

Regular City Commission Meeting

Wednesday, April 5, 2017

1:00 PM

City of Hollywood



Hollywood City Hall
2600 Hollywood Blvd
Hollywood, FL 33020
<http://www.hollywoodfl.org>

Commission Chambers Room 219

CITY COMMISSION

Josh Levy, Mayor

Traci Callari, Vice Mayor - District 3

Debra Case, Commissioner - District 1

Peter Hernandez, Commissioner - District 2

Richard Blattner, Commissioner - District 4

Kevin Biederman, Commissioner - District 5

Linda Sherwood, Commissioner - District 6

Dr. Wazir Ishmael, City Manager

Jeffrey P. Sheffel, City Attorney

Patricia A. Cerny, City Clerk

NOTES

The City Manager places before the Commission for consideration the consent agenda items prepared by various offices and departments in the City.

The consent agenda consists of items before the City Commission that are routine and/or non-controversial, the items are voted upon by the City Commission in one motion.

The regular agenda consists of items before the City Commission that must be discussed or could be considered controversial, the items are voted upon by the City Commission individually.

All time certain agenda items will not be considered by the Commission earlier than the time listed for the item, however, the item may be taken up at the same time listed or later in the meeting.

Agenda items not scheduled for a specific time may be considered at any time during the meeting at the discretion of the Commission.

The following items on this agenda are time certain items.

1:00 PM - Items - 21 thru 22

1:15 PM - Item - 23

1:30 PM - Item - 24

3:30 PM - Item - 25

1. **Moment of Silence**
2. **Pledge of Allegiance**
3. **Recognition of Veterans, Active Service Personnel & Their Families**
4. **Roll Call**

CONSENT AGENDA

If a citizen wishes to comment on a specific item, he/she should submit a comment card to the City Clerk before the Commission approves the consent agenda.

ARCHITECTURE & URBAN DESIGN DIVISION

5. [R-2017-077](#) A Resolution Of The City Commission Of The City Of Hollywood, Florida, Authorizing The Appropriate City Officials To Execute The Attached Contract Between Therma Seal Roof Systems, LLC, And The City Of Hollywood, For Roof Replacement On The MLK Jr. Gymnasium Building, In The Amount Of \$89,450.00.

Attachments: [Resolution.doc](#)
[Contract.doc](#)
[Term Sheet - Therma Seal Roof.doc](#)
[BIS 17-146.doc](#)

ENGINEERING DIVISION**6. [R-2017-078](#)**

A Resolution Of The City Commission Of The City Of Hollywood, Florida, Approving And Authorizing The Appropriate City Officials To Execute The Attached Locally Funded Agreement Between The City And The Florida Department Of Transportation ("FDOT") For Johnson Street From East Of 31st Avenue To North 8th Avenue Complete Streets Project For Right Of Way Acquisition Professional Services With An Estimated Cost Of \$319,453.00; And Approving And Authorizing The Appropriate City Officials To Execute The Attached Three Party Escrow Agreement Among The City, FDOT, And The State Of Florida Department Of Financial Services In Order To Establish An Escrow Account For The Project Funding.

Attachments: [Corrected Resolution.doc.2.doc](#)
[EN17-086 Attachment 1 LFA 434672-1-31-02 City of Hollywood Agency.pdf](#)
[EN 17-086 Attachment 2 ESCROW AGREEMENT for LFA 434672-1-31-02 City TermSheetFDOTCompleteStreetsLocalFundingAgreement2017.doc](#)
[TermSheetFDOTESCROWAGREEMENTTHREEPARTYAGREEMENTCOMPLI BIS 17-130.doc](#)

PARKING DIVISION**7. [R-2017-079](#)**

A Resolution Of The City Commission Of The City Of Hollywood, Florida, Authorizing The Appropriate City Officials To Negotiate And Execute An Agreement Between The Highest Ranked Firm And The City Of Hollywood To Provide A Parking Citation & Database System With An Option To Add The License Plate Recognition (LPR) System For The Parking Division For A Five (5) Year Term In An Estimated Total Amount Of \$446,632.45.

