

MINUTES

CITY COUNCIL MEETING
TUESDAY, SEPTEMBER 14, 2004

CITY COUNCIL CHAMBERS
10001 NW 87 AVENUE

1. **Call to Order:** Vice Chairman Piña called the meeting to order at 7:40 p.m.
2. **Roll Call:** Present were Vice Chairman Rolando Piña serving as Chairman, Councilman Jorge Gutierrez, Councilman Jorge A. Merida, and Councilman Manuel Zardon. Also present were Mayor Yioset De La Cruz and City Attorney Charles A. Citrin. Chairman Luciano Garcia was absent.
3. **Invocation:** Councilman Gutierrez led the invocation.
4. **Pledge of Allegiance:** Mayor De La Cruz led the Pledge of Allegiance.
5. **Deletions/Emergency Additions:** Vice Chairman Piña made a motion to table Item 5. seconded by Councilman Gutierrez. The motion was unanimously approved. **(Tabled)**
6. **Review of Minutes:** August 17, 2004. Vice Chairman Piña made a motion to approve the minutes of August 17, 2004 seconded by Councilman Merida. The motion was unanimously approved.
7. **Public Comments:** None were offered.
8. **Appointment of Trustees for the Hialeah Gardens Police Pension Board:** Chairman Luciano Garcia.

Vice Chairman Piña stated that Chairman Garcia was unable to attend tonight's meeting as he is currently in Stuart, FL with hurricane related matters.

Vice Chairman Piña nominated Ms. Margarita de las Salas for reappointment as a trustee. The motion was seconded by Councilman Merida and unanimously approved by voice vote. Vice Chairman Piña nominated Mr. Jorge A. Gutierrez for reappointment as a trustee. The motion was seconded by Councilman Merida and unanimously approved by voice vote. Vice Chairman Piña informed that Lt. Van Toth had been reelected to serve as the police representative trustee to the board. Vice

Chairman Piña made a motion to approve Lt. Toth's election, seconded by Councilman Merida and the motion was unanimously approved by voice vote. The trustees will serve two-year terms.

9. **Discussion of settlement offer by Governmental Risk Insurance Trust (GRIT) re: GRIT v. City of Hialeah Gardens:** Mr. Charles A. Citrin, City Attorney.

Vice Chairman Piña made a motion to table Item 9 seconded by Councilman Merida. The motion was unanimously approved. **(Tabled)**

Vice Chairman Piña made a motion to move Item 12 to be heard at this time, seconded by Councilman Merida. The motion was unanimously approved. City Attorney Charles A. Citrin swore in those who would be testifying on any of the public hearing items.

12. **Second Reading / Public Hearing for consideration and final adoption of the following ordinances:**

- A) *ORDINANCE OF THE CITY OF HIALEAH GARDENS, FLORIDA, APPROVING A SPECIAL EXCEPTION USE AND SITE PLAN REVIEW FOR A WORKOUT WAREHOUSE / CARLOS TORRES TO PERMIT A FITNESS CENTER IN AN EXISTING WAREHOUSE WITHIN A COMMERCIAL DISTRICT. LOCATION: 7802 N.W. 103 STREET. PROVIDING FOR CONDITIONS; PROVIDING FOR EFFECTIVE DATE.***
(Location: 7802 N.W. 103 St.) (Vote: P&Z 3-0; TRC 4-0)

Mr. Citrin read the full ordinance into the record. Mr. Carlos Torres the applicant was present. Mrs. Mirtha S. Gonzalez, Chief Zoning Official, came forward, gave staff recommendations for approval, and included recommendation for the applicant to provide for improvement of the landscaping on NW 103 Street. Mayor De La Cruz made comments regarding the use of landscaping to improve the City's aesthetics. The applicant agreed to the recommendation. Vice Chairman Piña opened the public hearing at 7:42 p.m. No one came forward; Vice Chairman Piña closed the public hearing at 7:42 p.m. and made a motion to approve, seconded by Councilman Merida and unanimously approved by individualized voice vote **(4-0)**.

