach County zoning designation of General Commercial (PBC CG) to a City of Greenacres zoning designation of Commercial Intensive (CI), as requested by the Planning and Engineering Department; providing for changes to the Official Zoning Map; providing for repeal of conflicting ordinances; providing for severability; and providing for an effective date; pursuant to Staff Memo and Staff Report – Thomas J. Lanahan, Acting City Manager.

Denise McGrew, City Clerk, read Ordinance No. 2016-05 into the record on second reading.

Mrs. Ferris noted that this item is the companion rezoning to the annexation and future land use amendment just approved. She noted that this proposal is to change the zoning designation of 8 parcels of land totaling 7.27 acres located on the southwest and northwest corners of Lake Worth Road and South Jog Road from a County zoning designation of PBC CG to a City zoning designation of CI. She pointed out that any existing County approvals will be carried over with the annexation until such time as amendments are sought. Mrs. Ferris noted that the proposal meets the ten (10) zoning change criteria, it is compatible with surrounding properties, and the Planning Commission recommended approval on January 20, 2016; therefore, staff recommends approval of ZC-15-06 through the adoption of Ordinance No. 2016-05.

Mayor Ferreri called on Councilmembers for comments; hearing none, he opened the meeting to the public. He asked if anyone was in favor of, or opposed to, Ordinance No. 2016-05 to come forward. Seeing no one come forward, he closed the meeting to the public and called for a motion.

MOTION: Councilwoman Bousquet made a motion to approve Ordinance No. 2016-05 on second reading. Councilwoman Rivera seconded the motion.

VOTE ON THE MOTION: **In Favor:** Deputy Mayor Pearce, Councilwoman Rivera, Councilman Noble, Councilwoman Dugo, and Councilwoman Bousquet.

Motion carried: 5 - 0.

- D. **PUBLIC HEARING:** **Resolution No. 2016-02:** Approving the application for a Special Exception to allow a convenience store with fuel sales in a Commercial Intensive (CI) zoning district, located on the southwest corner of Lake Worth Road and South Jog Road at 6566 and 6584 Lake Worth Road, as requested by the petitioner, Bohler Engineering, LLC, agent for the owner, Lake Worth Road Development Associates, LTD.; providing for repeal of conflicting resolutions; and providing for an effective date; pursuant to Staff Memo and Staff Report – Thomas J. Lanahan, Assistant City Manager/Planning & Engineering Director.

Denise McGrew, City Clerk, read Resolution No. 2016-02 into the record.

Mrs. Ferris described the special exception request to allow a convenience store with fuel sales in a Commercial Intensive (CI) zoning district. The site consists of 6.27 acres of land of which 2.26 acres will be for the construction of a convenience store with 16 fueling stations. Mrs. Ferris noted that the existing convenience store, car wash and mattress store will be demolished. She stated that the proposal meets the goals, objectives and policies of the City's Comprehensive Plan and meets the twelve (12) special exception criteria. The Planning Commission recommended approval on January 20, 2016 subject to the modification to Condition No. 7. Therefore staff recommends approval of SE 15-04 through the adoption of Resolution No. 2016-02, subject to staff's eight (8) conditions of approval as amended.

Mayor Ferreri called on Councilmembers for comments; hearing none, he called on the applicant for comment.

Attorney Dwayne Dickerson of Dunay, Miskel and Backman, L.P. in Boca Raton, FL, agent for the owner, stated he was in agreement with staff's eight (8) conditions of approval and the modification to Condition No. 7 relating to noise.

Mayor Ferreri called on Councilmembers for comments; hearing none, he opened the meeting to the public. He asked if anyone was in favor of, or opposed to, Resolution No. 2016-02 to come forward. Seeing no one come forward, he closed the meeting to the public and called for a motion.

MOTION: Deputy Mayor Pearce made a motion to approve Resolution No. 2016-02 as presented. Councilwoman Bousquet seconded the motion.

VOTE ON THE MOTION: **In Favor:** Deputy Mayor Pearce, Councilwoman Rivera, Councilman Noble, Councilwoman Dugo, and Councilwoman Bousquet.

Motion carried: 5 - 0.

- E. **Site Plan Approval SP-15-06 – Wawa Convenience Store:** Site Plan approval for a convenience store with fuel sales located on the southwest corner of Lake Worth Road and South Jog Road at 6566 and 6584 Lake Worth Road; pursuant to Staff Memo and Staff Report– Thomas J. Lanahan, Assistant City Manager/Planning & Engineering Director.

Mrs. Ferris presented the site plan for a proposed convenience store with fuel sales to be located on the southwest corner of Lake Worth Road and South Jog Road. As was previously mentioned during review of the special exception, the Mattress Firm, the Marathon convenience store and the car wash will be demolished. She reported that the site has four (4) existing ingress/egress shared points of access with cross-access agreements. The subject site proposes 46 parking spaces with 3 handicap spaces and bicycle parking, 8 fueling pumps with 16 fueling stations, an outdoor seating area, and an enclosed dumpster location. Mrs. Ferris reported that a variance was granted by the Zoning Board of Adjustments and Appeals for a reduction in the northeast landscape buffer area. She reported that the applicant is providing additional landscaping material for added beautification. Traffic circulation onsite is sufficient for emergency vehicles and deliveries. Mrs. Ferris stated the Planning Commission recommended approval on January 20, 2016; therefore, staff recommended approval of SP-15-06 subject to staff's thirty-two (32) conditions of approval, including the modification to Condition #29.

Mayor Ferreri called on the petitioner for comment.

Attorney Dwayne Dickerson stated he was in agreement with staff's thirty-two (32) conditions of approval including the modification to Condition #29.

MOTION: Deputy Mayor Pearce made a motion to approve SP-15-06 subject to staff's thirty-two (32) conditions of approval, including the modification to Condition #29. Councilwoman Rivera seconded the motion.

Discussion on the Motion

Councilwoman Dugo asked if there were height limitations for specific districts. She asked if the City Code limited construction of 3-story buildings.

VOTE ON THE MOTION: **In Favor:** Deputy Mayor Pearce, Councilwoman Rivera, Councilman Noble, Councilwoman Dugo, and Councilwoman Bousquet.

Motion carried: 5 - 0.

- F. **Ordinance No. 2016-12:** First Reading; Amending Chapter 9 of the City of Greenacres Code entitled "Miscellaneous Offenses" to add Section 9-6 and a reference to the Palm Beach County Solicitation and Distribution on Public Roads Regulations; providing for repeal of conflicting ordinances; providing for severability; providing for inclusion in code; and providing for an effective date; pursuant to Staff Memo – Thomas J. Lanahan, Assistant City Manager/Planning & Engineering Director.