Attachments: [Res Cardinal Tracking-rev.doc](#)
[Cardinal Tracking - Backup.pdf](#)
[Cardinal Tracking Response - HOLLYWOOD FL RESPONSE \(FINAL\).pdf](#)
[T2 Systems Response - City of Hollywood.pdf](#)
[Complus Data Response - City of Hollywood.pdf](#)
[EDC Corporation Response - City of Hollywood Proposal.pdf](#)
[Term Sheet - Cardinal Tracking Inc. - Parking Citation and Database System.do BIS 17126.doc](#)

DEPARTMENT OF FINANCIAL SERVICES

8. [R-2017-080](#) A Resolution Of The City Commission Of The City Of Hollywood, Florida, Authorizing The Appropriate City Officials To Execute An Agreement Between Marty Kiar, As Broward County Property Appraiser And The City Of Hollywood In Connection With The Notification And Collection Of Non-Ad Valorem Assessments On The Annual Property Tax Bill At An Estimated Amount Not To Exceed \$48,000.00.

Attachments: [01 - Resolution BCPA Interlocal Agreement 2017.docx](#)
[02 - Exhibit A Hollywood Fire 2017 Agreement.pdf](#)
[03 - Exhibit B Hollywood Fire Inspection 2017 Agreement.pdf](#)
[04 - Exhibit C Hollywood Nuisance Abatement 2017 Agreement.pdf](#)
[05 - Exhibit D Hollywood S 30th Ave 2017 Agreement.pdf](#)
[06 - Exhibit E Hollywood Adams Street 2017 Agreement.pdf](#)
[terbcpa2.DOC](#)
[BIS 17-142.doc](#)

DEPARTMENT OF INFORMATION TECHNOLOGY

9. [R-2017-081](#) A Resolution Of The City Commission Of The City Of Hollywood, Florida, Authorizing The Appropriate City Officials To Issue The Attached Purchase Order Between Govconnection, Inc. And The City Of Hollywood For The Purchase Of Two (2) Simplivity Hyper-Converged Server Platforms And Accessories In An Amount Not To Exceed \$145,798.00.

Attachments: [RES GOVConnection Simplivity PU](#)
[GovConnection-Simplivity PU - PO.pdf](#)
[GovConnection-Simplivity PU - Backup.pdf](#)
[Term Sheet - Govconnection, Inc..doc](#)
[BIS 17-137.doc](#)

10. [R-2017-082](#) A Resolution Of The City Commission Of The City Of Hollywood, Florida, Authorizing The Appropriate City Officials To Issue The Attached Blanket Purchase Order Between SHI International Corporation And The City Of Hollywood For The Purchase Of Microsoft SQL And Datacenter Licenses For Public Utilities In An Amount Not To Exceed \$88,564.00.

Attachments: [Res SHI-SQL-Datacenter Licenses.doc](#)
[SHI-SQL-Datacenter Licenses - PO.pdf](#)
[SHI-SQL-Datacenter Licenses - Backup.pdf](#)
[Term Sheet - SHI International Corporation.doc](#)
[BIS 17-134R.doc](#)

DEPARTMENT OF PUBLIC UTILITIES

11. [R-2017-083](#) A Resolution Of The City Commission Of The City Of Hollywood, Florida, Authorizing The Appropriate City Officials To Issue The Attached Blanket Purchase Order Between Arrow Asphalt & Engineering, Inc. And The City Of Hollywood For Asphaltic Concrete Repairs & Restoration In An Estimated Annual Amount Of \$100,000.00.
- Attachments:** [Resolution - Arrow Asphalt Asphaltic Concrete BPO.doc](#)
[B002966 Arrow Asphalt & Engineering.pdf](#)
[Fully Executed ITB2016-04 Arrow Asphalt & Engineering, Inc..pdf](#)
[Term Sheet - Arrow Asphalt and Engineering, Inc..doc](#)
[BIS 17-125.doc](#)
12. [R-2017-084](#) A Resolution Of The City Commission Of The City Of Hollywood, Florida, Authorizing The Appropriate City Officials To Issue The Attached Blanket Purchase Order Between Nalco Company And The City Of Hollywood For The Purchase Of PC-1850T Antiscalant For An Estimated Annual Amount Of \$109,000.00.
- Attachments:** [Reso - Nalco Company - Antiscalant 2017.doc](#)
[B002967 Nalco Company.pdf](#)
[TermSheetNalcoAntiscalant2017.doc](#)
[BIS 17-124.doc](#)
13. [R-2017-085](#) A Resolution Of The City Commission Of The City Of Hollywood, Florida, Authorizing The Appropriate City Officials To Execute The Attached Contract Between GFA International, Inc. And The City Of Hollywood For The Salinity Monitoring Wells Project, In The Amount Of \$198,328.00 And Approving An Amendment To The Fiscal Year 2017 Capital Improvement Program, As Set Forth In The Attached Exhibit A. (Project No. 16-3069)
- Attachments:** [Resolution - GFA International Salinity Monitoring Wells.doc](#)
[Exhibit A - GFA International Salinity Monitoring Wells..pdf](#)
[Contract - GFA International Salinity Monitoring Wells.pdf](#)
[Bid Tabulation - GFA International Salinity Monitoring Wells..pdf](#)
[Bid - GFA International Salinity Monitoring Wells.pdf](#)
[Term Sheet - GFA International, Inc..doc](#)
[BIS 17-123.doc](#)

