

**ACTION AGENDA
CITY COUNCIL MEETING**

November 2, 2009
4:30 o'clock p.m.



FORT MYERS CITY COUNCIL						
Mayor	Ward 1	Ward 2	Ward 3	Ward 4	Ward 5	Ward 6
Jim Humphrey	Warren J. Wright	Johnny W. Streets, Jr.	Levon Simms	Michael Flanders	Randall P. Henderson, Jr.	Thomas C. Leonardo

CITY COUNCIL CHAMBERS, 2200 SECOND STREET, FORT MYERS, FLORIDA

Please complete a "Request to Speak" form if you plan to address the City Council and submit to the City Clerk prior to the start of the meeting.

CALL TO ORDER (4:36)

Opening Prayer: Bill Smith, retired Pastor, First Baptist Church of Fort Myers (4:43)

The meeting was opened with prayer by Bill Smith, retired Pastor, First Baptist Church of Fort Myers.

Pledge of Allegiance to the Flag of the United States of America (4:49)

The Pledge of Allegiance to the Flag of the United States of America was led by Rissa Flanders, daughter of Councilman Michael Flanders; Alexandra Alley, Chase Alley, Sierra Alley, Austin Alley, children of City Attorney Grant W. Alley; Amy Johnston, Rick Johnston, Mathew Johnston, Samantha Johnston, daughter, son-in-law and grandchildren of Mayor Jim Humphrey; and Sarah Brown, Margaret Brown, and Lillian Brown, guests of City Clerk Marie Adams.

The meeting recessed at 4:51 o'clock p.m.
The meeting reconvened at 4:52 o'clock p.m.

Roll Call (4:52)

Absent: None.

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PROCLAMATIONS AND SPECIAL PRESENTATIONS

- A. Proclamation recognizing November 19, 2009, as Great American Smoke-Out Day (4:53)

Mayor Humphrey presented the proclamation to Brendan Donohue, Tobacco Coordinator, Students Working Against Tobacco.

CITY MANAGER'S ITEMS

- 23. Resolution naming City Hall, 2200 Second Street, Oscar M. Corbin Jr. City Hall (Ward 4) (4:58)

Resolution No. 2009-44 adopted.

The meeting recessed at 5:22 o'clock p.m.
The meeting reconvened at 5:34 o'clock p.m.

PUBLIC INPUT – NON-PUBLIC HEARING AGENDA ITEMS: (Four (4) minute time limit per speaker) (5:38)

Public Hearing: Item Nos. 10-11 (Public input will be heard during the public hearings)

Gina Sabiston, Vice Chair, Historic Preservation Commission and President, Lee Trust for Historic Preservation, spoke on Item No. 12. David Urich, resident, spoke on Item No. 12. Raimond Aulen, downtown business owner, spoke on Item No. 12.

CONSENT AGENDA (ITEM NOS. 1-9) (5:44)

Any Council Member may have an item removed from the consent agenda and placed on the regular agenda for discussion following the consent agenda.

- 1. Minutes of the regular meeting held on October 19, 2009, and the special meeting held on October 26, 2009 (5:44)
- 1a. Nomination of Daniel C. Moser, by Councilman Flanders, for reappointment to the Bicycle and Pedestrian Advisory Board, term effective October 1, 2009, through September 30, 2012 (5:44)

Approved.

Approved.

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2. Nomination of Pattie J. Robinson, by Councilman Simms, for reappointment to the Beautification Advisory Board, term effective October 1, 2009, through September 30, 2012	Removed from agenda on October 29, 2009.
2a. Nomination of Ava Roeder, by Mayor Humphrey, for reappointment of to the Public Art Committee, term effective October 1, 2009, through September 30, 2012 (5:44)	Approved.
2b. Budget amendment, in the amount of \$100,000.00, transferring funds from Ward 1 Neighborhood Improvement Program capital project to Billy Creek Drainage Improvements West of Interstate 75 capital project, utilizing funding from General Fund Pay-As-You-Go, for solar lighting, picnic shelters, and benches at Billy Creek Filter Marsh (Ward 1) (5:44)	Approved.
3. 2008-2009 budget amendment, in the amount of \$15,000.00, appropriating funds from Utility Expense Reserves and increasing 2009 Gasification Plant Clean-Up Capital Project by like amount, for testing at the Old Water Plant site, now known as the Imaginarium, located at the southeast corner of Dr. Martin Luther King Jr. Boulevard and Evans Avenue (Ward 3) (5:44)	Approved.

