

MINUTES

CITY COUNCIL MEETING
TUESDAY, DECEMBER 7, 2004

CITY COUNCIL CHAMBERS
10001 NW 87 AVENUE

1. **Call to Order:** Chairman Luciano Garcia called the meeting to order at 7:35 p.m.
2. **Roll Call:** Present were Chairman Luciano Garcia, Councilman Jorge Gutierrez, Councilman Jorge A. Merida, Councilman Manuel Zardon and Councilman Rolando Piña. Also present were Mayor Yioset De La Cruz and City Attorney Charles A. Citrin.
3. **Invocation:** Chairman Garcia led the invocation.
4. **Pledge of Allegiance:** Mayor Yioset De La Cruz led the Pledge of Allegiance.
5. **Deletions/Emergency Additions:** None were offered.
6. **Review of Minutes:** November 16, 2004. Chairman Garcia made a motion to approve the minutes of November 16, 2004, seconded by Councilman Merida. The motion was unanimously approved.
7. **Public Comments:** Mr. Jorge Gutierrez came forward and thanked Mayor De La Cruz and the Council members for their hard work and accomplishments. Ms. Arlene Yera, Senior Center Director came forward to extend the appreciation of the seniors who participate in the Senior Center for all the Administration has done on their behalf. Mayor De La Cruz thanked the public for coming to the meeting and showing their support. The Mayor also mentioned that there would be a meeting on Thursday at Samari Lakes to address the issue of the special assessment that was recently imposed by the association. Ms. Berta Carballo, a Senior Center participant came forward to express her gratitude. Mr. Carlos Manuel Galan, tenant of Samari Lakes came forward to speak regarding his concerns of the problems facing Samari Lakes. Many of the residents of Samari Lakes are on a fixed income and cannot afford the continued increases in the maintenance fees and the issue needs to be addressed. Chairman Garcia stated that these issues would be discussed on January 3, 2005 before Judge Chavies. Ms. Cristina Cabrera came forward to congratulate the Mayor and Council members for a wonderful job. Ms. Cabrera also mentioned her concerns regarding the driveways on 102 Avenue. Mr. Jose A. Lopez, Public Works Director stated that this was an ongoing project and the work will be forthcoming.

8. **Report on City Projects:** Mayor Yioset De La Cruz

Mayor De La Cruz gave a visual presentation regarding the completed, ongoing, and new proposed City projects. Councilman Gutierrez expressed the appreciation conveyed to him by the many residents of Samari Lakes for the Thanksgiving gift baskets and turkeys that were donated by the City. Chairman Garcia added that the Mayor's presentation of City projects included something for everyone.

9. **Authorization of expenditures to purchase materials for drainage project at new government complex site:** Mr. Marcos Piloto, O.M.B. Director.

Mr. Marcos Piloto, O.M.B. Director came forward and gave the cost details of the request to purchase materials necessary for the drainage infrastructure for the government complex. Chairman Garcia made a motion to approve, seconded by Councilman Merida and the motion was unanimously approved. City Attorney Charles A. Citrin will return with a resolution to ratify this action.

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

Mr. Citrin swore in all those who would be testifying on any of the items for public hearing.

- A) ***ORDINANCE OF THE CITY OF HIALEAH GARDENS, MIAMI-DADE COUNTY, FLORIDA, ADOPTING A SMALL SCALE LAND USE PLAN AMENDMENT CHANGING THE LAND USE FROM HDR (HIGH DENSITY RESIDENTIAL) TO BU (BUSINESS DISTRICT) FOR THE APPROXIMATE 1.59 ACRE PARCEL. LEGAL DESCRIPTION: THE WEST 264 FEET OF TRACT 1, OF FLORIDA LAND COMPANY'S SUBDIVISION NO. 1, OF SECTION 33, 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 AND EXCEPTING THEREFORE THE NORTH 80 FEET; AND ALSO LESS RIGHT-OF-WAY DEDICATED TO THE CITY OF HIALEAH GARDENS PER OFFICIAL RECORDS BOOK 20429, PAGE 903 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. APPROXIMATE LOCATION: BETWEEN NW 121 STREET AND NW 122 STREET, EAST OF NW 89 AVENUE. FOLIO # 27-2033-001-0012; PROVIDING FOR SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE. (Location: Between NW 121 Street and 122 Street, East of NW 89 Avenue) (Vote: P&Z 4-0; T.R.C. 5-0)***

