**OFFICIAL MINUTES**

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

**CITY COUNCIL MEETING**
**Monday, January 4, 2016– 7:00 PM**

## 1. Call To Order and Roll Call.

Mayor Ferreri called the City Council Meeting of Monday, January 4, 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

Attendees from Public: 16
Press: 2

Staff Present:
Thomas Lanahan, Acting City Manager
James D. Stokes, City Attorney
Denise McGrew, City Clerk/Admin. Services Director
Michael Grimm, Director/Building
Thomas Hughes, Director/Finance
Michele Thompson, Director/Leisure Services
Mike Porath, Director/Public Safety
Carlos Cedeño, Director/Public Works
Melody Larson, Assistant to the City Clerk

## 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 wished everyone a Happy New Year and asked if there were comments from the public.

Frank Simon, current Chairman of the Code Enforcement Board (CEB) and board member for more than 20 years, talked about his prior experience as a Special Master in Bay Harbor, Bay County. It was his belief that by using a Special Magistrate, residents would feel threatened. In the past 20 years, the CEB has never subpoenaed anyone. He suggested postponing tonight's Discussion Item and in the meantime establish a committee with several board members and City Code Enforcement officers to address

areas of concern and make recommendations. It is rumored that the use of a Special Magistrate is occurring because of the City/PBSO merger. He believed this issue required further study and emphasized that there should be no rush to eliminate the CEB.

Bert Molow, current CEB member, stated that the board is fair in its decision-making process. Board members listen to the residents and to witness testimony, review the evidence, consider the individual situations, and make fair assessments. He was not sure what a Special Magistrate could do versus a 7-member board. He suggested continuing with the CEB.

Anthony Vona, current CEB board member for the past 22 years, reminded Council that many of them got their start by serving on the CEB board. Mr. Vona could not recall a code case ever going to civil court; and emphasized that that's a good record, and he hoped that fact would be taken into consideration as they considered this issue.

Hearing no further comments, the Mayor continued with the Agenda.

**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 Rivera made a motion to approve the Agenda. 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.**

**5. Special Business.**

A. **PBSO Merger Update** – Michael L. Porath, Public Safety Director and Captain Sean Murray, PBSO.

Chief Porath reported that on December 31st the midnight shift began their field training with PBSO corporals (training officers) who are accompanying Greenacres officers and teaching them how to process documentation. This training will continue through January 31st.

PBSO Capt. Sean Murray had nothing new to report.

**6. Consent Agenda.**

A. Mayor Ferreri asked Council if they wished to pull any of the two (2) Consent Agenda items; hearing none, he called for a motion.

1. **Official Minutes:** Special City Council Meeting of December 12, 2015 – Denise McGrew, City Clerk.

2. **Resolution No. 2016-04:** Supporting efforts by the Town of Lake Clarke Shores and neighboring municipalities to undertake development of a boat lift connection between the C-51 Canal and the Intracoastal Waterway; pursuant to Staff Memo – Thomas J. Lanahan, Acting City Manager.

**MOTION:** Councilwoman Bousquet made a motion to approve the two (2) Consent Agenda items. 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.**

**7. Regular Agenda:**

A. **Resolution No. 2016-05:** Appointing Andrea Monzon McCue as City Manager pursuant to Article VIII, Section 2, of the Charter of the City of Greenacres, subject to the terms and conditions set forth in the attached Employment Agreement; pursuant to Staff Memo – Councilwoman Judith Dugo and James D. Stokes, City Attorney.

Councilwoman Judith Dugo reported that Mrs. McCue is delighted, enthusiastic and ready to hit the ground running. She reported that the salary of $137,000 was negotiated down from the $145,000 salary originally advertised; however, included 10% in additional benefits, a $400/month car allowance, and fully paid health coverage for Mrs. McCue and her family.

Mayor Ferreri called on Councilmembers for comments.

Councilwoman Bousquet was concerned with changing policies and preferred paying Mrs. McCue the advertised salary to cover the dependent health coverage; otherwise, it would be setting a bad precedent.

City Attorney James Stokes explained that prior to salary negotiations; he researched contracts of surrounding municipalities and counties. One common practice he noticed was that employers were putting more funds into benefits than base salaries, since pension costs are based on base salaries. He reported speaking to Mrs. McCue about the dependent health coverage and she was in agreement.