- B) *ORDINANCE OF THE CITY OF HIALEAH GARDENS, FLORIDA, APPROVING GIRALDO CASTELLON – WAIVER OF PLAT WITH LOT SIZE AND WIDTH VARIANCES CONCERNING PROPERTY LEGALLY DESCRIBED AS: PARENT TRACT: TRACT 2 OF “FLORIDA FRUIT LAND COMPANY’S SUBDIVISION NO. 1” IN SECTION 29, TOWNSHIP 52 SOUTH, RANGE 40 EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, AT PAGE 17, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. CUT OUT PARCEL A: THE EAST 131.85 FEET OF THE WEST 659.96 FEET***

OF TRACT 2 OF “FLORIDA FRUIT LAND COMPANY’S SUBDIVISION NO. 1”, OF SECTION 29 TOWNSHIP 52, RANGE 40 EAST, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LESS THE NORTH 30.00 FEET THEREOF, FOLIO #27-2029-001-23. APPROXIMATE LOCATION: N.W. 137 STREET, BETWEEN N.W. 98 AVENUE AND N.W. 99 AVENUE. PROVIDING FOR CONDITIONS; PROVIDING FOR EFFECTIVE DATE. (Location: N.W. 137 St., between N.W. 98 Ave. and N.W. 99 Ave.) (Vote: P&Z 3-0;TRC 3-0)

Mr. Citrin read the full ordinance into the record. Mr. Giraldo Castellon the applicant was present. Mrs. Mirtha S. Gonzalez, Chief Zoning Official, came forward and gave staff recommendations. Vice Chairman Piña opened the public hearing at 7:50 p.m. No one came forward; Vice Chairman Piña closed the public hearing at 7:50 p.m. and made a motion to approve, seconded by Councilman Merida and unanimously approved by individualized voice vote (4-0).

- C) **ORDINANCE OF THE CITY OF HIALEAH GARDENS, FLORIDA, APPROVING ABRAHAM LATRAS WAIVER OF PLAT WITH LOT SIZE AND WIDTH VARIANCES CONCERNING PROPERTY LEGALLY DESCRIBED AS: PARENT TRACT: TRACT 2 OF “FLORIDA FRUIT LAND COMPANY’S SUBDIVISION NO. 1”, IN SECTION 29, TOWNSHIP 52 SOUTH, RANGE 40 EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, AT PAGE 17, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. CUT OUT PARCEL B: THE EAST 131.85 FEET OF THE WEST 791.81 FEET OF TRACT 2 OF “FLORIDA FRUIT LAND COMPANY’S SUBDIVISION NO. 1”, OF SECTION 29, TOWNSHIP 52 SOUTH, RANGE 40 EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, AT PAGE 17, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LESS THE NORTH 30.00 FEET THEREOF, FOLIO #27-2029-001-0024. APPROXIMATE LOCATION: N.W. 137 STREET, BETWEEN N.W. 97 AVENUE AND N.W. 99 AVENUE. PROVIDING FOR CONDITIONS; PROVIDING FOR EFFECTIVE DATE.** (Location: N.W. 137 St., between N.W. 97 Ave. and N.W. 99Ave.) (Vote: P&Z 3-0;TRC 4-0)

Mr. Citrin read the full ordinance into the record. Mr. Abraham Latras the applicant was present. Mrs. Mirtha S. Gonzalez, Chief Zoning Official, came forward and gave staff recommendations. Vice Chairman Piña opened the public hearing at 7:54 p.m. No one came forward; Vice Chairman Piña closed the public hearing at 7:54 p.m. and made a motion to approve, seconded by Councilman Merida and unanimously approved by individualized voice vote (4-0).