14. [R-2017-086](#) A Resolution Of The City Commission Of The City Of Hollywood, Florida, Authorizing The Appropriate City Officials To Issue The Attached Blanket Purchase Order Between Tri-Dim Filter Corporation And The City Of Hollywood For The Supply And Delivery Of GE Osmonics Zyplex, Ro Save, 5 Micron, 40 Doe Cartridge Filter Model RO.ZS 05-40 For An Estimated Annual Expenditure Of \$52,116.00.
- Attachments:** [Resolution - Tri-Dim Filter GE Osmonics Zyplex Micron Cartridge.doc](#)
[B002971 Tri-Dim Filter Corporation.pdf](#)
[Eval Checklist.pdf](#)
[bid F-4543-17-RL - Supply and Delivery of GE Osmonics Zyplex, RO Sa](#)
[Packet for Bid F-4543-17-RL.pdf](#)
[Term Sheet - Tri-Dim Filter Corporation.doc](#)
[BIS 17-131.doc](#)
15. [R-2017-087](#) A Resolution Of The City Commission Of The City Of Hollywood, Florida, Authorizing The Appropriate City Officials To Issue The Attached Blanket Purchase Order Renewing The Agreement Between Airgas, Inc DBA Airgas USA, LLC And The City Of Hollywood For The Supply Of Liquid Oxigen For An Estimated Annual Expenditure Of \$304,303.50.
- Attachments:** [Reso - AirGas Renewal 2017 REVISED.doc](#)
[B002946 Airgas Third and Final Renewal.pdf](#)
[Term Sheet - Airgas USA, LLC.doc](#)
[BIS 17-127.doc](#)
16. [R-2017-088](#) A Resolution Of The City Commission Of The City Of Hollywood, Florida, Authorizing The Appropriate City Officials To Execute The Attached Authorization To Proceed For Work Order No. TTH 17-01 Between Tetra Tech, Inc. And The City Of Hollywood To Provide Professional Engineering Services For The Water Main Replacement Program Between Pembroke Road And Hollywood Boulevard From South 56th Avenue To State Road 7, As Identified In The 2007 Water System Master Plan, In An Amount Not To Exceed \$730,269.00 (Project No. 16-5136).
- Attachments:** [Resolution - Tetra Tech WMRP Pembroke-Hollywood-S 56-SR7.doc](#)
[ATP - Tetra Tech WMRP Pembroke-Hollywood-S 56-SR7.doc](#)
[Scope of Services - Tetra Tech WMRP Pembroke-Hollywood-S 56-SR7.pdf](#)
[R-2009-214 - Tetra Tech WMRP Pembroke-Hollywood-S 56-SR7.pdf](#)
[R-2013-110 - Tetra Tech WMRP Pembroke-Hollywood-S 56-SR7.pdf](#)
[R-2015-068 - Tetra Tech WMRP Pembroke-Hollywood-S 56-SR7.pdf](#)
[Term Sheet - Tetra Tech Work Order 17-01.doc](#)
[BIS 17-129.doc](#)