Councilwoman Bousquet noted that the current agreement with the insurance carrier is that employees pay a specified amount and here we are setting a precedent.

Councilwoman Dugo reminded Councilmembers that other employees are not contract employees. The insurance company does not dictate to the City how they are paid, just that they are paid. She noted that Mrs. McCue was pleased and satisfied with her contract and the City was fortunate to have her come onboard.

Deputy Mayor Pearce wanted to change Section 5(a) Termination or Resignation, regarding severance pay. He state that the contract provides six (6) months; however, Chapter 2154-5.1, F.S. states twenty (20) weeks.

Mr. Stokes explained that the statute was created 4-5 years earlier due to very large payouts. The initial response from municipalities was to add in a 6-week notice period. More recently, this statute became viewed as an unlawful restriction on local governments' Home Rule powers dictating how they could or could not spend their money. He stated it remains on the books; however, most municipalities ignore it.

Deputy Mayor Pearce wanted to change Section 5(d) from 60 days written notice for voluntary resignation to 30 days.

Councilwoman Dugo disagreed due to the time it takes to hire a City Manager.

Councilwoman Bousquet and Rivera also agreed with Councilwoman Dugo.

Deputy Mayor Pearce wanted Section 7: Performance Evaluation, to be more specific, preferably the first meeting in August, prior to the budget hearings. He reminded Councilmembers that as a contracted employee, raises/bonuses were flexible and could be included in the budget.

Mr. Stokes pointed out that City Managers are aware that they are constantly being evaluated. The original language provided a date certain with a merit increase following completion of the evaluation process. In this manner, Council was placing the onerous on Mrs. McCue to self-evaluate herself. If Council is pleased with her performance and no complaints have been received then she should continue. If Council wishes to include a date certain they could do so.

Deputy Mayor Pearce wanted to add that if Council wishes to provide a bonus above a Cost of Living Adjustment (COLA), they could do so. He wanted the evaluation done well before any budget meetings.

The Mayor and Councilmembers discussed 30 days prior to budget hearings and July 1st. It was determined that the City Manager evaluation would be completed no later than July 1st of each year.

Mayor Ferreri pointed out that Section 8: Vacation and Sick Leave, this can accrue up to a year. He noted that it is a large payout; the normal accumulation for long term-employees is 6 months. With 1,040 hours of sick leave and 1,040 hours of vacation it seems excessive. He did not see anything addressing accruals for vacation and asked what are the annual accruals.

Mr. Stokes explained that a City Manager is not hired at entry level. The City's Personnel Manual states 11-20 years provides 4 weeks' vacation time.

Mayor Ferreri believed it should be spelled out in the contract.

Mr. Stokes explained that most City Managers cannot take vacation like other employees which is why their accrual rates are higher with a cap. The cap is 1,040 hours for vacation and 1,040 hours for sick leave for her contract. General employees can accumulate up to 960 hours of sick leave. He pointed out it will take Mrs. McCue 12-14 years to max out. His research revealed that higher accrual rates or a provision for paying out maximum accrued vacation time was used.

Mayor Ferreri suggested specifying the exact amount of vacation time and sick leave in the contract and allowing ½ of the maximum accrued vacation time. He also suggested that Section 9 be revised to read, "the City will provide health and dental insurance to the City Manager and her dependents." Under Section 8, he suggested adding, "the City Manager will receive "X" number of days per year for vacation and "X" number of days per year for sick leave, with a maximum accrual number of "X". He also suggested starting the City Manager with 3 weeks' vacation, 96 sick leave hours to be reviewed annually, at an accrual rate of 240 vacation/960 sick leave hours to be paid out if maxed out.

Councilwoman Dugo suggested placing a conference call with Mrs. McCue to see if she agrees with the July 1st self-evaluation, the 3 weeks' vacation, and severance.

Mayor Ferreri asked Councilmembers for final comments on the vacation and sick leave accruals. It was determined that they add: "not to exceed 1,040 hours of vacation or 1,040 hours of sick leave." He suggested Council temporarily table this item while Mr. Stokes contacts Mrs. McCue by phone for her acceptance of Council's changes.

Councilmembers discussed clarifying that the pay out of vacation time should be at the rate earned versus a higher rate when paid out; adding language addressing a mandatory minimum number of vacations days to be taken annually; providing 96 annual sick leave hours at a maximum accrual rate of 240 vacation/960 sick leave hours to be paid out if maxed out, and change severance to reflect State Statutes.