Denise McGrew, City Clerk, read Ordinance No. 2016-12 into the record on first reading.

Assistant City Manager Thomas J. Lanahan reported that as of February 1, 2016, PBSO took over the law enforcement services for the City. On June 23, 2015, the County adopted regulations prohibiting solicitation and distribution on County and State roads due to safety concerns commonly known as the Panhandling Ordinance. PBSO has asked the City to adopt the County Ordinance to help with efficiency and would prevent the City from becoming a receiver of this activity. Therefore, Mr. Lanahan stated staff recommends approval of Ordinance No. 2016-12.

Mayor Ferreri called on Councilmembers for comments. He stated this is one of the benefits of having one agency control all intersections. In the past, panhandlers would simply move across the street.

MOTION: Councilwoman Dugo made a motion to approve Ordinance No. 2016-12 on first reading. Councilwoman Bousquet seconded the motion.

VOTE ON THE MOTION: **In Favor:** Deputy Mayor Pearce, Councilwoman Rivera, Councilman Noble, Councilwoman Dugo, and Councilwoman Bousquet.

Motion carried: 5 - 0.

- G. **Appointment of Scholarship Committee Chair**; Appointment of Chairperson for the 2016 Educational Scholarship Program; pursuant to Staff Memo – Andrea McCue, City Manager.

City Manager Andrea McCue reported that Council Policy No. 16 calls for the appointment of a Scholarship Committee chair for a 2-year term. Councilwoman Paula Bousquet was appointed in March 2014, and her term has since expired; therefore, a new committee chair is scheduled for appointment.

MOTION: Deputy Mayor Pearce appointed Councilwoman Rivera as the Scholarship Committee chair for 2016-2018. Councilwoman Dugo seconded the motion.

VOTE ON THE MOTION: **In Favor:** Deputy Mayor Pearce, Councilwoman Rivera, Councilman Noble, Councilwoman Dugo, and Councilwoman Bousquet.

Motion carried: 5 - 0.

Councilwoman Dugo congratulated Councilwoman Bousquet for an excellent job serving as Scholarship Committee chair.

- H. **Resolution No. 2016-08**: Authorizing the Interlocal Agreement (Exhibit "A") between the City of Greenacres and Anne M. Gannon as Constitutional Tax Collector for Palm Beach County providing for implementation and collection of a non-ad valorem assessment billing for Fire Services; authorizing the appropriate City Officials to execute the Interlocal Agreement; and directing that the executed agreement be sent to the Tax Collector; pursuant to Staff Memo – Thomas J. Lanahan, Assistant City Manager/Planning & Engineering Director.

Denise McGrew, City Clerk, read Resolution No. 2016-08 into the record.

Assistant City Manager Thomas J. Lanahan reported that on December 7, 2015, Council adopted Resolution No. 2015-47 stating the City's intent to impose a special assessment for fire services using the Uniform Method (annual tax bill). Mr. Lanahan noted that the services of the County Tax Collector are needed to include the assessment on the tax bill, collect the funds and transfer the funds to the City at a cost of 1% of the fees collected. He stated staff recommends approval of Resolution No. 2016-08.

Mayor Ferreri called on Councilmembers for comments.

Councilman Noble wanted to postpone Resolution 2016-08 until April 24, 2016.

Councilwoman Rivera asked for his reason for wanting to postpone this item.

Councilman Noble explained that this is an additional tax on Greenacres citizens that will affect senior citizens living on fixed incomes, disabled veterans, and the unemployed. He pointed out that this is a lifetime tax and can be raised by a majority vote at any time.

Councilwoman Dugo reminded Council that they already approved the fire assessment fee study.

Mr. Lanahan reminded Council that the Notice of Intent was adopted in December, an RFP process was completed and Council awarded a contract to conduct a rate study. Upon receipt of that study, Council will have the opportunity to set the rate and impose the fire assessment. He explained that no Council action to date has made this assessment absolute. However, if Council wishes to impose a fire assessment by the summer, then these steps must be taken.

Councilwoman Bousquet asked what was the deadline imposed by the Tax Collector?

Mr. Lanahan recalled that the Tax Collector timeframe was less stringent; however, the interlocal agreement for the Property Appraiser's Office is more time sensitive due to the data needed. With the fee study scheduled for May, the information would be needed by March.

Councilman Noble pointed out that in order to remain a financially sound government, Council should not be taxing the citizens any further. The City is in a position to provide the Fire Rescue Department what they need. All they need to do is to provide Council with a list. He believed that this fire assessment concept being considered is for municipalities that are not financially sound or when a city's tax rate is maxed at 10 mills. If the City were to max out its millage rate, then that is when it should be considered.

MOTION : Councilman Noble moved to postpone Resolution 2016-08 until April 24, 2016. Councilwoman Bousquet seconded the motion.

VOTE ON THE MOTION: **In Favor:** Councilwoman Rivera, Councilman Noble, and Councilwoman Bousquet.
Opposed: Deputy Mayor Pearce and Councilwoman Dugo.

Motion passed: 3 - 2.

- I. **Resolution No. 2016-09:** Authorizing the Interlocal Agreement (Exhibit "A") between the City of Greenacres and Gary R. Nikolits as Palm Beach County Property Appraiser providing for information and notices related to collections of a non-ad valorem assessment billing for Fire Services; authorizing the appropriate City Officials to execute the Interlocal Agreement; and directing that the executed agreement be sent to the Property Appraiser; pursuant to Staff Memo – Thomas J. Lanahan, Assistant City Manager/Planning & Engineering Director.

Denise McGrew, City Clerk, read Resolution No. 2016-09 into the record.

Mr. Lanahan noted that this item is specific to the special fire assessment issue and tax roll information is needed from the Palm Beach County Property Appraiser and will be included in the assessment when notices are mailed during the budget season in September. Fees include a \$500 set up plus an annual fee of \$50. Mr. Lanahan noted that this agreement was prepared by the Property Appraiser's Office; therefore, staff recommends approval of Resolution No. 2016-09.

Mayor Ferreri called on Councilmembers for comments.

Councilwoman Rivera misunderstood the timeframes involved and asked that her vote on Resolution No. 2016-08 be reconsidered.

Mayor Ferreri noted that after voting on this item, she could raise the issue for reconsideration. He recommended that staff review this item for critical dates.