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4. Budget amendment, in the amount of \$22,000.00, appropriating funds from Miscellaneous Revenue Funds and increasing Intersection Safety Improvements by like amount, utilizing funds received from United Parcel Service, 2901 Cargo Street, for improvements to Cargo Street Railroad Crossing

And

Proposal, in the amount of \$44,000.00, from Seminole Gulf Railway, L.P. for improvements to Cargo Street Railroad Crossing related to site permit for United Parcel Service, 2901 Cargo Street (Ward 3) (5:44)

Approved.

5. Subrecipient Agreement for the 2009-2010 Community Development Block Grant Program, in the not-to-exceed amount of \$25,000.00, with Dr. Ella Piper Center for Social Services, Inc., allocating \$500.00 per low-moderate income senior 55 and older City resident receiving employment training, effective October 1, 2009, through September 30, 2010

Removed from Consent Agenda by Councilman Streets.

6. Amendment No. 1, in the not-to-exceed amount of \$114,000.00, to Subrecipient Agreement for the 2008-2010 Community Development Block Grant Program with Home Ownership Resource Center of Lee County, Inc., increasing funding by \$64,000.00, allocating \$500.00 per low-moderate income City resident receiving housing counseling, and extending the effective date to September 30, 2010

Removed from Consent Agenda by Councilman Streets.

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7. Amendment No. 1, in the not-to-exceed amount of \$96,000.00, to Subrecipient Agreement for the 2008-2010 Community Development Block Grant Program with Quality Life Center of Southwest Florida, Inc., increasing funding by \$60,000.00, allocating \$500.00 per low-moderate income City resident receiving job training, and extending the effective date to September 30, 2010

Removed from Consent Agenda by Councilman Streets.

8. Amendment No. 2 to the Conference & Convention Council of Fort Myers, Florida, Inc. By Laws to accommodate future expansion of Harborside Event Center, 1375 Monroe Street, and the River District (Ward 4)

Removed from agenda by Rose Rundle, General Manager, Harborside Event Center, on October 30, 2009.

9. Participation in City of Stuart Bid No. 2009-243, Chemicals: Water Treatment Plant/Wastewater Treatment Plant for Liquid Sodium Hypochlorite, in the estimated annual amount of \$500,000.00, from Allied Universal Corporation for use in drinking water and wastewater operations (5:44)

Approved.

ITEMS REMOVED FROM CONSENT AGENDA

5. Subrecipient Agreement for the 2009-2010 Community Development Block Grant Program, in the not-to-exceed amount of \$25,000.00, with Dr. Ella Piper Center for Social Services, Inc., allocating \$500.00 per low-moderate income senior 55 and older City resident receiving employment training, effective October 1, 2009, through September 30, 2010 (5:44)

Approved.

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6. Amendment No. 1, in the not-to-exceed amount of \$114,000.00, to Subrecipient Agreement for the 2008-2010 Community Development Block Grant Program with Home Ownership Resource Center of Lee County, Inc., increasing funding by \$64,000.00, allocating \$500.00 per low-moderate income City resident receiving housing counseling, and extending the effective date to September 30, 2010 (5:46)

Approved.

7. Amendment No. 1, in the not-to-exceed amount of \$96,000.00, to Subrecipient Agreement for the 2008-2010 Community Development Block Grant Program with Quality Life Center of Southwest Florida, Inc., increasing funding by \$60,000.00, allocating \$500.00 per low-moderate income City resident receiving job training, and extending the effective date to September 30, 2010 (5:48)

Approved.

CITY MANAGER'S ITEMS - continued

24. Resolution expressing the intention to forgive the loan to the Thomas Edison & Henry Ford Winter Estates, Inc. to a time when it is financially feasible for the City (Ward 4) (5:51)

Resolution not adopted. Review forgiving loan in six months and if revenue is received above the estimated amount forgive \$200,000.00 at that time; and if not forgive \$200,000.00 of loan in 2011 at time loan is due and \$200,000.00 in 2012.

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26. Extension Agreement with Champion Development Corporation, successor to AGBLLC of Florida; Lee County Young Men's Christian Association, Inc.; and the City extending the commencement of construction to December 21, 2010, and completion of construction to December 21, 2011, for the YMCA facility at The Forum at Fort Myers (Ward 6) (6:12)

Approved with amendments as follows:

- WHEREAS: the Deed provided that the obligations of the YMCA could be extended for excusable delays; and
- WHEREAS: the parties desire to amend the obligation contained in such Deed to replace the deadlines provided therein; and
- 2. (i) commence construction of the YMCA facilities no later than December 1, 2012;
- 2.(iii) complete the YMCA facilities, as evidenced by a certificate of occupancy no later than December 1, 2013.
- 2. . . Upon satisfaction of the foregoing conditions, the parties to this Agreement agree to enter into and execute such acknowledgements, releases, quit-claim deeds, or other reasonably required documents to show that the YMCA has satisfied the foregoing conditions and that the property is no longer subject to the contingent interest of the City of Fort Myers.

