

September 16, 2014

5:30 PM

The City Council of the City of Inverness met on the above date in Regular Session at 212 W. Main Street with the following members present:

President Hinkle
Vice President Hepfer (Not present)
Councilwoman Bega
Councilman McBride
Councilman Ryan
Mayor Plaisted

Also present were City Manager DiGiovanni, City Attorney Haag, Asst. City Manager Williams, Community Development Director Malm, Public Works Director Cottrell, Woodard & Curran Director Mike Regina, and City Clerk Davis.

The Invocation was given by Councilman Ryan and the Pledge of Allegiance was led by the City Council.

ACCEPTANCE OF AGENDA

Councilman Hinkle motioned to accept the Agenda and moving the Mayors Local Achievement Awards as presented. Seconded by Councilman McBride. The motioned carried.

PUBLIC HEARINGS

None

OPEN PUBLIC MEETING

None

CITY ATTORNEY REPORT

None

SCHEDULED APPEARANCES

Map of 4 county region - 750,000 population within 4 county area

6)a) WRWSA – Richard Owen appeared before Council and presented the background of the Withlacoochee Regional Water Supply Authority, the Regional Water Supply Planning ,Water Conservation, and other Activities. He displayed a map of the four county region, which consists of a 750,000 population within the four county area. The Water Authority plans for future water supplies for member governments, and locates, develops, delivers wholesale water supply to member governments as needed. The board representation consisted of Citrus County (3); Hernando (3); Marion (4); Sumter (3). He spoke to the Charles A. Black Wellfields and the supply demand projections (2010-2035) and the increase in demand in each of the counties, as well as in the categories ia; Public Supply, Domestic, industrial commercial; recreational, and agriculture. He addressed

their Water Conservation Efforts, and the Results, and the WRWAS Current Activities. The Regional Priorities and objectives are to Increase Conservation; Maximize Beneficial use of Reclaimed Water; and Partner with Withlacoochee Regional Water Supply authority to promote regional water supply planning and development.

MAYOR'S LOCAL ACHIEVEMENT AWARDS

7)a) Child Passenger Safety Week Proclamation – Presentation* Sue Littman, of the Early Learning Coalition of the Nature Coast and Michelle Tewell of the Citrus County Sheriff's Dept. were presented a Proclamation by Mayor Plaisted. Sue Littman, spoke and encouraged people to take advantage of the service for car seat inspections, at the sites in Crystal River at the Early Learning Coalition, and the Sheriff's Whispering Pines Park Administration Bldg.

CONSENT AGENDA

Councilwoman Bega motioned to accept the Consent Agenda. Seconded by Councilman McBride. The motion carried.

- a) Bill Listing*
 - Recommendation – Approval
- b) Council Minutes – 09/02/14 *
 - Recommendation – Approval

CITY MANAGER'S REPORT

10)a) A/V Agreement – Construction Manager at Risk was addressed by City Manager DiGiovanni who advised that a major component to the success of the Valerie Theatre and Plaza is the sound system and visual (AV) component. The City has engaged the firm of Clancy and Theys for continual services of Construction Manager at Risk (CMAR), and with keeping with the scope of the agreement for CMAR, we requested that they develop and propose a guaranteed maximum price (GMP) to specially design and engineer an integrated A/V system. An amendment to the Construction Management at Risk Agreement that outlines a guaranteed maximum price for the Audio/Visual Systems Project at \$355,258 has been provided for Council action and is based on the prospective diligence of pre-construction services. He stated that this is the 3rd element to this project.

Councilman Ryan questioned what the increase was, and it was explained that this is not an increase but is designed as the 3rd project (modification) to the Construction Management Agreement that we have, and is included within the CIP budgeted for this project.

Councilman McBride questioned what it will do. City Manager explained that it is the management of sound within the Theatre and is part of the major functions for a cultural building, which brings a dynamic element to the overall Theatre.

Councilman McBride motioned to authorize that the Council President execute the amendment to the CMAR continual services agreement for the Audio/Visual Systems Project. Seconded by Councilman Ryan . The motion carried unanimously.

10)b) Law Enforcement Services was addressed with City Manager DiGiovanni advising that City Administration has met with representatives of the Sheriff's Office to clarify points and develop wording to renew the Agreement. The program cost for next fiscal year is structured at \$747,620 which is an increase of \$14,455 from the previous (current) year. We wanted to get language to what it was in 2004 to maintain a consistency over a 10 year period.

He advised that through the authorities of City Charter, elected officials directs how law enforcement will be applied in the COI and does so through the Inter-Agency Agreement. After this was placed on the agenda, the Sheriff Dept. found fault with 2 elements of the 10 year Agreement. 1) Language that says the City Council reserves the understanding that we will direct law enforcement services and another was on sovereign immunity. There are 2 recommendations to modify the agreement, stating that he doesn't feel it needs to be modified. He asked that Attorney Haag speak on what he understands the amelioration might need to be.

