

MINUTES

CITY COUNCIL MEETING

TUESDAY, JANUARY 8, 2002

CITY HALL COUNCIL CHAMBERS  
10001 NW 87 AVENUE

1. **Call to Order:** Chairperson Valdes called the meeting to order at 7:35 p.m.
2. **Roll Call:** Present were Chairperson Valdes, Council members, Miguel Haddad, Rolando Piña, Manuel Zardon and Luciano Garcia. Also present were Mayor Yioiset De La Cruz and City Attorney Charles A. Citrin.
3. **Invocation:** Council member Garcia gave the invocation.
4. **Pledge of Allegiance:** Mayor De La Cruz led the Pledge of Allegiance.
5. **Deletions/Emergency Additions:** No deletions or additions were offered.
6. **Review of Minutes: December 18, 2001:** Chairperson Valdes made a motion to approve the minutes of December 18, 2001, a second was offered by Council member Haddad and the minutes were unanimously approved by individualized voice vote of the council.
7. **Citizens' Mscellaneous:** Requests to place items on future agenda(s): No one came forward.
8. **Discussion on matters of concern:** Mr. and Mrs. Sergio Menendez, 9900 N.W. 137 Street, Hialeah Gardens. Mr. and Mrs. Menendez were not present to address their issues. However, Mayor De La Cruz informed the council that a response had been received from the court and an inspection of the vacant lot behind the Menendez home would be done on Thursday, January 10, 2002 in order to begin the clean up.
9. **Approval of Water and Sewer Agreements:** Mr. Al Nielson, Director, Department of Water and Sewers came forward and addressed **Item 1**. He explained that the Water and Sewer Board had given their recommendation for the Gardens Commercial Holdings, Ltd. water and sewer extension agreement and that Mr. J. Frost Walker, attorney for the Board had also reviewed the standard agreement and found it to be in order. Mr. Nielson informed that the water and sewer extensions would serve the remaining B.J.'s property, where commercial buildings will be erected. Based on the Water Board's recommendation Council member Garcia made a motion to approve,

seconded by Chairperson Valdes and the motion was unanimously approved by individualized voice vote of the council. Mr. Nielson then asked the council to remove **Item 2** from the agenda, as he had not yet received necessary information from Okeechobee Equities to go forward with the preparation of an agreement. Chairperson Valdes made a motion to delete **Item 2** from the agenda, seconded by Council member Zardon and the motion passed unanimously by individualized voice vote of the council.

1. Gardens Commercial Holdings, Ltd. Water and Sewer Extension Agreements. **(Vote 5-0).**
2. Okeechobee Equities, LLC Sanitary Sewer Extension Agreement **(Deleted)**

10. **Discussion of zoning code special exceptions and setback requirements:** Mirtha Gonzalez, Chief Zoning Official addressed the council and stated that she was in the process of reviewing and updating the City's planning and zoning procedures. Mrs. Gonzalez explained that a couple of issues have surfaced regarding special exceptions and setback requirements. She provided memos to the council giving recommendations to establish uniform criteria for the granting of variances and requests for special exception uses. Council member Garcia pointed out that present setback requirements call for either a 0' or 15' setback which in and of itself is conflictive. After discussion among the council, Mrs. Gonzalez and Mr. Citrin, City Attorney, it was agreed that a uniform allowable setback should be adopted and variances would be considered on a case-by- case basis. At this time, Mrs. Gerri Fontanella resident of 13425 N.W. 102 Avenue, Hialeah Gardens, came forward and offered that the Fire Department should be consulted before the City establishes a setback to include the department's need for accessibility to property in case of an emergency. Council member Garcia suggested that a draft be prepared that establishes a 5' rear setback with the exception that if said rear setback happens to be on a road right of way then the required setback would be 15'. Mr. Citrin recommended that the issue be presented to the Planning and Zoning Board for their input as a meeting of the P & Z was scheduled for January 14, and any discussions or ideas could then be reported back to the council before a final decision is made. Ms. Gonzalez proceeded to discuss the issue of special exception uses and also gave recommendations on possible changes to the City's code in this respect. To clarify the matter, Mr. Citrin explained that special exception uses had been granted in the past that were not consistent with the allowable uses in the zoning district. Mr. Citrin cited two recent examples of applicants (Steak & Shake and Airways Hotel) who are requesting special exceptions uses that present zoning code does not address. He questioned that perhaps the City's ordinance as presently drafted is too restrictive because it has not kept track with the growth of the city's commercial, business and industrial development. Council member Garcia asked that this issue be presented to the Planning and Zoning Board for their discussion and recommendations before any action is taken to change existing zoning code. Mr. Maynard Hellman, 300 Sevilla Avenue, Coral Gables, came forward and voiced his concerns regarding his application on behalf of Airways Hotel who is requesting BU use in a CM zone. He expressed that he feels caught in the middle with respect to his project. The zoning board had given him an indication that