Mr. Lanahan agreed it could be brought back at the March 7, 2016 City Council Meeting.

Mayor Ferreri agreed with Mr. Lanahan's statement that Resolution No. 2016-09 is more time sensitive than Resolution No. 2016-08.

MOTION : Councilwoman Bousquet made a motion to approve Resolution No. 2016-09. Deputy Mayor Pearce seconded the motion.

Discussion on the Motion:

Councilwoman Dugo reminded Council that they voted months ago to move forward with the fire assessment fee study.

Councilman Noble agreed; however, he stated that in retrospect, this is a tax and when looking at the details, this is an additional tax to Greenacres citizens that is being decided by three (3) people on this Council and that can be raised anytime they so desire. He did not understand why this tax is needed when Council is willing to provide the Fire Rescue Department with whatever they need. He emphasized that this tax is for cities that are financially insolvent. Greenacres does not need this and it would be a burden on senior citizens and the unemployed; this is a handicap for the City.

Councilwoman Bousquet understood that the fire assessment fee study was to determine if the City qualified for a fire tax.

Mr. Lanahan clarified that the study would make a recommendation based on a tested methodology; any deviations could be problematic.

Councilwoman Bousquet noted that Lake County is currently in a lawsuit over the tax amounts imposed instead of those suggested by GSG (the contractor the City awarded the fire assessment fee study to).

Councilwoman Dugo reminded Council that these are the steps they agreed to take.

Deputy Mayor Pearce pointed out that these interlocal agreements and fee study are only preliminary steps. The final decision will take place sometime in June.

Mayor Ferreri pointed out that this Resolution is one of the steps to acquire the fees to be imposed. The fire services tax will be a displacement in the budget where the General Fund will be reduced by the amount of tax being imposed. Of note is that not only will homesteaded properties be affected, but all properties will be taxed, which means every property owner will feel the burden.

**VOTE ON
THE MOTION:** **In Favor:** Councilwoman Rivera, Councilwoman Dugo,
and Councilwoman Bousquet.
Opposed: Councilman Noble.

Motion carried: 4- 1.

8. Comments from the Public.

Vern Quigley, of 5930 Melaleuca Lane, was concerned over a 23-page draft to eliminate the Code Enforcement Board and install a Special Magistrate. He wanted to know which Councilmember instructed the City Attorney to prepare the draft. He asked the Mayor if it was City policy for only one Councilmember to direct the City Attorney to draft policies or procedures, or is it by consensus.

Mayor Ferreri explained that it is normally done by consensus through the City Manager.

Mr. Quigley asked if Councilmembers can individually instruct the City Attorney to draft ordinances to change or rewrite any part of the City Code.

Mr. Quigley voiced his concern over Council's decision at the last meeting to consider having both a Special Magistrate and a Code Enforcement Board. One of the arguments in favor of a Special Magistrate is to issue citations for panhandling or open container violations. He pointed out that in fact, a Special Magistrate has no more power than a Code Enforcement Board. Mr. Quigley noted that for the past 18 years, none of the Board's decisions have been challenged in Civil Court. He suggested if Council wants to spend money wisely, it would be more beneficial to hire clerical assistance to handle the documentation for the Code Enforcement Officers.

9. Discussion Items:

- A. **FY 2016 1st Quarter and FY 2015 Preliminary Financial Review and CIP Status** – Thomas J. Lanahan, Assistant City Manager/Planning & Engineering Director and Thomas A. Hughes, Finance Director.

Finance Director Tom Hughes referred Council to the Financial Statement draft and explained that the reason it was a draft was due to the Florida Retirement System (FRS) figures not being received to complete the audit.

FY 2015 Review (Preliminary Results)

Mr. Hughes reported that the results of the FY 15 General Fund revenue represented a 1% variance-to-budget and expenditures were at a 3% variance-to-budget. Line items over \$1,000 have been highlighted and reasons have been given for the overages. There were five (5) line items in the General Fund that exceeded \$100,000: Other Taxes, Permits and Fees, Personnel Services, Operating Costs and Council Contingency.

General Fund

- Other Taxes

Mr. Hughes pointed out that the shortfall of \$128,197 in this line item was due to an accounting (not budgeting) change. He explained that the 2nd Option Gas Tax was moved from the General Fund to the 304 Reconstruction and Maintenance Fund pursuant to Chapter 336.025, F.S. which mandates that these revenues be used solely to increase capacity of roads in the City.

- Permits and Fees

This line item was over-budgeted by \$202,666 and was due to underestimated building permits and electric franchise fees for new construction.

- Personnel Services

This line item was under-budgeted by \$224,594 with the primary cost savings derived from Public Safety Support Services and was due to position vacancies.

- Operating Costs

This line item had four (4) categories that totaled \$336,730 under-budget: Legal Expenses, Fuel and Lubricants, Other Contractual Services and Education, Training and Seminars.

Mr. Hughes reported that the Department Summary shows three (3) line items that exceeded \$100,000: Public Works Vehicle Maintenance, Public Safety Support Services and Council Contingency.

Special Revenue Funds

Historically, the City has budgeted the total fund balance of these funds as expenditures.

- 102 Forfeiture Fund

Statutory requirements (Chap. 932.0755, F.S.) prohibit the City from forecasting or budgeting revenues in this fund. This fund will continuously

result in a variance as long as funds are generated.

- 103 Arboreous Fund
This fund was overspent by \$1309 due to landscaping. He noted that this fund had a carryover of \$310 from a previous year creating an offset of \$1.00.
- 104 Donations Fund 104
Due to the size of this fund no specific needs are identified.
- 105 Youth Programs Fund
Revenues were off by \$39,000 and expenditures were under by \$3,650.

Capital Improvement Projects

- 301 New Growth Fund
Mr. Lanahan reported this is where the Community Development Block Grant (CDBG) monies are placed. The variance between budget and actual is when the reimbursements are received. The projects are completed in stages and reimbursed as completed.

Impact Fees

Mr. Lanahan reported healthier property values for platting purposes. He noted that this account receives the government services impact fees for residential properties and with an increase in property values it drives up revenues.

Public Safety Communications Center

This project was not undertaken due to the merge with PBSO but was designed for engineering plans to prepare the project for bid.

- 303 Parks and Recreation Fund
Mr. Lanahan reported a similar scenario with impact fees in the 301 New Growth Fund where property values rose significantly.

2015 Revenue Bond

The City did not borrow for the Community Center expansion since construction did not begin until FY 16 and Council used a different funding source.

Community Hall Renovation

Mr. Lanahan reported that this project was budgeted in FY 15 and completed in 2015.