At this time, Vice Chairman Piña made a motion to address Item 11 at this time seconded by Councilman Merida and unanimously approved by voice vote

11. **First Reading for consideration of the following ordinances:**

- A) *ORDINANCE OF THE CITY OF HIALEAH GARDENS, FLORIDA, ADOPTING A MILLAGE RATE FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2004, AND ENDING SEPTEMBER 30, 2005, AT 6.12 MILLS, WHICH IS AN INCREASE OF 10.27% OVER THE ROLL BACK RATE SO AS TO PROVIDE THE NECESSARY REVENUE TO MEET THE DETERMINED BUDGETARY NEEDS OF THE CITY OF HIALEAH GARDENS, FLORIDA; PROVIDING FOR PROVIDING FOR SEVERABILITY; PROVIDING FOR EFFECTIVE DATE.***

Mr. Citrin read the full ordinance into the record. Vice Chairman Piña opened the public hearing at 7:56 p.m. No one came forward; Vice Chairman Piña closed the public hearing at 7:56 p.m. and made a motion to approve, seconded by Councilman Merida and unanimously approved by individualized voice vote (4-0).

- B) *ORDINANCE OF THE CITY OF HIALEAH GARDENS, FLORIDA, ADOPTING THE ANNUAL BUDGET FOR THE GENERAL FUND FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2004, AND ENDING SEPTEMBER 30, 2005; PROVIDING FOR SEVERABILITY; PROVIDING FOR EFFECTIVE DATE.***

Mr. Citrin read the full ordinance into the record. Vice Chairman Piña opened the public hearing at 7:57 p.m. Mr. Abel Fernandez came forward to address the item. Mayor De La Cruz made comments on the millage rate and the lowering of city taxes. He explained that the increase in Mr. Fernandez's tax bill was the result of the Miami Dade County Property Appraiser valuing his property at a higher tax rate. Mr. Citrin mentioned that there is an appeals process which is offered by the County to redetermine the assessed value of property. No further testimony was offered. Vice Chairman Piña closed the public hearing at 8:03 p.m. and made a motion to approve, seconded by Councilman Merida and unanimously approved by individualized voice vote (4-0).

- C) *ORDINANCE OF THE CITY OF HIALEAH GARDENS, FLORIDA, ADOPTING THE ANNUAL BUDGET FOR THE PUBLIC SAFETY IMPACT FUND FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2004, AND ENDING SEPTEMBER 30, 2005; PROVIDING FOR SEVERABILITY; PROVIDING FOR EFFECTIVE DATE.***

Mr. Citrin read the full ordinance into the record. Vice Chairman Piña opened the public hearing at 8:03 p.m. No one came forward; Vice Chairman Piña closed the public hearing at 8:03 p.m. and made a motion to approve, seconded by Councilman Merida and unanimously approved by individualized voice vote (4-0).

D) ORDINANCE OF THE CITY OF HIALEAH GARDENS, FLORIDA, ADOPTING THE ANNUAL BUDGET FOR THE STREETS AND ROADS FUND FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2004, AND ENDING SEPTEMBER 30, 2005; PROVIDING FOR SEVERABILITY; PROVIDING FOR EFFECTIVE DATE.

Mr. Citrin read the full ordinance into the record. Vice Chairman Piña opened the public hearing at 8:04 p.m. Mr. Reinaldo Sanchez came forward to address the item. Mayor De La Cruz made comments on the City's proposed street improvements and mentioned that repairs will be made on a priority basis. Mr. Sanchez's concerns were regarding repairs needed on private property and the Mayor informed him that the City is following procedures and taking the appropriate action to resolve this matter. Vice Chairman Piña closed the public hearing at 8:13 p.m. and made a motion to approve, seconded by Councilman Merida and unanimously approved by individualized voice vote (4-0).

E) ORDINANCE OF THE CITY OF HIALEAH GARDENS, FLORIDA, ADOPTING THE ANNUAL BUDGET FOR THE STORM WATER DRAIN FUND FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2004, AND ENDING SEPTEMBER 30, 2005; PROVIDING FOR SEVERABILITY; PROVIDING FOR EFFECTIVE DATE.