17. [R-2017-089](#) A Resolution Of The City Commission Of The City Of Hollywood, Florida, Authorizing The Appropriate City Officials To Execute The Attached Authorization To Proceed For Work Order No. CTA 17-02 Between Craven Thompson And Associates, Inc. And The City Of Hollywood To Provide Professional Engineering Services For The Water Main Replacement Program Between Taft Street And Charleston Street From N. 56th Avenue To State Road 7, As Identified In The 2007 Water System Master Plan, In An Amount Not To Exceed \$640,978.68 (Project No. 16-5138).
- Attachments:** [Resolution - Craven Thompson WMRP Taft-Charleston-N56-SR7.doc](#)
[ATP - Craven Thompson WMRP Taft-Charleston-N56-SR7.doc](#)
[Proposal - Craven Thompson WMRP Taft-Charleston-N56-SR7.pdf](#)
[R-2015-068 - Craven Thompson WMRP Taft-Charleston-N56-SR7.pdf](#)
[R-2013-110 - Craven Thompson WMRP Taft-Charleston-N56-SR7.pdf](#)
[R-2009-214 - Craven Thompson WMRP Taft-Charleston-N56-SR7.pdf](#)
[Term Sheet - Craven Thompson, Work Order 17-02.doc](#)
[BIS 17-128 .doc](#)
18. [R-2017-090](#) A Resolution Of The City Commission Of The City Of Hollywood, Florida, Authorizing The Appropriate City Officials To Issue The Attached Amendment No. 1 To The Authorization To Proceed For Work Order No. H&S 17-01 Between Hazen And Sawyer P.C., And The City Of Hollywood To Provide Professional Engineering Services For Well Casing Cleaning And Operational Permit Renewal With The Florida Department Of Environmental Protection For The Two Deep Injection Wells At The Southern Regional Wastewater Treatment Plant, In An Amount Not To Exceed \$69,404.00 (16-9938).
- Attachments:** [Resolution - Hazen & Sawyer Well Casing & FDEP Permit.docx](#)
[ATP Amend 1- Hazen & Sawyer Well Casing & FDEP Permit.doc](#)
[ATP - Hazen & Sawyer Well Casing & FDEP Permit.pdf](#)
[Injection Well MIT Amendment 1 - Hazen & Sawyer Well Casing & FDEP Permi](#)
[Term Sheet - Hazen & Sawyer Work Order H&S 17-01.doc](#)
[BIS 17139.doc](#)
- 18A. [R-2017-096](#) A Resolution Of The City Commission Of The City Of Hollywood, Florida, Authorizing The Appropriate City Officials To Issue A Check To The State Of Florida Department Of Transportation, In The Amount Of \$186,058.03, As Additional Funds Based On The Actual Bid Results For The Water Main Replacement On Hollywood Boulevard From City Hall To Dixie Highway, Which Was Approved By Resolution Number R-2016-247 (Project No. 15-5130).
- Attachments:** [2 Resolution 5130 - FDOT JPA Additional Fund - Rev040417.docx](#)
[3 T4449-Breakdown \(2\).pdf](#)
[4 R-2015-364.pdf](#)
[5 R-2016-247.pdf](#)
[BIS 17-153.doc](#)

DEPARTMENT OF PUBLIC WORKS

19. [R-2017-091](#) A Resolution Of The City Commission Of The City Of Hollywood, Florida, Approving And Authorizing The Appropriate City Officials To Issue A Purchase Order Between Palmetto Ford Truck Sales, Inc. And The City Of Hollywood For The Purchase Of One (1) 2017 Ford F-550 4x2 Truck With A Crane Body And A 5,000 LB. Crane In The Total Amount Of \$89,189.00 And Amend The Fiscal Year 2017 Operating Budget (R-2016-284).

Attachments: [Res Palmetto Ford Truck Sales - 1 Ford F-550 Truck 4x2 with Crane Body and Exhibit 1 PU vehicle.pdf](#)
[Exhibit 2 PU vehicle.pdf](#)
[Backup Docs - Palmetto Ford Truck Sales - 1 Ford F-550 4x2 Truck with Crane TermSheetPalmettoFordTruckpiggyback2017.doc](#)
[BIS 17-138.doc](#)

20. [R-2017-092](#) A Resolution Of The City Commission Of The City Of Hollywood, Florida, Approving And Authorizing The Appropriate City Officials To Issue Purchase Orders Between Stingray Chevrolet And The City Of Hollywood For The Purchase Of Four (4) 2017 Chevrolet Colorado Pick Up Trucks In The Amount Of \$88,956.00 And Issue Purchase Orders Between Auto Nation Chevrolet For The Purchase Of One (1) 2017 Chevrolet Silverado 4x4 Pick Up Truck, Two (2) 2017 Chevrolet Silverado 4x2 Pickup Trucks, And Two (2) 2017 Chevrolet Malibu Sedans In The Amount Of \$114,632.00, For A Total Amount Of \$203,588.00.