Community Center Expansion

This project was budgeted for FY 15 but did not commence until FY 16; however, expenditures for architectural services came out of the FY 15 budget.

- 304 Reconstruction & Maintenance Fund

Mr. Lanahan reported that the storm sewer project and the Original Section drainage projects started at the end of FY 15; therefore, the full amounts were not expended.

Statement of Revenues, Expenditures and Changes in Fund Balances

Mr. Hughes emphasized this statement is a draft and changes are anticipated. He explained that the purpose of the General Fund is to collect non-restricted revenue to pay for the day-to-day operations of the City and fund capital improvement projects and youth programs. He reported a City-wide fund balance net change increase of \$170,505 made up of the following:

| | |
|-----------------------------------|-------------|
| General Fund | \$755,927 |
| New Growth Fund | (\$252,757) |
| Parks and Recreation Fund | (\$38,005) |
| Reconstruction & Maintenance Fund | (\$362,920) |

Fund Balance Sheet

Pre-paid Items: Purchases of cameras, computers, etc. are derived from the CIP fund with the maintenance of those items transferred to the General Fund.

Restricted: These are for items restricted by 3rd parties i.e. the \$2,595,000 in the 304 Reconstruction & Maintenance Fund represent the 2nd Option Gas Taxes. The use of those funds is restricted to roadway improvements.

Committed: This is money set aside by Council for a specific purpose by Resolution or Ordinance.

Emergency & Disaster Reserve: This reserve is up for discussion. On September 3, 2015, Council reduced this reserve to \$1 million then on September 16, 2015, Council returned the funds. The auditors are currently reviewing the dollar amount based on GASB regulations.

Pension Fund Reserve: The City is waiting for FRS to provide a GASB-68 disclosure to verify the status of the fund. Municipal financial statements cannot be prepared without this information.

Assigned:

Subsequent Year's Expenditures: This represents adopted budget revenue minus adopted budget expenditures plus any rollovers from a prior fiscal year.

Capital Projects: Any non-restricted balances default to an assigned reserve.

Unassigned: The current reserve of \$7,530,048 in the General Fund could increase by \$1 million if the funds are transferred out of the Emergency & Disaster Reserve. On the other hand, the balance in this fund will be reduced

by the same amount in the Pension Plan Reserve.

Mr. Hughes reviewed the 5-year Citywide fund balances between 2011-2015, which shows a reduction in years 2011-2013 and slight increases in 2014 and 2015. He reported an estimated \$3 million reduction in the Fund Balance Citywide during those 5 years. He reiterated this includes all funds and reflects the health of the City.

Mayor Ferreri called on Councilmembers for comments.

Councilwoman Rivera offered to provide Mr. Hughes with the numbers for the Emergency & Disaster Reserve based on her notes. She questioned the amount as reported based on the transfer from and return to this fund.

Mr. Hughes explained that the original transfer was for \$1,163,000. On September 16, 2015, Council requested that \$1 million of the original \$1,163,381 transfer be returned to the Emergency & Disaster Reserve to prevent from having to change the expenditures in the 304 Fund. On October 19, 2015, Council adopted the Budget amendment of \$1 million.

Councilwoman Rivera questioned the exact amount of the Community Center Expansion.

Mr. Lanahan reported that in FY 15, \$3.25 million was budgeted; however, because the project was not initiated in that fiscal year, Council chose to re-appropriate the project plus there were other associated items such as the kitchen equipment, furniture, and A/V system. The current budget for this project is \$3.5 million and is running at or under budget.

Councilwoman Rivera asked Mr. Hughes if a surplus balance for FY 15 was available.

Mr. Hughes estimated \$170,505.

Councilwoman Rivera stated that Councilman Noble likes to state that Greenacres is a financially sound city, yet the media reports that the City is going broke. She asked Mr. Hughes, "What is the final fund balance or cash on hand?"

Mr. Hughes reported that the final fund balance including everything is \$23,004,073. Cash on hand is \$22,400,000+.

Deputy Mayor Pearce asked Mr. Hughes if the City is in good financial shape. The City is not going broke, correct?

Mr. Hughes stated it is in good financial shape and is not going broke.

Councilman Noble asked where the \$500,000 come from to pay former City Manager Wadie Atallah's severance package.

Mr. Lanahan noted that expense occurred in FY 2016.

FY 2016 Review (1st Quarter Results)

Mr. Hughes reported as of December 31, 2015, revenues are \$1,109,000 over FY 15; an 11.1% increase. He noted that the budget has an increase of 10.1%, and if this pace continues to the end of the fiscal year, the City will end with 1% over budget or a 99% accuracy level.

Budget Status Report – General Fund Expenditures

- Personnel Services: Currently at 34.3% of budget and are expected to exceed budget by the end of FY 16. A budget adjustment will be presented in March to address the variance.
- Operating: These are 8% to date with PBSO payments beginning in January and are prepaid.
- Insurance: Costs are at 62.8% of budget. A cost reduction was implemented to prevent a substantial variance from actual to budget due to the transfer of vehicles and liability to PBSO. Mr. Hughes stated that the City has requested a reduced billing level from FLC. He noted that based on the timing, this account could be recorded as revenue for FY 17.

General Fund Revenue

Mr. Hughes reported that the three (3) major sources are ad valorem tax, business taxes and solid waste fees. FY 16 revenues are running 11.1% over FY 15 actual revenue.

FY 2015 Revenue Over (under) Expenditures

This graph shows net revenues by month and indicates the four (4) months that revenues exceeded expenditures.

Budget Status Report - Departmental Summary

- Administration: Currently at 65% of budget for the quarter, prompting a budget amendment to cover the former City Manager's severance package.
- Finance: Currently above 2% for the quarter and is due to the IT Division maintenance contracts.
- Planning & Engineering: This department is at 17% for the quarter due to the Assistant City Manager salary being moved to Administration for part of November through January.
- Public Safety: Mr. Hughes reported three (3) divisions transferred to PBSO but not all costs are in. He reported on a recent expenditure of \$1,250.
- Leisure Services: Currently at 19% of budget for the first quarter. One of the largest expenses is the "Ignite the Nite" July 4th celebration. A new addition is the City's 90th anniversary celebration.
- Non-Departmental: Insurance is running at 55% for the quarter and a reduction in premiums has been budgeted and the City has requested a reduced billing from FLC.