Mayor Ferreri temporarily tabled this item. Mr. Stokes left the Chambers to place a call to Mrs. McCue.

B. **Ordinance No. 2016-06:** First Reading; Amending Chapter 4 of the City of Greenacres Code entitled "Buildings and Building Regulations", Article II entitled "Burglar Alarm Systems" to delete Sections 4-20 through 4-26 and add a reference to the Palm Beach County Burglar Alarm Regulations; pursuant to Staff Memo – Michael L. Porath, Public Safety Director.

Chief Porath provided a historical background regarding changes to Ordinance 2009-12; the City's existing burglar alarm ordinance. Pursuant to the PBSO Agreement, with the transition of all law enforcement personnel, there will be no one to enforce the burglar alarm ordinance. He recommended adopting the County's alarm ordinance and repealing Ordinance 2009-12, whereby the County's Burglar Alarm Ordinance, Sec 16-62 would automatically become effective. Ordinance 2016-06 proposes to delete Chapter 4, Art. II, Sections 4-20 through 4-26 from the City Code and adopt by reference, the Palm Beach County Alarm Ordinance. Art. III, Sections 16-51 through 16-64. He stated staff recommends adoption of Ordinance 2016-06 on first reading.

Mayor Ferreri called on Councilmembers for comments.

Mayor Ferreri asked what the County's annual fee is to register an alarm and asked for clarification on how PBSO would handle specific situations. He asked if homeowner associations/property management companies can pay the fees in bulk, or does each individual unit owner have to pay the $25.

Chief Porath reported that the fee to register is $25. He noted that if an alarm is not registered, PBSO is not required to respond; however in cases of emergency they would respond. In the case of homeowner associations, each individual property owner with an alarm must register.

Mayor Ferreri wanted to ensure that residents were made aware of this change prior to becoming effective February 1, 2016.

Acting City Manager Thomas J. Lanahan noted that an article would be included in the City Link.

Chief Porath added that residents will be provided a grace period to May 1, 2016 to register online.

Deputy Mayor Pearce wanted reassurance that if an alarm is inactive, the homeowner does not have to register; however, if the alarm is active, the $25 registration fee must be paid.

Councilwoman Dugo noted that the City will receive 75% of the $25 alarm registration fee.

**MOTION:** Deputy Mayor Pearce made a motion to approve Ordinance No. 2016-06 on first 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.**

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B. **Site Plan Amendment (SP-97-06G) – Braman Honda** – Site and development plan amendment approval to expand the existing Service Department by 9,400 square feet; pursuant to Staff Memo and Staff Report - Thomas J. Lanahan, Acting City Manager.

Acting City Manager Thomas J. Lanahan described the site plan amendment request to expand the existing Service Department of the Braman Honda car dealership on Lake Worth Road by 9,400 sq. ft. to add 15 new service bays to improve customer service. Mr. Lanahan noted that the Braman Honda full service car dealership was built in 1997 and included a 48,753 sq. ft. car dealership with 486 parking spaces and 4 access points. The proposed 9,400 sq. ft. expansion would increase the total building area to 58,153 sq. ft. and would reduce the parking spaces to 474 parking spaces. He reported

that the offsite impacts would be minimal and the site is in a good location. It is a growing business; it is a significant reinvestment, and this is just another step toward a successful business. Therefore, staff recommends approval of SP-97-06G, subject to staff's thirty (30) conditions of approval.

Mayor Ferreri called on the applicant for comment.

Curtis Douberly of Miller Land Planning stated he was in agreement with staff's thirty (30) conditions of approval.

**MOTION :** Deputy Mayor Pearce made a motion to approve SP-97-06G, subject to staff's thirty (30) conditions of approval. Councilwoman Bousquet seconded the motion.

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

**Motion carried: 5 - 0.**

**8.** **Comments from the Public.** None.

Mayor Ferreri called for a 5 minute recess at 8:05 pm. The meeting reconvened at 8:12 pm.

Regular Agenda Item 7.A Resolution No. 2016-05 – Update

Mr. Stokes reported that Mrs. McCue had accepted the changes to the severance pay of 20 weeks; she agreed with the self-evaluation being conducted on July 1st of each year, and agreed to the changes in Section 8 of 3 weeks' vacation, 96 hours of annual sick leave accrued at the same level as for general employees with the provision that if maxed out, she would be paid out at the end of the fiscal year, and including the provision of the required 5 consecutive vacation days. He reported that Mrs. McCue was in agreement with Council's changes with the exception of earning 4, not 3 weeks' vacation. Mayor Ferreri polled the Council and the consensus was to allow for 4 weeks of vacation time the first year. The health and dental language change was also accepted.