Attachments: [Res Stingray Chevrolet & Auto Nation Chevrolet - 1 Silverado 4x4 PU - 2 Silver Backup Docs - Auto Nation Chevrolet - \(1\) Chevrolet Silverado Extended Cab 1 Backup Docs - Auto Nation Chevrolet - \(2\) Chevrolet Malibu Sedans - \(FSA16-V Backup Docs - Auto Nation Chevrolet - \(2\) Chevrolet Silverado Extended Cab 1 Backup Docs - Stingray Chevrolet - \(4\) Chevrolet Colorado Compact Extended Term Sheet - Stingray Chevrolet.doc](#)
[Term Sheet - Autonation Chevrolet.doc](#)
[BIS 17-144.doc](#)

1:00 PM PRESENTATIONS, PROCLAMATIONS AND AWARDS

21. [P-2017-015](#) A Proclamation In Recognition Of Water Conservation Month, April 2017.

Attachments: [ProcWaterConservation - 2017](#)

22. [P-2017-016](#) Presentation By Ken Reinhardt, AARP Florida Volunteer, To Present The City Of Hollywood With A Certificate Recognizing The City's Joining The AARP/WHO Age-Friendly Network.

Attachments: [AARP NAFC Welcome Letter 3 15 17.pdf](#)

1:15 PM TIME CERTAIN ITEM**23. [PO-2017-01](#)**

An Ordinance Of The City Of Hollywood, Florida, Creating The Emerald Hills Safety Enhancement District, A Dependent Special District Authorized By Section 189.02, Florida Statutes; Providing For The Purpose, Powers, Functions And Duties Of The District; Designating The Geographic Boundary Limitations Of The District; Stating The Authority Of The District; Explaining Why The District Is The Best Alternative; Designating The Membership, Organization, Compensation And Administrative Duties Of The Governing Board Of The District; Stating All Financial Disclosures, Noticing And Reporting Requirements; Declaring That The Creation Of The District Is Consistent With The Approved Local Government Comprehensive Plans; Providing For Conflicts; Providing For Severability; Providing For Sunset; And Providing For An Effective Date.

Attachments: [ORDINANCE - Emerald Hills Security Enhancement District - second reading - ; Emerald Hills West HPD Ballot.pdf](#)
[Emerald Hills Safety Enhancement District Notice Mailing.pdf](#)
[Emerald Hills Safety Enhancement District - Invoice.pdf](#)
[Emerald Hills Safety Enhancement District - payment.pdf](#)
[Emerald Hills Safety Enhancement District - Map - Entire District.pdf](#)
[EMSED-1.pdf](#)
[EMSED-2.pdf](#)
[EMSED-3.pdf](#)
[EMSED-4.pdf](#)
[EMSED-5.pdf](#)
[EMSED-6.pdf](#)
[emerald hills mailing.pdf](#)

Second Reading

Advertised Public Hearing

1:30 PM TIME CERTAIN ITEM**24. [PO-2017-07](#)**

An Ordinance Of The City Of Hollywood, Florida, Vacating An Approximately 60 Feet Portion Of A Submerged Public Road Right Of Way Immediately South Of Lot 1 Block 174 Of The Plat Of Hollywood Central Beach, Located West Of Ocean Drive Along Palm Street And More Specifically Described In Exhibit "A" Attached Hereto. (VA-17-01)

Attachments: [EN17-068ROrdinance 1.docx](#)
[EN-17-068 Exhibit A.pdf](#)
[Exhibit B.pdf](#)
[EN-17-068 Location Map.pptx](#)

Second Reading

No Changes Since First Reading

Advertised Public Hearing

3:30 PM TIME CERTAIN ITEM

25. [P-2017-017](#) Presentation By Vanita Saini, Project Manager With Florida Department Of Transportation-District 4, To Update The City Commission On Efforts To Improve Interstate 95 Express Lanes Within The Limits Of The City Of Hollywood.

QUASI-JUDICIAL ITEM

(Rules of Procedure Attached to Agenda)

26. [PO-2017-08](#) An Ordinance Of The City Of Hollywood, Florida, Changing The Zoning Designation Of The Property Generally Located North Of Evans Street And West Of 22nd Ave From RS-6 (Single Family) To RM-9 (Low Density Multiple Family); And Amending The City's Zoning Map To Reflect The Change In Zoning Designation. (16-DPVZ-72)

Attachments: [1672_Ordinance_2017_0405.docx](#)
[Attachment I.pdf](#)

First Reading

ORDINANCE(S)

27. [PO-2017-09](#) An Ordinance Of The City Of Hollywood, Florida, Amending Section 41.08 Of The Code Of Ordinances Regarding The Self-Insurance Program; Reducing The Required Coverage For The Employers' Liability Program From \$3,000,000.00 Per Incident To \$1,000,000.00 Per Incident.