Mr. Citrin read the full title of the ordinance into the record. Ms. Fleeta Stamen, Esq., Mr. Peter Goicouria, architect, and Mr. James A. Ball, C.O.O. were present for the applicant, Catholic Health Services, Inc. Mrs. Mirtha S. Gonzalez, Chief Zoning Official came forward and gave staff recommendations. Ms. Stamen gave a presentation for the proposed rehabilitation facility. A recess was called at 8:25 p.m. The meeting reconvened at 8:35 p.m. At this time, Ms. Stamen continued with her presentation. The facility has proffered a covenant that would restrict the use of the facility to a physical rehabilitation center to patients who have suffered impairments that require physical therapy. No drug rehabilitation or psychiatric hospital will be allowed. Mr. Peter Goicouria, architect reviewed the site plan details of the project. This ordinance addresses a land use amendment application, and as such the applicant will return before the Council for site plan approval. Mr. James A. Ball, C.O.O. for Catholic Health Services, Inc. came forward and gave a brief history of the company. Chairman Garcia opened the public hearing at 8:43 p.m. No one came forward; Chairman Garcia closed the public hearing at 8:43 p.m. A motion to approve was made by Chairman Garcia, seconded by Councilman Merida, and unanimously approved by individualized voice vote (**Vote 5-0**). Mr. Citrin noted that the ordinance language should reflect a correction stating that no amendments had been made to the comprehensive plan in 2004.

- B) *ORDINANCE OF THE CITY OF HIALEAH GARDENS, MIAMI-DADE COUNTY, FLORIDA, ADOPTING A SMALL SCALE LAND USE PLAN AMENDMENT CHANGING THE LAND USE FROM EU (ESTATE RESIDENTIAL) TO LDR (LOW DENSITY RESIDENTIAL DISTRICT) FOR THE APPROXIMATE 9.99 ACRE PARCEL. LEGAL DESCRIPTION: THE EAST _ OF THE WEST _ OF TRACT 8; THE EAST _ OF THE WEST _ OF THE WEST _ OF TRACT 8 AND THE EAST _ OF THE WEST _ OF TRACT 8, FLORIDA FRUIT LANDS COMPANY SUBDIVISION NO.1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, AT PAGE 17 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THE EAST _ OF TRACT 8, FLORIDA FRUIT LANDS COMPANY SUBDIVISION NO.1, IN SECTION 29-52-40, 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 EAST 50 FEET FOR CANAL RIGHT OF WAY; AND THE WEST _ OF THE WEST _ OF THE WEST _ OF TRACT 8, FLORIDA FRUIT LANDS COMPANY SUBDIVISION NO.1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, AT PAGE 17 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. APPROXIMATE LOCATION: NORTH OF NW 130 STREET, BETWEEN NW 97 & NW 99 AVENUES. FOLIO'S #: 27-2029-001-0080, 27-2029-001-0090, 27-2029-001-0092, 27-2029-001-0091;***

PROVIDING FOR SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE. (Location: North of NW 130 Street, Between NW 97 and NW 99 Avenues) (Vote: P&Z 1-3 Denied (Villar, Maurici, Cordero); (T.R.C. 5-0)

Mr. Citrin read the full title of the ordinance into the record. Mr. Javier Vazquez, attorney for the applicants, Mr. Giraldo Castellon and Mr. Mark Maycock were present. Mrs. Mirtha S. Gonzalez, Chief Zoning Official came forward and gave staff recommendations. Mr. Vazquez gave a detailed presentation of the small-scale amendment application requesting a change for land use from estate residential to low density residential. Chairman Garcia expressed his concerns regarding applications requesting changes in estate residential density and how this would change the unique nature of the Estate area and its property value. Chairman Garcia opened the public hearing at 8:54 p.m.

The following individual addressed the Council:

Mrs. Gerri Fontanella, 13425 NW 102 Avenue, Hialeah Gardens, FL

No one else came forward; Chairman Garcia closed the public hearing at 9:03 p.m. Mr. Vazquez gave final comments on the project. Council members offered their comments on the item. Councilman Zardon had questions for staff regarding the size of homes presently existing in the site area. Councilman Merida made a motion to approve, seconded by Councilman Zardon. Councilman Piña asked that if the developer could commit at this time to build the homes at a minimum of 3,000 square feet and that each home be different in appearance. The motion was denied (**Vote 2-3**) by individualized voice vote with Council members Garcia, Gutierrez and Piña against, Council members Merida and Zardon in favor. Councilman Piña made a motion to reconsider the item, seconded by Councilman Merida. The motion to reconsider was approved by individualized voice vote (**Vote 3-2**) with Councilman Zardon in favor and Chairman Garcia and Councilman Gutierrez against. Councilman Piña then made a motion to table the item, seconded by Councilman Merida, The motion was approved by individualized voice vote (**Vote 3-2 Tabled**) with Councilman Zardon in favor and Chairman Garcia and Councilman Gutierrez against. The item will be placed on the December 21, 2004 for Second Reading / Public Hearing.