**MOTION :** Deputy Mayor Pearce made a motion to approve Resolution No. 2016-05 with the terms and conditions as amended. Councilwoman Dugo seconded the motion.

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

**Motion carried: 5 - 0.**

**9. Discussion Items:**

A. **Draft Council Policy No. 29 – Appointments of Inferior Boards and Committees** – James D. Stokes, City Attorney.

Mr. Stokes reminded Councilmembers that during the last Council meeting, the nomination/appointment process for City boards and committees was raised. A review of the language pursuant to Code revealed that five (5) City boards were open for appointment: the Code Enforcement Board, the Education Advisory Committee, the Building Board of Adjustments and Appeals, the Civil Service Board and the Retirement Plan Board of Trustees. This draft provides a process for appointments. Upon the availability of a vacancy, the City Clerk will notify Council who will have 14 days to select a potential volunteer/nominee from their respective district, the City Clerk will then conduct the necessary background check, followed by Council appointment at a subsequent Council meeting. This process would apply to unexpected vacancies or unexpired terms. He noted that he did not include the Planning Commission or the Zoning Board of Adjustments and Appeals since their appointment process was established by Ordinance that could only be changed by amendment.

Mayor Ferreri called on Councilmembers for comments. He noted that currently if a person is interested in serving on a City board they submit a volunteer application. He asked if they were now doing away with that process to be replaced by a pool of resumes that would be circulated among Councilmembers. The City Clerk receives volunteer applications. If there are no openings on the board they wish to serve on at that time, the application is kept on file until an opening becomes available. This draft policy implies that each Councilmember will seek their own nominations. He pointed out that the Building Board of Adjustments and Appeals has statutory requirements that board members must be a professional builder, engineer, or architect. Although this board rarely meets, it has been challenging to find qualified applicants.

Councilman Noble asked why was this change necessary.

Deputy Mayor Pearce emphasized that the Charter spells out the five duties required of the Mayor and board appointments is not one of them. Sometime in the past, the Council allowed the Mayor to make board appointments; the Council is now taking that authority back.

Mayor Ferreri was unsure when or how the current policy was established, pointing out that the 2 mayors before him also followed the current appointment process. He was unsure how Council, without violating the Sunshine Law, can review every applicant in a timely manner without talking to each other about the applicant. He pointed out that the City Manager currently sits in on the interviews with the Mayor.

Mr. Stokes noted that an unwritten policy may have existed. The appointment process is in writing for the Planning Commission (PC) and the Zoning Board of Adjustments and Appeals (ZBAA) wherein the Mayor recommends nominees for appointment to the Council. It could be possible that because the process is spelled out in the ordinance for those two significant boards, it stands to reason

that the process followed for the remaining boards. The Charter provision states that Council shall establish or abolish City boards; however, it does not address board appointments. Therefore, presumptively under Council's inherent powers, Council can decide how the boards are staffed regardless of how it was done in the past, since he did not see any language prohibiting such a change.

Councilman Noble echoed the Mayor's concerns over violating the Sunshine Law.

Mr. Stokes pointed out that was why he recommended that the City Clerk notify Council of any board vacancies, the Councilmembers will contact persons they wish to nominate, have them submit a volunteer application. Clearly, Councilmembers cannot talk to each other before approving appointments.

Councilman Noble pointed out that the City's current "unwritten" process is easier than what is being proposed.

Mr. Stokes pointed out that each city has its own unique appointment process.

Councilman Noble asked how those other cities avoid violating the Sunshine Law.

Mr. Stokes noted that there are as many different processes as there are cities and Council is only involved at the time of appointment to prevent Sunshine violations. The Clerk places a notice on the website with a set filing period with an application. At one city, the Clerk ranks the applicants, prior to a Council meeting.

Councilman Noble stated, "So the Council did not meet prior to meeting the applicants."

Mr. Stokes replied, "That is correct, otherwise that would be unlawful under the Sunshine Law."