Attachments: [Ordinance Self Insurance Employers Liability.doc](#)
[O-2005-025.pdf](#)
[BIS 17-132.doc](#)

First Reading

REGULAR AGENDA

28. [R-2017-093](#) A Resolution Of The City Commission Of The City Of Hollywood, Florida, Authorizing The Appropriate City Officials To Execute The Attached Contract Between Southeastern Engineering Contractors, Inc. And The City Of Hollywood For Construction Services For The State Road 7 Lift Stations (W-12 Located At 2598 N 59th Terrace, W-13 Located At 5951 McKinley Street, W-23 Located At 5961 Buchanan Street And W-24 Located At 5960 Funston Street), An Approved Capital Improvement Project Identified In The 2007/2008 Wastewater System Master Plan, In The Amount Of \$3,007,950.00, And To Amend The Approved Fiscal Year 2017 Capital Improvement Program, As Set Forth In Exhibit A; And To Approve The Overall Project Funding For Construction, And Program Management Services For An Aggregate Amount Of \$3,300,000.00. (Project No. 14-7042B)

Attachments: [Resolution - Southeastern Lift Station Construction.docx](#)
[Exhibit A -Southeastern Lift Station Construction.pdf](#)
[Contract - Southeastern Lift Station Construction.pdf](#)
[Bid Recommendation - Southeastern Lift Station Construction.pdf](#)
[Bid - Southeastern Lift Station Construction.pdf](#)
[Term Sheet - Southeastern Engineering Contractors, Inc..doc](#)
[BIS 17-143.doc](#)

29. [R-2017-094](#) A Resolution Of The City Commission Of The City Of Hollywood, Florida, Appointing City Commission Members As The Voting And Alternate Voting Delegates For The Broward County League Of Cities For 2017.

Attachments: [R-bro-leg-appt.DOC](#)
[Board of Directors appointment memo - city clerks.pdf](#)

30. [R-2017-095](#) A Resolution Of The City Commission Of The City Of Hollywood, Florida, Amending The Rules Of Procedure For The Governing Of City Commission Meetings.

Attachments: [rules&pro - rules of conduct 04-05-2017 3 members to bring items.doc](#)

DISCUSSION ITEM

31. [D-2017-01](#) Discussion By The City Commission On The City Attorney's Performance.

**COMMENTS BY THE CITY COMMISSION, CITY ATTORNEY & CITY
MANAGER**

32. Commissioner Hernandez, District 2

33. Vice Mayor Callari, District 3

34. Commissioner Blattner, District 4

35. Commissioner Biederman, District 5

36. Commissioner Sherwood, District 6

37. Commissioner Case, District 1

38. Mayor Levy

39. City Attorney

40. City Manager

41. ADJOURNMENT

Any person wishing to appeal any decision made by this Commission with respect to any matter considered at such meeting or hearing will need a record of the proceedings, and for such purposes may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is made.

Two or more members of the same city board, commission, or committee, who are not of this Commission, may attend this meeting and may, at that time, discuss matters on which foreseeable action may later be taken by their board, commission or committee.

Persons with disabilities who require reasonable accommodations to participate in City programs and/or services may call the Office of the City Manager five business days in advance at (954) 921-3201 (voice). If an individual is hearing or speech impaired, please call 1-800-955-8771 (V-TDD).

QUASI-JUDICIAL HEARING PROCEDURES
AND RULES FOR EX-PARTE COMMUNICATIONS

I. Scope and Applicability. These procedures shall apply to all quasi-judicial hearings held by the City Commission or by any Board or Committee (hereinafter referred to as "Boards") which holds quasi-judicial hearings. The City Attorney shall determine which matters are quasi-judicial in nature and shall direct the City Clerk or Board liaison to designate specially such matters on the agenda.

II. Proceedings. Mayor, Vice Mayor or other presiding officer (hereafter, the "Presiding Officer") shall conduct the proceedings and maintain order. The City Attorney or legal advisor shall represent the City Commission or Board, rule on all evidentiary and procedural issues and objections, and advise the City Commission or Board as to the applicable law and necessary factual findings. Hearings shall be conducted informally, but with decorum. Formal rules of procedure shall not apply except as set forth herein; however, fundamental due process shall be accorded.