Attorney Haag noted Section 2, of the Agreement, last sentence which states that a *"Inverness similarly retains the right to control law enforcement services provided pursuant to this Agreement"*. The Sheriff's Office has one concern that the City is going to try to control or dictate how the deputies perform their functions. Attorney Haag had a concern with the language, that when using the term control, it comes with liability, and could possibly get dragged into litigation with the Sheriff Dept by an aggrieved citizen. That language also appears in Section 3, and repeats Inverness' right to control and supervise law enforcement services. We already state in Section 2, that both parties recognize that Inverness retains the right to resume responsibilities to provide law enforcement services within the City at the expiration of this agreement. He thinks we can do without the control language in the agreement. Both he and the Sheriff Office have the concern if we are opening up Pandora's box when it comes to liability. He noted that if this were to occur it would be quite expensive. The only other item of concern was at the end Section 13, Indemnification and Hold Harmless – we end the paragraph with language to the effect that *"The Sheriff does not assume any existing or contingent liabilities regarding liability of Inverness unless specifically listed above. By agreement to the provisions of this paragraph 13, the parties hereto do not in any way waive or limit their entitlements of sovereign immunity."* Sheriff's Office Attorney Wes Bradshaw, has asked that the last sentence be changed to read *"notwithstanding the foregoing, the parties intend to avail themselves of the benefits of Section 768.28, Florida Statutes, and of other statutes and common law governing sovereign immunity to the fullest extent possible. Nothing in this agreement is intended to insure to the benefit of any third-party for the purposes of allowing a claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law."* He noted that this was more encompassing from the original agreement, and has no problem substituting the last sentence for what Attorney Bradshaw requested, and would be up to City Council.

City Manager DiGiovanni stated that the fact that you are contracting with someone gets you culpable in litigation. As far as the City dealing with potential liabilities and litigations, just because you made the determination to contract with someone to perform certain acts, you can get pulled into things, but it doesn't mean you're going to lose. He wanted to be clear on the gravity or lack of, of what we are discussing and how the

change came about. Council should hear all points of a position and make the determination you feel is best.

Attorney Haag explained that portions of changes to the Agreement, came from the Sheriff's Dept. Attorney, so therefore they will likely approve this.

He clarified the changes in paragraph 2, that the last sentence would be eliminated and the last sentence of paragraph 3, insert a period after the word requested. After the word regular, add the phrase "and Special". The last sentence in paragraph 13 would be replaced with language previously read into the record.

Councilman McBride stated he had no problem with changing both paragraph 2 and 3. He questioned if changing the verbiage in Paragraph 13 as recommended by the Sheriff Attorney is a good thing for the City. Attorney Haag explained that it applied to both the Sheriff and the City and the purpose of it is to avail ourselves of any theory of sovereign immunity that a lawyer can dream up. Councilman McBride question if there was anything in these changes that will bring about an unintended consequence? Attorney Haag stated he didn't foresee any issue.

Councilwoman Bega motioned to support and accept the Agreement with the Citrus County Sheriff's Office for Law Enforcement Services through September 30th, 2015, and authorize that the Council President execute the document, with recommended changes by Attorney Haag. Seconded by Councilman Ryan. The motion carried unanimously.

10)c) Parking Ordinance (1st Reading) was addressed. City Manager DiGiovanni pointed out that the proposed Parking Ordinance has been modified to replace the current outdated Ordinance with a modern approach to parking regulation and management, while addressing certain behaviors that require added attention. He noted that this was not about tickets and over regulation, but the ability to modify existing regulations to better address the high amount of activity in the downtown. Most comments on parking are about convenience. We have a parking ordinance that has worked up to the present, is running into difficulty. There are more people wanting to come to downtown, larger vehicles, situations with people backing into light poles/vehicles, parking on wrong sides of road, etc. We need to get parking regulations to address these situations. He commended the work put into this by Dale Malm and Eric Williams. He stated that just prior to this meeting he had conversation with Attorney Haag and they both wished to review this again to be sure the Ordinance is codified correctly and is ready for their first reading. This gives us the opportunity to have Council's input on the parking situation. He noted that we do not make money on issuing tickets.

What is before you in this ordinance, redacts the majority of the current parking ordinance, and brings forward a new approach. This deals with impounding vehicles, driveways, sidewalks, and two hour parking regulations.

Councilman Ryan stated that lawnmowers on trailers are parking in the IGC parking lot taking up to seven spaces. Also some business owners complain that the events take away from their customer parking. He also has received comments on vendors at the Farmers Market that park in the lot and take up a lot of spaces.

Councilwoman Bega commented that some of it is a little restrictive. She referenced Page 15, Section 21.19, Parking for Certain Purposes Prohibited and understands that you are not allowed to put a "for sale" sign in the car, with the exclusion, that if you have

a license to sell cars or if it's your car, the registered car owner is the registered owner of the property. She thinks there should be different verbiage because when you have to follow the rules or enforce the rules you can't pick and choose who you enforce them for, but must enforce them for everybody. She referenced Section 21.19, (4) and noted how people are having their cars wrapped, with business signs, magnetic signs on their cars. Is this prohibiting that unless you're the owner of the property? Councilwoman Bega asked what's a sign, and what's not a sign? Are you really advertising a business doing that or is that a sign for your own business. With the "car for sale" sign, maybe there is a number, a limit to how many per year, or so many at one time.