Councilwoman Dugo pointed out that applications are presently submitted online and in person. This draft makes it appear that Council must go out and solicit applicants. She stated that this procedure lacks a great deal even though she understands its intent. She asked how are applicants screened. If you have 20 applicants, do you interview them together similar to how the City Attorney was hired?

Deputy Mayor Pearce explained that it is done by referral either by a current boardmember or a Councilmember who may be aware of an interested person in their district. The Councilmember would provide that person with a volunteer application then turn it into the City Clerk's office. The Board of County Commissioners (BCC) does it this way. Since we represent all districts, we would have the ability to go to any of the districts and solicit applicants. We're simply replacing the Mayor with Council.

Mayor Ferreri clarified that each BCC board has district positions and they appoint volunteers from each district.

Councilwoman Dugo believed that a policy was needed and that an in-depth review of the Charter was also necessary; she therefore proposed establishing a Charter Review Ad Hoc Committee to address some of these issues.

Councilwoman Rivera asked the City Attorney if the Mayor, from the Chair, can make suggestions or recommendations.

Councilmembers discussed the Mayor's ability to make suggestions/recommendations; Council's ability to accept or reject those recommendations; the Council's responsibilities versus the Mayor's responsibility to appoint board members; the Mayor's duties pursuant to Charter, and unclear procedures in draft Council Policy No. 29.

Mayor Ferreri was in favor of creating a Charter Review Committee as it would get more people involved in their local government. Historically, the Mayor selected one committee member and Councilmembers selected two, the City Attorney was also involved. He pointed out that from time to time, there a certain volunteer applicants who have wanted revenge against the Code Enforcement Board (CEB) since they were previous code violators. He recommended revamping the entire process and following the County's process to ensure even and fair representation. He provided a scenario that if an opening on a board became available for District 2, that Councilperson would interview and make their appointment.

Deputy Mayor Pearce suggested having Councilwoman Dugo meet with the City Attorney to draft Council Policy No. 29.

Deputy Mayor Pearce, Councilwoman Dugo and Councilwoman Rivera decided that Deputy Mayor Pearce should meet with the City Attorney to rewrite draft Council Policy No. 29 as a discussion item for the next Agenda and to establish a Charter Review Committee.

Mayor Ferreri explained how a Charter Review Committee makes recommendations to Council and through an Ordinance creates a Charter Amendment to be placed on a ballot.

Councilman Noble proposed revisiting his request from 2-3 years earlier regarding a salary increase for Council. Since Council was considering a Charter Review Committee this could be an issue to be considered. He also suggested proposing 3-year term limits for Council.

B. **Open Container Ordinance and Special Magistrate Draft Ordinance** - James D. Stokes, City Attorney.

City Attorney Stokes reported that the Open Container Ordinance was not included with this agenda until a decision could be made regarding a Special Magistrate, panhandling, issuing citations, and if citations will be handled by County Court, etc. He therefore focused on drafting the Special Magistrate Ordinance.

He explained that the language in the ordinance was put together quickly and could change. He noted that as a policy consideration, Council could perform a line by line review prior to approval. In the last 20 years, more cities have been going to a Special Magistrate system, not because the CEB is not doing a good job but rather due to the process taking longer. He estimated the current process from the issuance of the violation to the date of adjudication taking 4-8 months, coupled with the infrequent meetings of the CEB and its lack of quorum issues. Whereas with a Special Magistrate, monthly meetings could be scheduled, e.g. first Wednesday of each month. He proposed a citation system with a set number of days for compliance or the case would be scheduled for hearing before the Special Magistrate. This would allow for quicker adjudication and places more responsibility on the property owners. Property owners can also contest the fine and request a hearing or the fine starts running. Additionally, with a Special Magistrate, other violations like drinking, open containers, and panhandling can be processed by amending the Code or having the option of going to County Court. Mr. Stokes recommended having the option of going to County Court since PBSO officers will be able to issue citations. He believed this would be a quicker, more efficient process.

Councilwoman Rivera asked to be included in the discussions for a Special Magistrate with Building Director Michael Grimm and the City Attorney. She agreed that the current CEB process is lengthy and believed that a Special Magistrate would be beneficial for District I. She asked if the City had a Spanish/Creole bi-lingual Code Enforcement Officer.

Building Director Michael Grimm reported that he has a bi-lingual (English/Spanish) employee on staff when the need arises.