III. Unauthorized Communications. In all quasi-judicial hearings, all rulings must be based only upon the evidence presented at the hearing. In accordance with Section 286.0115(1), Florida Statutes, ex parte communications with City Commissioners or Board members in quasi-judicial matters is permissible and the adherence to the following procedures shall remove the presumption of prejudice arising from ex parte communications with City Commissioners or Board members:

1. The substance of any ex parte communication with a City Commissioner or Board member which relates to a quasi-judicial action pending before the Commission or Board is not presumed prejudicial to the action if the subject of the communication and the identity of the person, group, or entity with whom the communication took place is disclosed and made a part of the record before the final action on the matter.

2. A City Commissioner or Board member may read a written communication from any person. However, a written communication that relates to a quasi-judicial action pending before the Commission or Board shall not be presumed prejudicial to the action, and such written communication shall be made a part of the record before final action on the matter.

3. City Commissioners or Board members may conduct investigations and site visits and may receive expert opinions regarding quasi-judicial action pending before them. Such activities shall not be presumed prejudicial to the action if the existence of the investigation, site visit, or expert opinion is made a part of the record before final action on the matter.

4. Disclosure made pursuant to subparagraphs 1, 2 and 3 must be made before or during the public meeting at which a vote is taken on such matters, so that persons who have opinions contrary to those expressed in the ex parte communication are give a reasonable opportunity to refute or respond to the communication.

IV. Witnesses and Supporting Materials. At least eight City business days before a quasi-judicial hearing.

A. Staff shall prepare a report, recommendation and supporting materials, a copy of which shall be available to the applicant, appellant and to the public at the City Clerk's Office. Included in the supporting materials will be copies of all exhibits and documents upon which staff's recommendation is based.

B. The Applicant and the Appellant, if applicable, shall submit a detailed outline of the argument in support of their application, copies of all exhibits which will be presented at hearing and the names and addresses of all witnesses who will be called to testify in support of the application (including resumes for any witness the party intends to qualify as an expert).

C. The eight City business day deadline is necessary to ensure the Commission or Board members are given sufficient opportunity to review the written submissions prior to the hearing, and shall be strictly observed. Should the eight-day City business day deadline be missed by either staff or the Applicant, the item may be continued at the discretion of the City Commission or Board to the next available agenda.

V. Party Intervenors.

The City Attorney may allow a person to intervene as a Party Intervenor if they meet the following requirements:

A. The person must have an interest in the application, which is different than the public at large.

B. At least eight three days prior to the hearing, the person shall submit a written request to intervene including: a detailed outline of their interest in the application and argument in favor or against it, copies of all exhibits which will be presented at the hearing and the names and addresses of all witnesses who will be called to testify on their behalf (including resumes for any witness the person intends to qualify as an expert).

VI. Conduct of Hearing.

A. The Presiding Officer shall call the proceeding to order and announce that the hearing has begun.

B. The Presiding Officer, City Attorney or legal advisor shall inquire whether all parties, members of the public and Commission or Board members agree to waiving the quasi-judicial hearing.

C. When the quasi-judicial hearing is not waived, the City Attorney, legal advisor or Presiding Officer shall explain the rules concerning procedure, testimony, and admission of evidence.

D. When the quasi-judicial hearing is not waived, the City Clerk or staff liaison shall swear in all witnesses who are to testify at the hearing.

E. The order of proof shall be as follows:

1. A representative of the City's staff (or outside counsel) shall briefly describe the Applicant's request, introduce and review all relevant exhibits and evidence, report staff's recommendation, and present any testimony in support of staff's recommendation. Staff shall have a maximum of 30 minutes to make their full presentation, including opening statement and all direct presentation by witnesses, but excluding any cross-examination or questions from the Commission or a Board member.

2. The Appellant, if applicable, (or his/her representative or counsel) shall present evidence and testimony in support of the application. Appellant shall have a maximum of 30 minutes to make its full presentation, including opening statement and all direct presentation by witnesses, but excluding any cross-examination or questions from the Commission or a Board member.

3. Any Party Intervenor (or his/her representative or counsel) shall present evidence and testimony in support of or opposed to the application. A Party Intervenor shall have a maximum of 30 minutes to make his/her full presentation, including opening statement and all direct presentation by witnesses, but excluding any cross-examination or questions from the Commission or a Board Member.

4. The Applicant (or his/her representative or counsel) shall present evidence and testimony in support of the application. Applicant shall have a maximum of 30 minutes to make his/her full presentation, including opening statement and all direct presentation by witnesses, but excluding any cross-examination or questions from the Commission or a Board member.