PUBLIC HEARINGS (on or about 5:15 o'clock p.m. or as soon thereafter as can be heard)

10. Ordinance No. 3529 providing for Small Scale Map Amendment 09-MA-01 to the Future Land Use Map, amending land use designation from Light Industrial to Medium-Density Single-Family/Duplex for property located at 2633, 2643, 2645, 2655, 2663, and 2667 Lafayette Street and abandon Ordinance No. 3523 approved for advertising on September 8, 2009 (Ward 3) (6:25)

Ordinance No. 3529 adopted.

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11. CONTINUED PUBLIC HEARING: Lease Agreement, in the annual amount of \$1.00, with The Edison Pageant of Light, Inc., for lease of the Langford-Kingston Home, 2500 First Street, real property in a Community Redevelopment Area, for restoration and occupation while maintaining the structure and landscaping, pursuant to Florida Statute 163.380, effective for 5 years with a subsidy in the amount of \$105,000.00 over a 3 year period (Ward 4) (6:28)

Approved with revisions as follows:

- The effective date of the lease would be the date of the Certificate of Occupancy.
- Fire suppression as required added to 13.(a)
- The conceptual plan was required prior to occupancy instead of prior to execution of the lease.

The meeting recessed at 6:43 o'clock p.m.

The meeting reconvened 6:55 o'clock p.m.

11. CONTINUED PUBLIC HEARING – REOPENED: Lease Agreement, in the annual amount of \$1.00, with The Edison Pageant of Light, Inc., for lease of the Langford-Kingston Home, 2500 First Street, real property in a Community Redevelopment Area, for restoration and occupation while maintaining the structure and landscaping, pursuant to Florida Statute 163.380, effective for 5 years with a subsidy in the amount of \$105,000.00 over a 3 year period (Ward 4) (6:55)

No action taken other than previous approval.

CITY COUNCIL COMMENTS AND ITEMS FOR CONSIDERATION

12. Condition and repairs needed to the Hall of 50 States, 2254 Edwards Drive (Councilman Streets) (Ward 4) (7:00)

No action taken.

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CITY MANAGER'S ITEMS - continued

25. Budget amendment, in the amount of \$397,434.00, utilizing funding from Hurricane Protection Selected Facilities, in the amount of \$39,000.00; Americans With Disabilities Compliance Renovations of \$80,260.00; 2006A revenue bond proceeds, portion remaining from Southwest Florida Enterprise Center Improvements capital projects of \$103,302.00, and appropriating funds allocated for Langford-Kingston Home from Facilities and Construction Management Fund of \$174,872.00, and establish a capital improvement project, in the amount of \$397,434.00, for Langford-Kingston Home Improvements, 2500 First Street (Ward 4) (7:39)

Approved.

PERMISSION TO ADVERTISE

13. Ordinance amending Ordinance No. 2959, the Planned Unit Development for 2650 Fowler Street, by relinquishing wholesale auto auction from Schedule of Uses, including repossession storage yard to Schedule of Uses, adopting a revised site plan, and providing for new ownership of the property, as requested by Partners Trust, LLC, current owner (Quasi-Judicial) (Ward 3) (7:42)
14. Ordinance amending Ordinance No. 3346, the Planned Unit Development for Colonial 70, located south of Colonial Boulevard and east of Camino Real Way, by extending timeframes, adding assisted care facility as a permitted use, and adopting a revised site plan, as requested by Southwest Florida Everglades, LLC, owner (Quasi-Judicial) (Ward 6) (7:43)

Permission to advertise Ordinance No. 3531 for a public hearing.

Permission to advertise Ordinance No. 3532 for a public hearing.

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CITY ATTORNEY'S ITEMS

27. Multimedia Holdings Corporation, Inc. v Warren Wright, et al (7:50)

Approval to file appeal.

PERMISSION TO ADVERTISE - continued

15. Ordinance amending and restating the Planned Unit Development for One West, formerly known as First River Condominiums, located at 2220 West First Street and 1901 Altamont Avenue, by extending timeframes, adding hotel as a permitted use, and rescinding Ordinance No. 3263, Ordinance No. 3435, and Ordinance No. 3493, as requested by Fort Myers Development, LLC, owner (Quasi-Judicial) (Ward 4) (8:11)

Permission to advertise Ordinance No. 3533 for a public hearing.