Special Revenue Funds

- Forfeitures 102 Fund: State statutes prohibit budgeting and forecasting of these funds and historically total fund balances are budgeted as expenditures. PBSO will request Council approval for items they want to purchase from this fund.
- 103 Arboreous Fund: The \$7,000 has been budgeted for Lake Worth Road landscape rejuvenation.
- 104 Donations Fund: \$3,476 was used for the "Night Out Against Crime" event at Target. Not shown is a \$10,000+ expense by PBSO that will force this account over budget by the end of the year.
- 105 Youth Programs Fund: This fund is on target.

Capital Improvement Program

Mr. Lanahan reported that the year-to-date numbers of these three (3) funds do not reflect amounts encumbered through purchase orders through December 31, 2015; many of these projects remain ongoing.

- 301 New Growth Fund:
 - Geographical Information System: This is for periodic map updates which will occur in the 3rd quarter.
 - 10th Avenue North Corridor Improvements: This consists of neighborhood revitalization projects that include new street lighting, entry markers, and new sewer system. For FY 16, the City is looking to acquire property on the corner of 10th Avenue North and South Haverhill Road which should occur in the 3rd quarter.
 - Microsoft Office Update: Research is underway and IT has scheduled this for completion by May 1, 2016.
 - Dillman Road Sidewalk: – This is for the construction of a sidewalk on the south side of Dillman Road from Cholee Lake Elementary School to South Jog Road for the 200 students living in Fairway isles, the Reserve and Enclave to walk to school without having to cross Dillman Road twice. This project is a safety benefit for children and will improve traffic flow. It requires coordination with the Lake Worth Drainage District (LWDD) and the private development project who owns the right-of-way needed for the project.
 - Fire Rescue Tablets: A purchase order has been issued and delivery is expected in March.
 - Swain Boulevard Feasibility Study: This project is underway and is to provide sanitary sewer service down Swain Boulevard between 10th Avenue North and Lake Worth Road. The engineering consultant and City staff have met with Palm Beach County Water Utilities Department (PBCWUD) to discuss the parameters

of the project. Future discussions relating to funding and a possible partnership are needed. Funds for this project are not in the FY 16 Budget. PBCWUD would like to service the entire Original Section; however funding for such a large scale project does not exist.

- NEW PROJECT: Palm Beach Villas II Sidewalks. Mr. Lanahan added this project to the 301 list of projects pursuant to Council approval in the amount of \$120,000. He noted that survey work will be needed, street curbing and grading. Staff is currently working on the scope of this project for cost savings.
- 303 Parks & Recreation Fund: The year-to-date actuals/percentages do not reflect the current status of the various projects since they do not show the encumbered amounts through purchase orders.
 - City Park Improvements: Used to restore/replace worn out items and are tied to specific timeframes based on field usage and time of year (season).
 - Freedom, Ira Van Bullock and Veteran's Parks: Sports turf replacement.
 - Bowman Park: The replacement of the exercise stations begins today.
 - Gladiator & Rambo Park: Requisitions are being processed for fence replacement.
 - Freedom & Ira Van Bullock Park: The entry sign refurbishment at Freedom Park was completed in December 2015 and for Ira Van Bullock staff is awaiting a quote from the sign contractor.
 - Parks Court Resurfacing: Community Park tennis courts and associated fencing were completed.
 - Parks/Buildings Parking Resurfacing: The overlay for the walking path behind City Hall was finished in November 2015. And the restriping of the parking lot at the Community Center has been delayed pending the completion of the expansion.
 - Public Grounds Landscape Rejuvenation: A grounds assessment will be done the 2nd quarter.
 - Park Lighting Enhancement: – This is an upgrade of outdoor lighting fixtures at Freedom Park parking lots and pathways with LED lighting. The Bowman Park portion will be scheduled for FY 17.
 - Community Center Expansion: This project began on October 19, 2015. Floor slabs have been poured, wall construction has started, roof construction is being installed and moving along. On February 1, 2016, a bid was awarded for the kitchen equipment. A bid opening for the A/V system was conducted on February 15, 2016 and awarding by Council is scheduled for March 7th. A purchase order for the security camera system was issued on January 6th. Pending items include an access control system, phone wiring, and a furniture package.

- 304 Reconstruction & Maintenance Fund

- Public Works Equipment Replacement: Used to replace various items based on the matrix schedule in the FY 16 Budget. The concrete mixer, aero board and floor jacks are in and awaiting the installation of the new air compressor, requoteing a groomer, and awaiting delivery of a 16' trailer.
- Copier Replacement Program: Copiers at Fire Rescue, the shared Planning & Engineering/Building Department and Community Center have been replaced.
- Vehicle Replacement Program: 2 were budgeted for Fire Rescue and received and 1 for Public Works. Staff is exploring the purchase of a 3rd vehicle for Fire Rescue to replace the Public Safety Aide vehicle.
- Computer Hardware Replacement: This project is finished.
- Park Surveillance Cameras: The proposal received was over-budget and staff encountered that with the transition to PBSO, there is no longer a Dispatch Center to monitor the camera feed. The City Manager is currently discussing a solution with PBSO.
- Exterior and Interior Painting Public Buildings: Purchase orders have been issued and work should begin in 2 weeks for the park gazebos, City Hall, bay doors and coping cap at Fire Rescue and Public Works.
- Storm Sewer Pipe and Basin Replacement: This is repair and rehab of stormwater drainage pipes citywide and includes the relining of the culvert and rebuilding of the end walls on the south side of Chickasaw Road where Wry Road crosses the L-11 Canal. Slip lining corrugated metal pipe on Woodlake Boulevard will begin February 29, 2016.
- Roadway Striping & Marking/Resurfacing: This project is for Fleming and Jennings Avenues from 10th Avenue North beyond First Street and will be placed on the paving contractor's schedule for completion.
- A/C Replacement Program: Scheduled work is complete.
- Public Safety Headquarters Renovation: Phase I is out to bid and proposals were due in today to install tenant separation doors and upgrading the card access system. The sign will be also be changed to reflect PBSO/Fire Rescue. Sign proposals are due in February 24th. Another project is to change access control into the compound and is underway. Staff is meeting with a fence vendor for a proposal. Phase 2 is remodeling the old Dispatch Center; a schematic design is being drawn.
- Original Section Drainage Improvements: Phase I is close to completion (alpha pipe from Swain Boulevard east to E-3 Canal along First Street), plans and specs for Phase 2 (alleyway reshaping of southwest quadrant of Original Section) are completed, the bid will be advertised this Sunday, bid opening will be March 30th and scheduled for award on April 18th.