Mr. Citrin read the full ordinance into the record. Vice Chairman Piña opened the public hearing at 8:13 p.m. No one came forward; Vice Chairman Piña closed the public hearing at 8:13 p.m. and made a motion to approve, seconded by Councilman Merida and unanimously approved by individualized voice vote (4-0).

F) ORDINANCE OF THE CITY OF HIALEAH GARDENS, FLORIDA, ADOPTING THE ANNUAL BUDGET FOR THE WATER AND SEWER DEPARTMENT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2004, AND ENDING SEPTEMBER 30, 2005; PROVIDING FOR SEVERABILITY; PROVIDING FOR EFFECTIVE DATE.

Mr. Citrin read the full ordinance into the record. Vice Chairman Piña opened the public hearing at 8:14 p.m. No one came forward; Vice Chairman Piña closed the public hearing at 8:14 p.m. and made a motion to approve, seconded by Councilman Merida and unanimously approved by individualized voice vote (4-0).

G) ORDINANCE OF THE CITY OF HIALEAH GARDENS, FLORIDA, ADOPTING THE ANNUAL BUDGET FOR THE PARK TRUST FUND FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2004, AND ENDING SEPTEMBER 30, 2005; PROVIDING FOR SEVERABILITY; PROVIDING FOR EFFECTIVE DATE.

Mr. Citrin read the full ordinance into the record. Vice Chairman Piña opened the public hearing at 8:15 p.m. No one came forward; Vice Chairman Piña closed the public hearing at 8:15 p.m. and made a motion to approve, seconded by Councilman Merida and unanimously approved by individualized voice vote (4-0).

H) ORDINANCE OF THE CITY OF HIALEAH GARDENS, FLORIDA, APPROVING A WAIVER OF PLAT FOR MANUEL ZARDON AND REPEALING ORDINANCE NO. 2004-03 FOR TENTATIVE PLAT OF KALLIOPE FIRST ADDITION, BBE DEVELOPMENT CORP. LEGAL DESCRIPTION: THE WEST OF TRACT 7, OF FLORIDA FRUIT LAND COMPANY'S SUBDIVISION NO. 1, OF SECTION 29, TOWNSHIP 52 SOUTH, RANGE 40 EAST, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 17 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; LESS THE WEST OF THE WEST OF WEST OF TRACT 7, OF FLORIDA FRUIT LAND COMPANY'S SUBDIVISION NO. 1, OF SECTION 29, TOWNSHIP 52 SOUTH, RANGE 40 EAST, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 17 OF THE PUBLIC RECORDS OF MAIMI-DADE COUNTY, FLORIDA. FOLIO #27-2029-001-0072. PROVIDING FOR CONDITIONS; PROVIDING FOR EFFECTIVE DATE.

Mr. Citrin read the full ordinance into the record. Mr. Manuel Zardon, the applicant was present. Vice Chairman Piña stated that this is a first reading and as such, an opportunity for public input will be provided upon second reading. Vice Chairman Piña made a motion to approve, seconded by Councilman Gutierrez and approved by individualized voice vote (3-0) with Councilman Zardon abstaining from voting on the item.

10. Proposed Resolutions:

A) RESOLUTION OF THE CITY OF HIALEAH GARDENS, FLORIDA, AUTHORIZING THE AWARD OF A CONTRACT FOR ROADWAY IMPROVEMENTS TO NW 79TH AVENUE; AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE AN AGREEMENT WITH SOUTHEASTERN ENGINEERING; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Citrin read the full title of the resolution into the record. Mr. Jose M. Lopez, Public Works Director came forward and gave his recommendations. Vice Chairman Piña made motion a to approve, seconded by Councilman Merida and unanimously approved.