A recess was called at 9:43 p.m. The meeting was reconvened at 9:48 p.m.

- C) ORDINANCE OF THE CITY OF HIALEAH GARDENS, FLORIDA, APPROVING A TENTATIVE PLAT FOR KALLIOPE SUBDIVISION. LEGAL DESCRIPTION: FOLIO # 27-2033-001-0593: A PORTION OF TRACT 48 OF SECTION 33, TOWNSHIP 52 SOUTH, RANGE 40 EAST OF FLORIDA FRUIT LAND COMPANY'S SUBDIVISION, ACCORDING TO PLAT THEREOF RECORDED IN PLAT BOOK 2 AT PAGE 17 OF THE PUBLIC RECORD OF MIAMI-DADE COUNTY, FLORIDA; FOLIO # 27-2033-001-0370: A PORTION OF***

TRACTS 33 AND 34 OF SECTION 33, TOWNSHIP 52 SOUTH, RANGE 40 EAST OF FLORIDA FRUIT LAND COMPANY'S SUBDIVISION, ACCORDING TO PLAT THEREOF RECORDED IN PLAT BOOK 2 AT PAGE 17 OF THE PUBLIC RECORD OF MIAMI-DADE COUNTY, FLORIDA; FOLIO # 27-2033-001-0596: A PORTION OF TRACT 48, FLORIDA FRUIT LAND COMPANY'S SUBDIVISION OF THE SW 1/4 OF SECTION 33, TOWNSHIP 52 SOUTH, RANGE 40 EAST AS RECORDED IN PLAT BOOK 2 AT PAGE 17 OF THE PUBLIC RECORD OF MIAMI-DADE COUNTY, FLORIDA. PROVIDING FOR CONDITIONS; PROVIDING FOR EFFECTIVE DATE. (Location: NE of Okeechobee Road and South of NW 114 Street) (Vote: P&Z 3-0; T.R.C. 6-0)

Mr. Citrin read the full title of the ordinance into the record. Mr. Michael Osman was present for the applicant. Mrs. Mirtha S. Gonzalez, Chief Zoning Official came forward and gave staff recommendations. Mr. Osman came forward and gave details of the tentative plat. Chairman Garcia opened the public hearing at 9:50 p.m. No one came forward; Chairman Garcia closed the public hearing at 9:50 p.m. A motion to approve was made by Chairman Garcia, seconded by Councilman Gutierrez. The motion was unanimously approved (**Vote 4-0**) with Councilman Merida off the dais.

D) ORDINANCE OF THE CITY OF HIALEAH GARDENS, FLORIDA, APPROVING A SITE PLAN FOR OFF STREET PARKING LOT UNDER POWER LINE EASEMENT FOR MARANATA LAND CORPORATION CONCERNING PROPERTY LEGALLY DESCRIBED AS: A PORTION OF TRACT 5 AND 6, OF "FLORIDA FRUIT LAND COMPANY'S SUBDIVISION NO. 1" IN SECTION 3, TOWNSHIP 53 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. FOLIO #: 27-3003-001-0049. APPROXIMATE LOCATION: EAST OF NW 80 AVENUE AND SOUTH OF NW 103 STREET. PROVIDING FOR CONDITIONS; PROVIDING FOR EFFECTIVE DATE. (Location: East of NW 80 Avenue and South of NW 103 Street) (Vote: P&Z 3-0; T.R.C. 6-0)

Chairman Garcia abstained from voting on Items 10D and 10E and passed the gavel to Vice Chairman Piña at 9:51 p.m. Mr. Citrin read the full title of the ordinance into the record. No one came forward for the applicant. Vice Chairman Piña opened the public hearing at 9:53 p.m. No one came forward; Vice Chairman Piña closed the public hearing at 9:53 p.m. A motion to approve was made by Vice Chairman Piña, seconded

by Councilman Zardon. The motion was approved (**Vote 3-0**) with Councilman Merida off the dais and Chairman Garcia abstaining from voting.