- Median Landscaping Rejuvenation: The synthetic turf test piece north of Purdy Lane was installed several months ago. The alternative landscape plans that include irrigation and new landscape material for the median adjacent to Community Park are close to completion. A slight delay was due to coordination with FPL on the service location of the electrical for the irrigation pumps.
- Fire Rescue Bunker Gear Replacement: New bunker gear was ordered on November 6, 2015 and arrived last Wednesday; distribution is underway.

Revenue & Expenditure Projections (12/31/15 – 9/30/16)

Mr. Hughes noted that these projections are on target. He pointed out that the interest income is off by -67% and is derived from FMIT investments which usually run 2-3 months with low returns/losses followed by a large distribution. There is no consistency.

Expenditures of \$115,070 over budget include a \$50,000 surplus in the Council Contingency Fund. He emphasized that if the transfer is approved tonight, the current expenditure forecast will be \$165,070 over budget.

In summary, FY 16 saw many new practices employed with an aggressive approach to revenues that was incorporated into the Budget. This included an increase in the estimated actual of 10.1%. In FY 11-12 revenues rose 3.5%; in FY 12-13 revenues declined 0.7%; in FY 13-14 revenues rose 4.2%; in FY 14-15 revenues rose 4.6%. The budgeted 10.1% increase was more than double the increases for the period FY 11-15. No CIP index or forecast would find an increase of 10.1% for FY 16 over FY 15.

Revenues on the expenditure side include estimated hire dates for new positions instead of budgeting for a full year. He noted that the divisions with the budget variances are now contract amounts (fixed) and will not vary.

Mayor Ferreri called on Councilmembers for comments.

Councilwoman Dugo asked Mr. Lanahan what action is the City taking if any, to address the water entering the side wall of the fire bay doors at Fire Rescue. The gray paint is bubbling off the wall.

Mr. Lanahan stated he was not aware of this matter and thanked her for raising the issue. He reported that the exterior painting of the building serves as weatherproofing.

Deputy Mayor Pearce asked Mr. Hughes the status of the City's surplus. In FY 15, the City had \$13.5 million of which \$3.5 million were allocated for the Community Center Renovation, leaving a \$10 mill surplus, correct?

Mr. Hughes asked if he was referring to the General Fund only, because the Fund Balance was \$23 million, which will be reduced considerably with the Community Center Expansion and other ongoing projects. He estimated it would drop below \$20 million city-wide.

Deputy Mayor Pearce stated, "So we still have over \$20 million....."

Mr. Hughes stated, "Fund Balance in all the funds". He noted that the \$20 million dollars are

restricted especially in the reconstruction and maintenance where \$2.6 million will be untouchable.

Deputy Mayor Pearce asked for clarification on whether he was possibly thinking of Policy No. 18 Fund Balance where Council takes "X" number and 25% is kept in the account.

Mr. Hughes explained that the 25% refers to the Unassigned Reserve which is a percentage of expenditures of the upcoming fiscal year or, 25% of \$28 million of the General Fund which is roughly \$6.5 million.

Deputy Mayor Pearce stated, "So we're in pretty good financial shape for the 1st quarter and on track as a City, right?"

Mr. Hughes replied, "Yes".

Mayor Ferreri asked Mr. Hughes to prepare a memo on the status of the reserve funds based on Council policies prior to the next City Council meeting.

B. **Citywide Sidewalks** – Carlos Cedeño, Public Works Director.

Public Works Director Carlos Cedeño reported that on February 1, 2016, Council directed staff to perform a survey of the City's sidewalk gaps. He reported deficiencies in approximately 8 neighborhoods based on the year they were built. He noted that City Code required sidewalks in front of houses but was silent concerning streets in subdivisions with vacant lots. These discrepancies created the existing gaps seen today. Mr. Cedeño reported that the current Code requires sidewalks be constructed on both sides of the street. He noted that properties in unincorporated Palm Beach County are not required to have sidewalks and the City upon annexation acquires these existing gaps. He reported that staff is working with the sidewalk contractor installing the sidewalks in Palm Beach Villas to identify costs for Dahl Drive, Dodd Road, Lake Worth Hills, Original Section, South 57th Avenue, Sherwood Forest Boulevard, Wry Road/Ramblewood Circle and Villa del Trio. The estimated cost to install sidewalks for the areas identified is \$544,396 and includes 20% for expenditures such as surveying right-of-ways and design of intersection treatments. Mr. Cedeño reported that there is no established CIP project for this improvement; however, one could be added to the FY 17 budget. If Council so desires, this project could commence as early as October 2016.

Mayor Ferreri calculated the original \$120,000 for Palm Beach Villas, plus this second estimate of \$544,396, Council is looking at approximately \$664,396 to install all sidewalks and should therefore look at spreading this project out over multiple fiscal years.

Deputy Mayor Pearce asked why this issue was not addressed previously.

Mr. Cedeño reported that projects like Heather Drive West and East adjacent to Greenacres Library were installed and projects like these represent major costs to the City.

Mayor Ferreri pointed out that CDBG funding was being used to install sidewalks in the Original Section which later changed to improve drainage.

Mr. Lanahan concurred, reporting that when he began with the City in 2000, only a couple of streets had sidewalks. Since then, year after year, the City has used CDBG funding to install sidewalks. He noted that for many years the CDBG target area was strictly limited to the Original Section. Later, Palm Beach Villas and Lake Worth Hills neighborhoods were added to also address sidewalks. Mr. Lanahan noted that following Tropical Storm Irene, a \$1 million critical drainage issue was identified and is currently being addressed for the next 5 years. He also reported that approximately 5 years earlier, the City pursued grant funding for half of the work Council is currently discussing and included Empire Way and Lake Worth Hills; however, the City did not score high enough to receive grant approval since there was a bike path component that the City could not meet.

Mayor Ferreri added that in the mid-to-late 1990's, the City was not receiving CDBG funding until City officials went to Tallahassee and lobbied. He reminded Council that CDBG funding is limited in its uses. It was a good way to get federal taxes to come back to the community. CDBG funds are targeted to specific areas and are based on income. He pointed out that in the next 4-5 years these projects would end and suggested looking at other potential uses for this funding in the FY 17 budget.

Mr. Cedeño pointed out that canal crossings and sidewalks are considered when undertaking drainage projects like Rainbow Circle which is a good success story.

Mr. Lanahan recalled receiving disaster mitigation money for the Canal A & B project to rebuild street crossings to the canal. A large engineering constraint installing sidewalks in Lake Worth Hills was the proximity of the canal to the road not allowing space for sidewalks.