they were in favor of a hotel in the city, yet he has not been able to go forward due to the conflict surrounding the granting of special exception uses. Mrs. Gerri Fontanella, resident of 13425 N.W. 102 Avenue, Hialeah Gardens, once again addressed the council and stated that she believed there was a way that Mr. Hellman's project could be granted a special exception use under present code, but had to look at her notes from the Planning and Zoning Board meetings. She also took this opportunity to voice her support for the construction of a hotel in the City, stating that the City is growing and a hotel would add to the City's tax base as well as create jobs. Council member Garcia reiterated that both the special exception use issue as well as setback requirements would be discussed at the next council meeting with possible recommendations from P & Z.

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

**ORDINANCE 2002-01**

***ORDINANCE OF THE CITY OF HIALEAH GARDENS, FLORIDA, APPROVING A SITE PLAN FOR CACOPHONY CORP., CONCERNING PROPERTY LEGALLY DESCRIBED AS: TRACT A & B OF LICKERS SUBDIVISION AS RECORDED IN PLAT BOOK 157, AT PAGE 69, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA PROVIDING FOR CONDITIONS; PROVIDING FOR EFFECTIVE DATE. (Vote P & Z 3-0, T.R.C. 6-0) (Location: N.W. 114 St. between N.W. 93 Ave. and 94 Ave.)***

City Attorney Charles A. Citrin read the full title of the ordinance into the record. Council member Garcia made a motion to approve the resolution on first reading as an opportunity for public input would be allowed upon second reading. Council member Haddad seconded the motion and it passed unanimously by individualized voice vote of the council. Mr. Citrin took this opportunity to point out an argument that site plan approval does not require two readings. He stated the city has always done it with two, and that he was not recommending the council change their procedure, but rather wanted to advise them of this option. Council member Garcia offered that second readings on any project requiring a variance, special exception or site plan review which is of importance to the residents of the City, provides for additional advertisement and notice for public input. Following these comments it was agreed that two readings for ordinances requesting site plan approval would continue to be the will of the council. **(Vote 5-0)**

**ORDINANCE 2002-02**

***ORDINANCE OF THE CITY OF HIALEAH GARDENS, FLORIDA, APPROVING A SITE PLAN FOR IBIS COVE #1 (NORCA #1) CONCERNING PROPERTY LEGALLY DESCRIBED AS: THE WEST 230 FEET OF NORTH 150 FEET OF THE WEST***

**431.42 OF TRACT 64, IN SECTION 3, TOWNSHIP 53 SOUTH, RANGE 40 EAST, "FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. 1", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, AT PAGE 17, OF THE PUBLIC RECORD OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR EFFECTIVE DATE. (Vote P & Z 3-0, T.R.C. 6-0) (Location: East of N.W. 82 Ave. and South of N.W. 98 St.)**

City Attorney Charles A. Citrin read the full title of the ordinance into the record. Council member Garcia made a motion to approve the resolution on first reading as an opportunity for public input would be allowed upon second reading. Council member Haddad seconded the motion and it passed unanimously by individualized voice vote of the council. **(Vote 5-0)**

**ORDINANCE 2002-03**

**ORDINANCE OF THE CITY OF HIALEAH GARDENS, FLORIDA, APPROVING A SITE PLAN FOR MIAMI-DADE COUNTY FIRE DEPARTMENT CONCERNING PROPERTY LEGALLY DESCRIBED AS: A PORTION OF TRACTS 29, 30 AND 31, OF FLORIDA FRUIT LAND COMPANY'S SUBDIVISION NO. 1, 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, LYING NORTHERLY OF THE NORTHERLY RIGHT OF WAY LINE OF STATE ROAD 25, AS SHOWN IN RIGHT OF WAY MAP SECTION 87090-2518 AND LYING SOUTHERLY OF THE SOUTHERLY RIGHT WAY LINE OF NORTHWEST 103<sup>RD</sup> STREET AS RECORDED IN ROAD PLAT BOOK 60 AT PAGE 53 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR CONDITIONS; PROVIDING FOR EFFECTIVE DATE. (Vote P & Z 3-0, T.R.C. 6-0) (Location: S.E. corner of N.W. 87 Ave. and 103 St.)**

