

MINUTES

CITY COUNCIL MEETING

TUESDAY, FEBRUARY 5, 2002

CITY HALL COUNCIL CHAMBERS
10001 NW 87 AVENUE

1. **Call to Order:** Chairperson Valdes called the meeting to order at 7:37 p.m.
2. **Roll Call:** Present were Chairperson Valdes, Council members Luciano Garcia, Miguel Haddad, and Manuel Zardon. Also present was City Attorney Charles A. Citrin.
3. **Invocation:** Council member Garcia gave the invocation.
4. **Pledge of Allegiance:** Chairperson Valdes led the Pledge of Allegiance.
5. **Deletions/Emergency Additions:** No deletions or additions were offered.
6. **Review of Minutes: January 22, 2002:** Chairperson Valdes made a motion to approve the minutes of January 22, 2002, seconded by Council member Garcia and the minutes were unanimously approved by individualized voice vote of the council. Chairperson Valdes took this opportunity to welcome Hialeah Councilman Julio Robaina to the meeting.
7. **Citizens' Miscellaneous:** Requests to place items on future agenda(s): Mr. Sergio Menendez resident of 9900 N.W. 137 Street asked to be placed on the agenda for the next council meeting on March 5, 2002 as did Mr. Angel Lage resident of 10478 N.W. 131 Street.
8. **Discussion of recommendations from Planning & Zoning Board regarding special exceptions and setback requirements:** Mirtha Gonzalez, Chief Zoning Official came forward and informed the council that a Planning and Zoning workshop had been held on January 31, 2002. As a result, recommendations were made to adopt the Miami-Dade County Code for setback requirements, which provides for a 0', 5', 10', or 15' setback. Mrs. Gonzalez also stated that discussions of possible revisions to special exceptions uses are on going, and the issue will be revisited at the next Planning and Zoning Board hearing on February 11, 2002.
9. **Discussion of terms for unopposed candidates to elected office:** Mr. Charles A. Citrin, City Attorney, asked the council to postpone this discussion for substantive reasons as the issue is somewhat complicated. He thought it best to address the matter after the election was held, even though technically there will be no election as both

incumbent candidates were unopposed and there were no other items to be placed on a ballot. Mr. Citrin also stated that he was in contact with counsel for the Elections Department and would be better able to report back once he had gathered further relevant information.

10. **First Reading for consideration of the following ordinance:**

ORDINANCE 2002-07

ORDINANCE OF THE CITY OF HIALEAH GARDENS, FLORIDA, GRANTING VARIANCES AND SITE PLAN REVIEW FOR: MACO COMMERCE CENTER MDT, LLC, CONCERNING PROPERTY LEGALLY DESCRIBED AS: W _ OF TRACT 25 LESS W 40' FOR ROAD RIGHT-OF-WAY AND W _ OF THE S _ OF TRACT 26, LESS THE WEST 40 FEET THEREOF FOR ROAD RIGHT-OF-WAY BOTH OF THE FLORIDA FRUIT LAND COMPANY'S SUBDIVISION NO. 1 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. PROVIDING FOR CONDITIONS; PROVIDING FOR EFFECTIVE DATE. (Vote P & Z 3-0, T.R.C. 5-0) (Location: Northeast corner of Okeechobee Rd. and N.W. 107 Ave.)

Mr. Charles A. Citrin read the full title of the ordinance into the record. Council member Garcia made a motion to approve the ordinance on first reading as an opportunity for public input would be allowed upon second reading. Chairperson Valdes seconded the motion and it passed unanimously by individualized voice vote of the council. **(Vote 4-0).**

11. **PUBLIC HEARING and Second Reading for consideration of final passage of the following ordinances:**

Mr. Charles A. Citrin swore in everyone present who would be testifying on either of the two ordinances presented in tonight's Public Hearing. He continued by reading the full title of the first ordinance into the record.

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 AND SITE PLAN REVIEW FOR GARDENS ACADEMY OF EXCELLENCE CHARTER SCHOOL; SANTA NAVILA SUBDIVISION PB 154-97T-20340 TRACT A LOT SIZE 2.107 ACRES M/L FAU 27-3003-001-0118 OR 17998-3141 0298 2(3); 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)

Chairperson Valdes opened the public hearing on this item for discussion at 7:50 p.m. Mirtha Gonzalez, Chief Zoning Official came forward and gave a report on the project's description. At this time Mr. Felix Lazarte introduced himself as counsel for both the applicant and for Charter Schools U.S.A. as the proposed manager/operator of the facility. Mr. Lazarte proceeded to give a presentation on the merits of granting a special exception use for the construction and operation of a charter school in a BU district. Mr. Lazarte introduced several expert witnesses including Ms. Tiffanie Pauline, Director of School Development with Charter Schools, U.S.A., Mr. Rafael G. Segredo, Real Estate Appraiser, Mr. Rob Curtis, Certified Planner, Ms. Alina T. Ferrer, Architect, Mr. Henry A. Fandrei, Engineer for Transport Analysis Professionals, and Mr. Raul Valls, Principal of the proposed charter school. Each witness gave testimony as to their involvement with the project and recommendations for its' approval. Mr. Luis Machado, applicant for the project, also came forward and added his testimony. The council's main concern was the additional traffic problems that could arise on 103rd Street as a result of the drop off and pick up of students in this area. A lengthy discussion ensued regarding this issue. It was agreed that an independent traffic study would be conducted and the results reported back to the Council before a decision was rendered on this application. The study would be performed by a firm chosen by Mr. Joe Lopez, Director Public Works with input from the City's administration. The applicant would be responsible for the cost of said study. At this time Mr. Daniel Cruz, resident, came forward and spoke favorably for the project. Mrs. Gerri Fontanella, resident, also came forward and voiced her concerns for the traffic problems and made suggestions that could perhaps alleviate the situation. Following all testimony, Chairperson Valdes closed the public hearing at 8:50 a.m. and a motion was made by Council member Garcia to table the item pending results of the traffic study. Chairperson Valdes offered a second and the motion carried unanimously. **(Vote 4-0 Tabled.)**