Councilwoman Dugo asked what exactly was the City receiving for the \$7,000 in landscaping money for medians on Lake Worth Road and South Jog Road since there is no irrigation. Are we using the landscape architect's suggestions for plantings?

Mr. Cedeño explained they are replacing dead plants with new plant material.

Mr. Lanahan further explained that the costs are to cover the amount of linear feet being planted.

Councilwoman Rivera asked if Council had identified this as a FY 17 CIP project.

Mayor Ferreri reminded Council they had decided to consider the median landscaping for the FY 17 budget.

Councilwoman Bousquet asked if the sidewalks identified for Sherwood Forest Boulevard were south or north of Lake Worth Road.

Mr. Lanahan noted they are being proposed south of Lake Worth Road along the west side to Melaleuca Lane and then on the east side south of Melaleuca Lane. He noted there is adequate road right-of-way width with some grading challenges.

Councilwoman Bousquet asked about the serious state of the road on Bowman and South Military Trail.

Mr. Lanahan reported that a number of years ago the City became aware of a Florida Department of Transportation (FDOT) resurfacing project along South Military Trail between Lake Worth Road north to Southern Boulevard. The City approached FDOT and asked that they include Bowman Street as part of the project and attended a scoping meeting with FDOT staff at the CVS Pharmacy. He reported that FDOT personnel were somewhat skeptical when he suggested they meet onsite. He was able to hear their vehicles scrape the sidewalk as they made the turn onto Bowman Street. FDOT incorporated Bowman Street in their resurfacing project to rebuild Bowman Street and correct the grading problem. Mr. Lanahan noted that in FY 20, there is a CIP project to complete a piece of Bowman Street west to Wallace Street.

Mayor Ferreri reported that MPO estimates commencement of the Bowman resurfacing by FY 17.

10. Staff Comments:

A. City Manager's Report:

- PBSO Reports for Council Agendas

City Manager Andrea McCue reported meeting with PBSO regarding the type of report that will be included in future agendas.

- Pink Shirt Day

Mrs. McCue reminded Council that February 24th is Pink Shirt Day at Diamond View Elementary at 7:45 am and urged Councilmembers to attend. She reported that at 2:30 pm on that day, the Leisure Services Youth Program will be offering "Kindness Tunnels" to welcome elementary students.

- Concert in the Park – 7:00 – 9:00 pm

On Friday, February 26th Mrs. McCue announced that the City will hold its second Concert in the Park event.

- City Tour

Mrs. McCue reported touring the City with Assistant City Manager Thomas J. Lanahan and reviewed some of the Department's needs. She reported reviewing the Administrative Directives, Council Policies and the Continuity of Operations Plan (COOP) that will require updating due to the PBSO merger.

- Fire Chief Position

Mrs. McCue reported that this position has been posted and staff is moving forward with filling the position.

B. City Attorney's Report.

Complaint/Incident Report Against Councilman Pearce

City Attorney James Stokes reminded Council that several months ago he was instructed to investigate a complaint made by former City Attorney Pamela Terranova against Councilman Pearce. He reported that with the PBSO merger this matter was delayed. Mr. Stokes reported speaking with former City Manager Wadie Atallah and other employees, and after reviewing policies and procedures, he briefed Mrs. McCue on the matter. He confirmed that the former City Attorney did write a memo, she submitted it for filing and at the time stated to Mr. Atallah and the City Clerk that she did not want an investigation done and that it wasn't a "complaint", although the language in the memo was harsh and accused the Deputy Mayor of creating a hostile work environment and that he violated state and federal law. Mr. Stokes noted that the language in the memo made it look like a complaint based on the Hostile Environment Title VII Law when any employee makes a complaint of supervisor-induced harassment that is something that provides employers with a great deal of exposure. Investigations are then required, not optional even if the employee asks that it be optional. The Council's policy states that any allegation that is made shall be investigated, and it was not, which was a breakdown in the system. It is clear that when this happened, the Deputy Mayor was not made aware of it when the incident occurred in 2013, until it came to light in 2015. Mr. Stokes stated that Deputy Mayor Pearce wanted clarification and did not have an opportunity to respond or clear his name.

Councilwoman Bousquet found it interesting that the focus appears to be on the procedure and the filing, not on the actual incident itself and there were witnesses, were those persons questioned?

Mr. Stokes stated he was instructed to take a look at the process. The employee who filed the "complaint" is no longer here, so he did not focus on the issue of a hostile work environment.

Mayor Ferreri reported receiving two (2) complaints from citizens about Council members and asked for his help. The opinion of the City Attorney was that the Mayor had no power to do anything, and that the City had no power over its elected officials and I was to refer them to the Public Safety Department, PBSO or the State Attorney's office since there was nothing in the City's Charter to deal with this issue. Mayor Ferreri noted that Mr. Stokes is now saying something different and I am now concerned that per Mr. Stokes' earlier comments, I have misinformed citizens on the course of action they can take. Mayor Ferreri instructed the City Attorney to research this matter further and bring it back to Council.

Mr. Stokes pointed out that since Council is elected by the citizens, the City has no power to discipline an elected official, and an elected official cannot be removed short of Governor-action. However, dealing with a workplace situation where an employee is making an accusation, as an employer, it is incumbent upon the City to ensure that employees are free from harassment. Therefore, had this matter been investigated at the time it occurred, the focus would have been more on clarifying the situation for the employee even though there was little remedy the City could have done other than apprising Council of the situation. As for the ability of the City to discipline a Councilmember that authority is lacking.

Councilwoman Dugo stated that at the time this occurred, her concern was for all employees. We want to clarify the procedure when an employee brings a charge/complaint against another employee of harassment. There should be an HR policy in place.

Mr. Stokes pointed out that the City's harassment policy was last adopted in 1997, almost 20 years ago and this is an ever-evolving area of the law. He reported discussing this and other changes that are needed with the City Manager.

Deputy Mayor Pearce asked if this complaint was handled properly.

Mr. Stokes said he didn't think it was handled properly pursuant to City policy.

Deputy Mayor Pearce noted that the former City Manager, the City Clerk and former City Attorney said that this was not a "complaint", it was an "Incident Report". He stated he found out about this by a former reporter of The Observer who asked me about it 2 years later. I referred her to the City Manager Wadie Atallah who confirmed he was not notified of any complaint. The Incident Report was published in The Observer word-for-word. The reason why he raised this issue is that he does not want this to happen to anyone else. He later met with the City Clerk and City Manager to discuss why this could not have been handled face-to-face where they could address all concerns and stated it was done for political purposes.