B) RESOLUTION OF THE CITY OF HIALEAH GARDENS, FLORIDA, AUTHORIZING THE AWARD OF A CONTRACT FOR ROADWAY IMPROVEMENTS TO NW 89TH AVENUE; AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE AN AGREEMENT WITH SOUTHEASTERN ENGINEERING; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Citrin read the full title of the resolution into the record. Mr. Jose M. Lopez, Public Works Director came forward and gave his recommendations. Mayor De La Cruz wanted assurances that Southeastern Engineering would be able to handle both road projects simultaneously. Mr. Lopez stated that completion dates for all projects had been discussed with the contractor. Vice Chairman Piña made a motion to approve, seconded by Councilman Merida and unanimously approved.

C) RESOLUTION OF THE CITY OF HIALEAH GARDENS, FLORIDA, AUTHORIZING THE AWARD OF A CONTRACT FOR ROADWAY IMPROVEMENTS TO NW 87TH COURT; AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE AN AGREEMENT WITH ACOSTA TRACTORS, INC.; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Citrin read the full title of the resolution into the record. Mr. Jose M. Lopez, Public Works Director came forward and gave his recommendations. Vice Chairman Piña made motion a to approve, seconded by Councilman Merida and unanimously approved.

D) RESOLUTION OF THE CITY OF HIALEAH GARDENS, FLORIDA, AUTHORIZING THE AWARD OF A CONTRACT FOR ROADWAY IMPROVEMENTS TO NW 117TH STREET; AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE AN AGREEMENT WITH ACOSTA TRACTORS, INC.; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Citrin read the full title of the resolution into the record. Mr. Jose M. Lopez, Public Works Director came forward and gave his recommendations. Mayor De La Cruz wanted assurances that Acosta Tractors would be able to handle both road projects at simultaneously. Mr. Lopez stated that completion dates for all projects had been discussed with the contractor. Vice Chairman Piña made a motion to approve, seconded by Councilman Merida and unanimously approved.

At this time Vice Chairman Piña made a motion to remove Items 5 and 9 from the table, seconded by Councilman Merida and unanimously approved.

Item 5. **Deletions/Emergency Additions:** None were presented.

Item 9. Discussion of settlement offer by Governmental Risk Insurance Trust (GRIT) re: GRIT v. City of Hialeah Gardens: Mr. Charles A. Citrin, City Attorney.

Mr. Citrin made comments on this case, which dates back to 1998-1999, and concerns a lawsuit filed by the trustee of Governmental Risk Insurance Trust (GRIT). The initial suit amount was in excess of \$56,000; the City offered \$30,000 and the settlement amount negotiated to date amounts to \$42,500. Mr. Citrin requested authorization for the City to enter into a settlement for the negotiated amount. Vice Chairman Piña made a motion to approve the request seconded by Councilman Merida and the motion was unanimously approved.

13. **City Attorney's Report:** No comments
14. **Mayor's Report – Miscellaneous:** Mayor De La Cruz reported that in two weeks he will give the Council a list of accomplishments of the past year.
15. **Council Members Concerns/Reports – Miscellaneous:** No comments.
16. **Adjournment:** The meeting was adjourned at 8:29 p.m.

Respectfully submitted by:

Maria L. Joffe
City Clerk

Any person desiring to appeal any decision made by the Council with respect to any matter considered at this meeting will need a record of the proceedings, and it will be their responsibility to insure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based."

SCHEDULE OF FUTURE MEETINGS

CITY COUNCIL

Tuesday, October 5, 2004, 7:30 P.M.

SPECIAL CITY COUNCIL

Tuesday, October 12, 2004, 7:30 P.M.

PLANNING AND ZONING BOARD

Monday, October 18, 2004, 7:30 P.M.

TECHNICAL REVIEW COMMITTEE

Wednesday, October 6, 2004, 11:30 A.M.

WATER AND SEWER BOARD

Tuesday, October 26, 2004, 7:00 P.M.

POLICE PENSION BOARD

Monday, November 15, 2004, 7:00 P.M.