E ORDINANCE OF THE CITY OF HIALEAH GARDENS, FLORIDA, APPROVING A SITE PLAN FOR OFF STREET PARKING LOT UNDER THE POWER LINE EASEMENT FOR VICTOR HUGO MONROY CONCERNING PROPERTY LEGALLY DESCRIBED AS: A PORTION OF TRACT 6, OF "FLORIDA FRUIT LAND COMPANY'S SUBDIVISION NO. 1" IN SECTION 3, TOWNSHIP 53 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. FOLIO #: 27-3003-001-0060. APPROXIMATE LOCATION: EAST OF NW 80 AVENUE AND SOUTH OF NW 103 STREET. PROVIDING FOR CONDITIONS; PROVIDING FOR EFFECTIVE DATE. (Location: East of NW 80 Avenue and South of NW 103 Street) (Vote: P&Z 3-0; T.R.C. 4-0)

Mr. Citrin read the full title of the ordinance into the record. No one came forward for the applicant. Vice Chairman Piña opened the public hearing at 9:54 p.m. No one came forward; Vice Chairman Piña closed the public hearing at 9:54 p.m. A motion to approve was made by Vice Chairman Piña, seconded by Councilman Gutierrez. The motion was approved (**Vote 3-0**) with Councilman Merida off the dais and Chairman Garcia abstaining from voting. Vice Chairman Piña returned the gavel to Chairman Garcia at 9:54 p.m.

**F) ORDINANCE OF THE CITY OF HIALEAH GARDENS, FLORIDA, APPROVING A SPECIAL EXCEPTION USE TO PERMIT RETAIL OR PERSONAL SERVICE USES, SITE PLAN REVIEW AND GRANTING A SIDE SETBACK VARIANCE FOR BERNIE BUSINESS PARK IN COMMERCIAL BUILDING PROPERTY LEGALLY DESCRIBED AS: A PORTION OF TRACT "A" OF "SECOND ADDITION TO RO-JEN ESTATES" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 118, PAGE 89 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. FOLIO #27-2029-007-0040, APPROXIMATE LOCATION: CORNER OF WEST OKEECHOBEE ROAD AND NW 107 AVE. PROVIDING FOR CONDITIONS; PROVIDING FOR EFFECTIVE DATE. (Location: Corner of West Okeechobee Road and NW 107 Avenue)
Vote: Special Exception Use - P&Z 5-0; TRC 4-0
Variance - P&Z 4-1 (R. Regalado); TRC 3-1 (C. Villar)
Site Plan - P&Z 5-0; T.R.C. 4-0**

Mr. Citrin read the full title of the ordinance into the record. Mr. Bernie Maribona, the applicant was present. Mrs. Mirtha S. Gonzalez, Chief Zoning Official came forward and gave staff recommendations. Mr. Maribona gave a presentation on the project. Chairman Garcia opened the public hearing at 9:59 p.m. No one came forward; Chairman Garcia closed the public hearing 9:59 p.m. A motion to approve a special exemption use was made by Chairman Garcia, seconded by Councilman Gutierrez. The motion was unanimously approved by individualized voice vote (**Vote 5-0**). A motion to approve a side setback variance was made by Chairman Garcia, seconded by Councilman Merida. The motion was approved by individualized voice vote (**Vote 4-1**) with Councilman Zardon dissenting. A motion to approve a site plan review was made by Chairman Garcia, seconded by Councilman Merida. The motion was unanimously approved by individualized voice vote (**Vote 5-0**).

11. **City Attorney's Report:** Wished all a Happy Hanukkah.
12. **Mayor's Report – Miscellaneous:** No comments were offered.
13. **Council Members Concerns/Reports – Miscellaneous**

Councilman Gutierrez commented on the great turnout at Bernie Wilson Park's Festival of Lights.

Councilman Zardon thanked Mayor De La Cruz for his leadership.

Chairman Garcia, Councilman Merida and Councilman Piña had no comments.

14. **Adjournment:** The meeting was adjourned at 10:00 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 MEETINGS

CITY COUNCIL

Tuesday, January 4, 2005 7:30 P.M.

PLANNING AND ZONING BOARD

Monday, January 10, 2005, 7:30 P.M.

TECHNICAL REVIEW COMMITTEE

Wednesday, January 12, 2005, 11:30 A.M.

WATER AND SEWER BOARD

T.B.A.

POLICE PENSION BOARD

Wednesday, February 23, 2005, 7:00 P.M.