Mayor Ferreri pointed out that after 2 years; the City still does not have a policy to handle this type of complaint.

Deputy Mayor Pearce stated that at the time this came to light, he submitted a public records request of all employee harassment complaints from 2013. There was a clear procedure where people were interviewed and the person accused gave a written response.

Mayor Ferreri asked who carried out that process? There is no procedure for elected officials, we would have to do it among Councilmembers or appoint someone else.

Deputy Mayor Pearce asked Mr. Stokes if this "Incident Report" was changed from a "Complaint".

Mr. Stokes stated that the language of the memo never changed, it was captioned "Personnel Incident". The language was harsh and made accusations of criminal misconduct. It was scanned into Laserfiche (electronic filing system) and was filed where complaints are kept. It appears the title of that folder was later changed from "Complaints" to "Complaints/Incident Reports" in 2013.

11. Mayor and City Council Reports.

Mayor Ferreri

- **Penny Sales Tax**

The Mayor reported attending a meeting at the County with City Manager Andrea McCue about the penny sales tax proposed in November. City Managers were asked to identify CIP projects that could benefit from this revenue. This tax would be divided up as follows: 45% for the Palm Beach County School District, 35% for the County, 7% for the Cultural Council and the remainder (18.5%) for municipalities. This would generate \$2.3 million/year in sales tax revenue that would filter down to the City to fund CIP projects. One stumbling block is that PBC Fire Rescue is looking for a ½ penny sales tax in August. Municipalities do not benefit from the ½ penny sales tax; it is used to offset the MSDU. County polling indicates that both taxes will not pass. Residents would pay a ½ penny, but the City's Fire Rescue Department would not benefit from that revenue, only the County. The PBC League of Cities is currently preparing a resolution in support of the penny sales tax. As Councilman Noble mentioned, there are many cities that have maxed out their millage rate and are in dire need of CIP improvements, e.g. Lake Worth, Riviera Beach, Belle Glade. If passed, this would be revenue that could help lower their taxes or keep them stable. If passed, it would go into effect next year. He suggested considering this revenue when preparing the FY 17 or FY 18 budgets. Mayor Ferreri noted that the City's position should be to adopt a resolution in support with a list of CIP projects.

- **Metropolitan Planning Organization (MPO)**

Mayor Ferreri reported that the repaving of South Jog Road has commenced and encompasses 10th Avenue North south to Western Road. Commissioner Burdick is researching information related to the north end of the City.

- **Love on the Lawn**

Mayor Ferreri reported this was a fun event with a lot of dancing. The ladies received roses and the men received chocolate. He recommended it continue since many seniors enjoy attending.

Councilman Noble

Councilman Noble suggested looking into purchasing Freedom Park since the City has invested several millions of dollars building and maintaining property that is not the City's.

Mayor Ferreri pointed out the City has approximately 80 years left on the 90-year lease. It was part of a land-swap and there were State restrictions. He suggested looking into purchase property to the south and use the money for improvements. Council needs to lobby County commissioners. He spoke to a couple of commissioners but at the time the City did not have the funds to make any purchases. He pointed out this would be an excellent opportunity to create a funding source together for additional soccer fields, etc.

Deputy Mayor Pearce

- Special Magistrate

Deputy Mayor Pearce asked Building Director Michael Grimm if he will be presenting an ordinance to Council proposing a Special Magistrate. He asked if the City would be eliminating the Code Enforcement Board. He stated that the City Attorney is working with PBSO and the Code Enforcement Division on a citation process and the City Attorney has confirmed it is perfectly legal to do so. The City is not taking anything away from the Code Enforcement Board, correct?

Mr. Grimm reported that a draft ordinance is being reviewed by the City Attorney. He stated the draft ordinance leaves the existing Code Enforcement Board procedures in place, but alters the citation process to allow certain citations to go before a Special Magistrate.

Deputy Mayor Pearce asked if any citations had been issued to date and asked if the proposed ordinance will strengthen the existing code enforcement process.

Mr. Grimm explained that a citation process is in place but is not being used. The proposed changes will just be another tool that can be used.

Deputy Mayor Pearce reported being approached by Vern Quigley with concerns about using a Special Magistrate. He pointed out that Mr. Quigley should be dealing with Mr. Grimm; not approach Council about these issues.

Councilwoman Bousquet

Councilwoman Bousquet pointed out that any resident has the right to approach Council. Mr. Quigley was not addressing Council in his official capacity as the Vice Chairman of the Code Enforcement Board; he is also a resident and as such, his approach was not inappropriate.

Councilwoman Rivera

Councilwoman Rivera reported that Palm Beach Villas II was looking much better, however, the property on Empire Way with the garbage container is still not in

compliance. She asked about the property with the chicken coup. She thanked Mr. Grimm for the noticeable improvements in her district.

Mr. Grimm reported that the owner of the property on Empire Way was not home but he would be following up. The property with the chicken coup is scheduled for the next Code Enforcement Board hearing.

Councilman Noble

Councilman Noble met with Assistant City Manager Thomas J. Lanahan about complaints he had received about not being able to see City Hall from Melaleuca Lane. Mr. Lanahan informed him that as part of the approval process, there were concessions made with the Pine Ridge South Condo Associations across the street.

Mayor Ferreri and Councilwoman Bousquet explained that the condo residents have called them and voiced their opinion on leaving City Hall as is; they prefer to keep City Hall surrounded by woods.

Councilman Noble suggested that that is the opinion of only a few and Council should consider an alternative solution.

Councilwoman Dugo

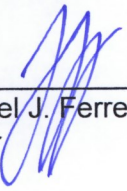
Councilwoman Dugo clarified that a recent discussion between her and Mr. Quigley was just that and nothing more. She suggested providing each Code Enforcement Board member with a copy of the Special Magistrate ordinance upon adoption.

Mayor Ferreri suggested that Mr. Stokes present the draft ordinance during a Code Enforcement Board meeting

12. Adjournment.

Mayor Ferreri inquired if there were any additional comments; hearing none, he adjourned the meeting at 10:22 p.m.

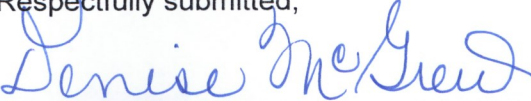
CITY COUNCIL



Samuel J. Ferreri
Mayor

/mel

Respectfully submitted,



Denise McGrew,
City Clerk/Administrative Services Director

Date Approved: 4-4-16