City Attorney Charles A. Citrin read the full title of the ordinance into the record. Council member Garcia made a motion to approve the resolution on first reading as an opportunity for public input would be allowed upon second reading. Council member Haddad seconded the motion and it passed unanimously by individualized voice vote of the council. **(Vote 5-0)** Mayor De La Cruz took this opportunity to welcome the crew from the Miami-Dade Fire Department present in the audience and offered his assistance and commitment to seeing this project become a reality.

**ORDINANCE 2002-04**

***ORDINANCE OF THE CITY OF HIALEAH GARDENS, FLORIDA, GRANTING A SPECIAL EXCEPTION USE TO PERMIT A GARDENS ACADEMY OF EXCELLENCE CHARTER SCHOOL OF 43,434 SQUARE FEET, CONCERNING PROPERTY LEGALLY DESCRIBED AS 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; PROVIDING FOR CONDITIONS; PROVIDING FOR EFFECTIVE DATE. (Vote P & Z 3-0, T.R.C. 6-0) (Location: 103 St. between Santa Navila and Hialeah Gardens City Hall)***

City Attorney Charles A. Citrin read the full title of the ordinance into the record. Council member Garcia made a motion to approve the resolution on first reading as an opportunity for public input would be allowed upon second reading. Council member Haddad seconded the motion and it passed unanimously by individualized voice vote of the council. At this time, however, Mr. Joe Lopez, Public Works Director, brought it to Mr. Citrin’s attention that there was a mistake in the legal description of property. A short break was requested to review the matter. As it turned out the legal description was in fact incorrect as it appears on the ordinance and therefore Mr. Citrin’s advice to council was that it be continued for first reading at the next council meeting. Mr. Felix Lasarte, attorney for the applicant came forward and voiced his opinion on the notice for the ordinance. After consideration of Mr. Lasarte’s remarks and further discussion, it was agreed that the best course of action would be to follow advice from legal counsel and continue the item for a first reading at the January 22, 2002 meeting with the correct legal description of the property.

12. **City Attorney’s Report** – Mr. Citrin was pleased to report that the results of the first E.E.O.C. meeting had been received and the City had been successful in its efforts. He also commended Ms. Aida Martinez and Mr. J. Frost Walker for their work on this case, as well as Mayor De La Cruz and Arturo Ruiz who served as chief witnesses.
13. **Mayor’s Report – Miscellaneous** – Mayor De La Cruz thanked Council members Garcia and Zardon for their work on securing Miami-Dade County funding.
14. **Council Members Concerns/Reports – Miscellaneous**

**Chairperson Valdes** – No comments.

**Council member Piña** - asked Mr. Citrin to look into the issue of the terms awarded to unopposed candidates for elected office in the City. There was discussion among the council, Mayor and Mr. Citrin regarding the two year and four year terms awarded to the candidate receiving the highest number of votes. Mr. Citrin stated he would report back at the next council meeting.

**Council member Garcia** - commended the Mayor for his work with Commissioner Miriam Alonso on the \$1 million dollar grant that provides assistance to residents with limited income to purchase a home. He also commended the Mayor on his work in securing access to a County program that would provide up to \$5 million for assistance to residents in paying their utility bills.

**Council member Zardon** – No comments.

**Council member Haddad** – stated he was not opposed to the building of a hotel in the City but voiced his concerns over what he believes to be ongoing traffic problems and how this project might exacerbate the situation.

15. **Adjournment** – The meeting was adjourned at 8:40 p.m.

Agenda Certified 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, February 5, 2002, 7:30 P.M.

PLANNING AND ZONING BOARD

Monday, February 11, 2002, 7:30 P.M.

TECHNICAL REVIEW COMMITTEE

Wednesday, February 6, 2002, 11:30 A.M.

WATER AND SEWER BOARD

Tuesday, January 29, 2002 7:30 P.M.