5. Any other persons present who wish to submit relevant information to the City Commission or Board shall speak next for a maximum of three minutes each (excluding any cross-examination or questions from the Commission or a Board member). Members of the public will be permitted to present their non-expert opinions, but the Commission or board will be expressly advised that public sentiment is not relevant to the decision, which must be based only upon competent and substantial evidence.

6. The Appellant will be permitted to make final comments, if any (maximum of five minutes).

7. The Applicant will be permitted to make final comments, if any (maximum of five minutes).

8. The Party Intervenor will be permitted to make final comments, if any (maximum of five minutes).

9. The City's staff will make final comments, if any (maximum of five minutes).

10. At the discretion of the Presiding Officer, the Applicant may be permitted to respond to

the final Party Intervenor and staff comments and recommendations (maximum of three minutes).

G. The City Attorney or legal advisor will advise the City Commission or Board as to the applicable law and the factual findings that must be made to approve or deny the application.

H. The City Commission or Board will conduct open deliberation of the application. The Presiding Officer shall have the discretion to reopen the proceeding for additional testimony or argument by the parties when an outcome substantially different than either the granting or denial of the application is being considered. After deliberations, a vote shall be taken to approve, approve with conditions or deny the application.

VII. Examination by Commissioners and City Attorney or Legal Advisor. Commissioners, Board members and the City Attorney or Legal Advisor may ask questions of persons presenting testimony or evidence at any time during the proceedings until commencement of deliberation.

VIII. Cross-Examination of Witnesses. After each witness testifies, the City staff representative, the Applicant's representative, Appellant's representative, and/or the Party Intervenor's representative shall be permitted to question the witness, but such cross-examination shall be limited to matters about which the witness testified and shall be limited to five minutes per side. Members of the public will not be permitted to cross-examine witnesses. Cross-examination shall be permitted only as would be permitted in a Florida court of law.

IX. Rules of Evidence.

A. All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a court of law in Florida. Irrelevant, immaterial, harassing, defamatory or unduly repetitive evidence shall be excluded.

B. Hearsay evidence may be used for the purposes of supplementing or explaining other evidence, but it shall not be sufficient by itself to support a finding unless it would be admissible over objection in a civil action.

C. Documentary evidence may be presented in the form of a copy or the original. Upon request, parties shall be given an opportunity to compare the copy with the original.

X. Statements of Counsel. Statements of counsel, or any non-attorney representative, shall only be considered as argument and not testimony unless counsel or the representative is sworn in and the testimony is based on actual personal knowledge of the matters which are the subject of the statements.

XI. Continuances and Deferrals. The City Commission or Board shall consider requests for continuances made by City staff, the Applicant, the Appellant or a Party Intervenor and may grant continuances in its sole discretion. If, in the opinion of the City Commission or Board,

any testimony or documentary evidence or information presented at the hearing justifies allowing additional research or review in order to properly determine the issue presented, then the City Commission or Board may continue the matter to a time certain to allow for such research or review.

XII. Transcription of hearing.

A. The City Clerk or staff liaison shall preserve the official transcript of the hearing through tape recording and/or video recording.

B. The Applicant, Appellant or Party Intervenor may arrange, at its own expense, for a court reporter to transcribe the hearing.

C. The Applicant, Appellant or Party Intervenor may request that all or a part of the transcript of a hearing be transcribed into verbatim, written form. In such case, the Applicant, Appellant or Party Intervenor requesting the transcript shall be responsible for the cost of production of the transcription and the transcription shall become the official transcript.

XIII. Maintenance of Evidence and Other Documents. The Office of the City Clerk or staff liaison shall retain all of the evidence and documents presented at the hearing unless any such evidence is too large to be stored by the City Clerk or staff liaison. In that event, such evidence will be stored in the Community Planning and Development Department.

XIV. False Testimony. Any willful false swearing on the part of any witness or person giving evidence before the Commission or Board as to any material fact in the proceedings shall be deemed to be perjury and shall be punished in the manner prescribed by law for such offense.

XV. Failure of Applicant to Appear. If the Applicant, the Appellant or Party Intervenor or their representative fails to appear at the time fixed for the hearing, and such absence is not excused by the Commission or Board, the Commission or Board may proceed to hear the evidence and render a decision thereon in absentia.

XVI. Subpoena Power. The Applicant, the Appellant or Party Intervenor or City's staff shall be entitled to compel the attendance of witnesses through the use of subpoenas. All such subpoenas shall be issued by the City Clerk at the request of the Applicant, Appellant or City's staff.

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