Councilwoman Dugo, although a strong proponent of an open container and panhandling ordinance, was not in favor of an employee approaching anyone intoxicated to issue a citation. She asked the City Attorney what happens if violators do not appear at a hearing. She asked if the Special Magistrate must be an attorney.

Mr. Stokes explained the fine begins, a lien is recorded, and the fine accrues. He explained that there will be a provision in the ordinance to allow for a reduction of fine if the property owner can provide a justifiable cause for non-compliance. Approximately 8 years ago, the state legislature changed the title from Special Master to Special Magistrate and one of the statutory requirements is they must be an attorney for at least 5 years.

Councilwoman Dugo asked Mr. Grimm for his opinion on Special Magistrates.

Mr. Grimm noted there are pros and cons and noted that there is a third option of having both a Code Enforcement Board and a Special Magistrate, although it would be unclear who would handle what cases. The City's CEB of volunteer citizens does a commendable job; however the Special Magistrate also has its advantages. The current citation system is not used at all due to costs. If Council decides to use a Special Magistrate, he was sure the CEB board members would be welcomed to serve on other City boards.

Mr. Stokes explained that the draft open container ordinance would not have an unarmed officer approach someone who is intoxicated. Another part of the ordinance places responsibility on the property owner to provide signage and address loitering.

Councilwoman Bousquet said her understanding was that having a Special Magistrate would help in other areas like issuing citations for loud music, barking dogs, etc. instead of having law enforcement answer a call and then the violation be repeated upon them leaving.

Councilman Noble pointed out that he began as a City Official by serving on the CEB 18 years earlier and remembered feeling for some of the violators and their personal situations. He wanted to help and unless they were belligerent, the Board worked with them to meet compliance. It was a one-on-one relationship. A Special Magistrate with a minimum of 5 years training would have to be compensated with an annual contract. What would the cost be to the City?

Mr. Stokes reported that the standard costs are between $150-$175/hour. Neither prep time nor travel time are included, only the time in the chair. He pointed out that one thing the CEB has not been doing is assessing administrative costs to fines. At a $50 per case fee, the cost of the Special Magistrate would be covered.

Mayor Ferreri called on the current chairman of the CEB.

Frank Simon, current Chairman of the CEB, countered Mr. Stokes' statement explaining that in fact, the CEB does include administrative costs when assessing fines. He agreed with Mr. Grimm's suggestion of using a Special Magistrate for the ordinances being discussed that require immediate citations but noted that for the most part, the City tries to work with residents to meet compliance; not create a hardship. He did not believe that misinformation was the way to make a decision. If there are code violations in District I, he wanted to work with the City to see what could be done.

Mayor Ferreri agreed with the cost of the Special Magistrate. In reading the draft ordinance, it seems the City is out to fine and punish violators. That's not the City's goal. The City's goal is to have property owners meet compliance. The City consists of a working class community. He liked the idea of using a Special Magistrate for repeat offenders and keeping the CEB as is. He noted that state law is so onerous, people get frustrated. The CEB has done a wonderful job of getting compliance which is the goal. The City may need to solicit more applications for the CEB. With the PBSO contract, there are plenty of neighborhoods that PBSO will not enforce, especially in parks.

Councilwoman Rivera asked Mr. Grimm to whom do notices get mailed; to the property owner or to the tenant? She insisted that her district requires a swifter and stronger method of enforcement compared to other districts and that most of the violations are cars parked on sidewalks, vegetation overgrowth and furniture in carports which code enforcement officers should be able to see from the road.

Mr. Grimm explained that notices are sent to the property owners or registered agent, whoever is on record. For commercial properties, notices are sent to plaza owners and the tenant. He explained that using either system, the end result is the property being liened, adding that the City has never foreclosed on liened property. In District I, some of the homes are homesteaded and have very large liens. He reported that staff is currently researching a nuisance abatement process where repairs can be made and then added to the property owner's tax bill.

Mr. Stokes explained that rental properties are never homesteaded and most property owners of rental property have other properties. Under Chapter 162, F.S. a lien on one property forces liens on all property that person owns.

Councilwoman Rivera believed making one or two property owners an example would go a long way in forcing improvements in her district.

Councilwoman Dugo recommended adding this issue as a future discussion item with a better drafted ordinance. She wanted to keep the CEB and focus more on an open container ordinance.

Councilwoman Rivera disagreed. She wanted to see a Special Magistrate work in conjunction with the CEB.