Chairperson Valdes made a motion to adjourn for a short recess at 8:50 p.m. At t his time Council member Haddad excused himself due to an illness in the family. The meeting reconvened at 9:05 p.m. Mayor De La Cruz was present for the remainder of the meeting.

ORDINANCE 2002-05

ORDINANCE OF THE CITY OF HIALEAH GARDENS, FLORIDA, APPROVING A SPECIAL EXCEPTION USE, VARIANCES AND SITE PLAN FOR STEAK N' SHAKE FAST FOOD DRIVE-IN ESTABLISHMENT CONCERNING PROPERTY LEGALLY DESCRIBED AS: TRACT "B" OF WALMART AT HIALEAH GARDENS, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 156, AT PAGE 6, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. PROVIDING FOR CONDITIONS; PROVIDING FOR EFFECTIVE

DATE (Vote P & Z 3-0, T.R.C. 4-0) (Location: Tract B of Wal-Mart N.W. 77 Ave. & 95 St.)

City Attorney Charles A. Citrin read the full title of the ordinance into the record. Chairperson Valdes opened the floor for discussion on the item at 9:05 p.m. Mirtha Gonzalez, Chief Zoning Official came forward and reported on the project's description. Ms. Susan Motley, attorney for the applicant was present and gave a brief presentation on the merits of the project. Ms. Motley made reference to an issue brought up by the Planning and Zoning Board regarding the applicant's request for a sign facing Okeechobee Road. The Board stated that the Okeechobee sign was not considered an on site sign but rather an off site sign because it would be located on the easement of the Wal-Mart property. Ms. Motley added that the exposure to Okeechobee Road would be critical to the development of this property and cited Chapter 78-2 of the City code for definitions of a site and subdivision in support of her case. Council member Garcia asked counsel if there would be a way to tie in the off site sign usage to the applicant's out parcel. Ms. Motley stated that the applicant would be amenable to a condition that provided for the sign only to be used by the out parcel while it was in business as Steak N' Shake. Mr. Citrin pointed out that Chapter 78-2 has actually never been adopted but rather referred to Chapter 155.14.01 of the City Code and offered that there was no change in the verbiage. He also referred to Ordinance 97-19A, which in fact granted special exception use to this particular development site. He reminded the council that although this ordinance provided for special exception use for this parcel, they should make sure they felt comfortable that all special exception requirements under 155.17.03 of the City code were met. Mr. Pablo Alvarez resident of 110 N.W. 135 Street, was sworn in and proceeded to express his concern over drainage for the project and allowances for green space. Ms. Motley noted that the project exceeds the City's requirements for compliance with landscaping and provides for adequate on site drainage. Chairperson Valdes asked if there was anyone else present who wished to be heard, as no one came forward she closed the public hearing at 9:25 p.m. Based on staff's recommendation Council member Garcia made a motion to approve with the proviso that Mr. Citrin amend the ordinance to tie in the off site sign use to the original parcel. Chairperson Valdes seconded the motion and Council member Zardon voted in favor. **(Vote 3-0)** Mr. Citrin took this opportunity to note a conflict in the procedure required to pass a special exception use as described in the City's Code. Technically, the old format requires a written recommendation from the Mayor before approval of a special exception; the new format however affords the Mayor the right to veto after council approval. Mr. Citrin stated that this conflict would be clarified, but wanted council and attorney for the applicant to be aware of the discrepancy. Ms. Motley offered her agreement that the ordinance be allowed to move forward without a written recommendation from the Mayor.

12. City Attorney's Report – No Comments

13. Mayor's Report – Mayor De La Cruz informed that the City audit had been completed and as a result there was a surplus of \$810,000.00 the largest reported in the last ten years. The money will be used for capital improvements, streets, the Police Department and Parks and Recreation.

14. **Council Members Concerns/Reports – Miscellaneous**

Council Member Garcia – No Comments

Council Member Zardon – No Comments

Chairperson Valdes – No Comments

15. **Adjournment:** The meeting was adjourned at 9:40 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, March 5, 2002, 7:30 P.M.

PLANNING AND ZONING BOARD

To Be Announced

TECHNICAL REVIEW COMMITTEE

To Be Announced

WATER AND SEWER BOARD

Tuesday, February 26, 2002, 7:30 P.M.