16. Ordinance rescinding Ordinance No. 3311, the Planned Unit Development for Orthopedic Specialists, GRW Associates, LLC, owners, and restoring the underlying zoning of Medium Density Multifamily, now known as Residential Multifamily-12 on 2075 South Street (Quasi-Judicial) (Ward 3) (8:12)

Permission to advertise Ordinance No. 3534 for a public hearing.

17. Transmittal of Comprehensive Plan Text Amendment 09-TA-01 to Florida Department of Community Affairs and other required agencies for review and subsequent Objections, Recommendations, and Comments Report, allowing existing Light Industrial uses, formerly I-1, to remain on 1828 Evans Avenue and clarifying Future Land Use provisions governing former Light Industrial uses within the Downtown Redevelopment Area (Ward 4)

Removed from agenda by Robert Gardner, Director, Community Development Department, on October 30, 2009.

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18. Transmittal of Comprehensive Plan Text Amendment 09-TA-02 to Florida Department of Community Affairs and other required agencies for review and subsequent Objections, Recommendations, and Comments Report, removing the Parking Structure Overlay District, creating the Convention Hotel Overlay District land use designation, increasing the floor area ratio in Urban Center, removing reference to amending the Land Development Code to implement the Streetscape within the Downtown Redevelopment Area, and amending the list of neighborhood and redevelopment plans (Ward 4)	Removed from agenda by Robert Gardner, Director, Community Development Department, on October 27, 2009.
19. Transmittal of Future Land Use Map Amendment 09-MA-02 to Florida Department of Community Affairs and other required agencies for review and subsequent Objections, Recommendations, and Comments Report, removing the Parking Structure Overlay District and adding the newly created Convention Hotel Overlay District (Ward 4)	Removed from agenda by Robert Gardner, Director, Community Development Department, on October 27, 2009.
20. Transmittal of Comprehensive Plan Text Amendment 09-TA-05 to Florida Department of Community Affairs and other required agencies for review and subsequent Objections, Recommendations, and Comments Report, amending the Conservation and Coastal Management Element by updating Maps L and L-1 delineating wetland and upland areas (8:13)	Permission to advertise for a transmittal public hearing.

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<p>21. Transmittal of Future Land Use Map Amendment 09-MA-05 to Florida Department of Community Affairs and other required agencies for review and subsequent Objections, Recommendations, and Comments Report, modifying the allocation of Land Uses on property located on State Road 82, in accordance with the Development Agreements with Keystone Creek, LLC and C-Hack, LLC (Ward 6) (8:13)</p>	<p>Permission to advertise for a transmittal public hearing.</p>
<p>22. Transmittal of Future Land Use Map Amendment 09-MA-06 to Florida Department of Community Affairs and other required agencies for review and subsequent Objections, Recommendations, and Comments Report, contracting the City boundary in accordance with Ordinance No. 3514, the deannexation of 2 parcels containing 125.42 acres, more or less, known as Airside Plaza Development of Regional Impact, located on Daniels Parkway (Ward 6) (8:14)</p>	<p>Permission to advertise for a transmittal public hearing.</p>
<p>22a. Public hearing and 15 day comment period regarding the Fourth Program Year Consolidated Annual Performance and Evaluation Report for 2008-2009 Community Development Block Grant Program (8:14)</p>	<p>Permission to advertise for a public hearing and 15 day comment period.</p>

Time allocated for public comment on non-agenda items shall be limited to a total of thirty minutes, or such other period of time that may be approved by a majority of City Council.

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PUBLIC COMMENT - NON-AGENDA ITEMS:

Speakers who have notified the City Clerk of the specific subject no later than five (5) calendar days prior to the Council meeting may speak on subject matters not on the agenda, provided that the subject matter is within the jurisdiction of the City Council. (Four (4) minute time limit per speaker; if speaker addressed City Council during Public Input on Agenda Items, the time limit shall be three (3) minutes.)

Jim Becker, business owner, spoke on 18 to 21 year olds in establishments selling alcoholic beverages.

PUBLIC COMMENT - NON-AGENDA ITEMS:

Speakers who failed to notify the City Clerk no later than five (5) calendar days prior to the Council meeting may speak on subject matters not listed on the agenda, provided the subject matter is within the jurisdiction of the City Council. Each speaker must complete and submit a Request to Speak form to the City Clerk prior to the beginning of the meeting. (Three (3) minute time limit per speaker.)

There was no one present to be heard.

Adjourn: 8:22 o'clock p.m.