Mayor Ferreri asked the Council if they would like to see the Special Magistrate handle open container violations while keeping the CEB for building violations.

Mr. Stokes pointed out that he does exactly that for the City of Palm Bay where once a month he attends their 1:00 pm Code Board meeting then serves as the Special Magistrate at 3:00 pm.

Mayor Ferreri called for a consensus on keeping the Code Enforcement Board in place and having Mr. Stokes and Councilwoman Rivera prepare an ordinance outlining the duties and responsibilities of a Special Magistrate for other items, take a look at what City ordinances PBSO will, or will not enforce or attend court for. He stated that PBSO will not go to court for parking on the grass, open container or noise violations.

Chief Porath explained if citations are issued for those violations they would go to County Court or to the chief law enforcement officer for appeal. He clarified that the City has Home Rule and PBSO will enforce all City codes with the exception of panhandling, curb stoning, or the burglar alarm ordinance that we just repealed. If there is a parking citation, it would be handled at the County level.

Mayor Ferreri pointed out that the County already has a panhandling law and an open container law; "Why doesn't the City simply adopt those County ordinances to avoid confusion?"

Mr. Stokes recalled having earlier discussions regarding these issues and reminded Council that they have Home Rule powers; that is legislative power over the corporate limits of the City. The more Council adopts County ordinances, the more power they give back to the County.

Deputy Mayor Pearce emphasized his agreement with maintaining Home Rule powers and wanting a Special Magistrate, specifically for the noise ordinance. Instead of issuing warnings, the violators are issued citations.

Councilwoman Rivera asked Mr. Grimm if the CEB meeting could be held monthly and could the hearing time be changed from 3:00 pm to an evening hour.

Mr. Grimm was unsure if holding monthly meetings was feasible especially considering the use of a Special Magistrate. He stated that meetings are scheduled every six weeks to accommodate the timeframes to process the necessary documentation. CEB meetings were held at 7:00 pm but were later changed due to cutbacks in overtime.

Mayor Ferreri again called for consensus on keeping the Code Enforcement Board in place, having Mr. Stokes and Councilwoman Rivera prepare an ordinance outlining the duties and responsibilities for a Special Magistrate to handle the other violations and take a look at which City ordinances should be piggy-backed onto County ordinances. The Special Magistrate should act as the CEB attorney. All five Councilmembers agreed.

**10. Staff Comments:**

A. **City Manager's Report:** None.

B. **City Attorney's Report.** None.

**11. Mayor and City Council Reports.**

Campaign Signs

Deputy Mayor Pearce asked the Building Director to confirm that the exact date political signs could be posted was 60 days prior to a municipal election.

Mr. Grimm replied," 12:01 pm on January 15th.

Deputy Mayor Pearce asked the City Clerk for a quick rundown on the costs for the Preferred Presidential Primary election.

City Clerk Denise McGrew reported that the City will be paying for the cost to print the ballots, and the mailing of the absentee ballots. The City will not have to pay to hire poll workers, serve as the canvassing board or attend any meetings. She estimated that the cost for this year's election would be $6,000-$7,000.

Incident Report – Pam Terranova

Deputy Mayor Pearce instructed Mr. Stokes to report the results of his investigation to Council regarding the incident report filed by former City Attorney Pamela Terranova. Mr. Stokes agreed to provide his report on February 1, 2016.

New City Manager Contract

Deputy Mayor Pearce commended Councilwoman Dugo and Mr. Stokes on their efforts during the holidays to negotiate an acceptable contract and that the negotiations were done in the Sunshine.

Discussion followed over how contracts of this nature were handled differently by the City's former City Manager, how the City was run efficiently, how Public Safety was lost to PBSO due to the lack of salary increases, the reasons for tightening the budget due to the economic downturn in 2008 – 2015 and millions of dollars lost in revenue, surpluses and reserves, upcoming election where voters will decide, the City ranking #95 out of #100 in the Palm Beach Post to start a family, bringing the City back to what it once was, and the City having the lowest tax rate in the County/State.

**12. Adjournment.**

Mayor Ferreri inquired if there were any additional comments; hearing none, he adjourned the meeting at 9:31 p.m.

**CITY COUNCIL**

Respectfully submitted,

_____
Samuel J. Ferreri
Mayor

_____
Denise McGrew,
City Clerk/Administrative Services Director

Date Approved: _____

/mel