Councilman Ryan and Councilwoman Bega spoke of cars that are wrapped with a business name and spoke ordinance language which needed clarification.

Council President Hinkle brought up that during events downtown, we have a lot of private businesses their driveways are blocked by people, with a chain and people think it's a parking spot, and people parking on sidewalks.

City Manager DiGiovanni stated that sidewalk violations and backing in is a problem, which are things we need to address. He stated that we will revisit what council has addressed. If there are questions beyond this evening, please jot them down and they can be addressed when the Ordinance is brought forward.

10)d) Commercial Sanitation Rate Modification – Resolution was addressed. City Manager DiGiovanni explained that rates are annually adjusted by contract for all facets of this program, and the City must additionally adjust rates for the shared dumpster program. The City's Residential and Commercial Rates for Collection, which are shown in the proposed annual rate sheet (Attachment A), and Fiscal Year 2014/15 Customer Rate Schedule, have been adjusted to correspond to the Consumer Price Index, and in accordance with the Franchise Agreement. The Shared Dumpster Program Sanitation Rates have been modified to reflect the collection and disposal and operational costs of the facility. Once approved, the rate structure for the 2014/15 Fiscal Year, will become effective October 1, 2014.

Councilman Ryan motioned to read Resolution 2014-23 read by title only. Seconded by Councilman McBride. The motion carried.

RESOLUTION 2014-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INVERNESS, FLORIDA, ADOPTING THE 2014/15 COMMERCIAL SANITATION RATES AND AMENDING THE RATE SECTION, ATTACHMENT A, TO THE FRANCHISE AGREEMENT BETWEEN THE CITY AND WASTE MANAGEMENT AND PROVIDING FOR AN EFFECTIVE DATE.

Councilman McBride motioned to adopt Resolution 2014-23 by roll call vote. Seconded by Councilwoman Bega. Roll call vote was as follows:, Councilman Ryan, yes; Councilwoman Bega, yes; Councilman McBride, yes; President Hinkle, yes. The motion carried.

10)e) Veteran's Day parade – FDOT Permit – Approval was addressed with City Manager DiGiovanni explaining that FDOT must approve the temporary closing of Hwy 41/44 (FDOT roadway) to accommodate the Veterans Day Parade. City Council must authorize the City's hosting of the parade and accommodation of the parade to be held on Veteran's Day, Tuesday, November 11th, 2014. This action is taken by FDOT confirming that the elected officials support the closing of the road. **Councilman McBride motioned to authorize that the City host and accommodate the Veterans Day Parade on November 11th, 2014, on the FDOT Highway 41/44 through town, and accordingly support a temporary closure of the road for this purpose. Seconded by Councilman Ryan . The motion carried unanimously.**

10)f) Agreement – City Manager Services - Due to the fact he was not able to get this agreement into agenda packet and hasn't been distributed until this evening, he recommended not acting on it this evening. He stated that he has tried to provide history of past, the elements of the old contract are incorporated into the new with some changes and additions. You can also see on 1st page what was in the old contract, but not received by himself due to commonality with everyone else. He tried to in the memorandum, keep things clear as the cost. The FRS still requires that the City pay FRS (\$16,300), that will go into the program with no benefit derived by this community. He can no longer collect from the FRS. He suggested that the Council President call a Special meeting of City Council on Thursday, Sept 18th at 5:15pm, or immediately following the Budget Public Hearing to adopt the 2014/15 Budget. This will provide them time to review the Agreement and jot down questions and have an open discussion. **Council President Hinkle called for a special meeting to take place on Thursday, September 18th @ 5:15pm, or immediately following the Budget Public Hearing. Consensus was received by all.**

City Manager DiGiovanni additionally reported on the following:

He noted the Progress Report of the Valerie Theatre provided to them this evening, which included a pictorial essay of the progress. We will have a photo essay available the day of the opening.

COUNCIL/MAYOR SUBJECTS

Mayor Plaisted commented on 9-11 ceremonies through the day. He questioned the status of the Pritchard Island situation with Sanitation. City Manager noted he was sure if we would achieve satisfaction with all the resident, however the program is working as in other communities throughout the City.

Councilwoman Bega commented that she has met new employee Liz who is working in Events, who is a nice addition to the City.

Councilman McBride commented on the 9-11 event. We are about to embark on a busy time in the City. So Buckle Up!

Councilman Ryan also commented on attending the 9-11 ceremony, which was very moving. He expressed appreciation to Law Enforcement, Fire Dept., schools, and veterans, who all attended.

Councilman Hinkle spoke to 9-11 ceremony and the event at the Hospital “Stair Climb” put on by the Fire Dept.

CITIZENS NOT ON AGENDA

Karen Estey, resident and member of the MPO Citizens Advisory Council provided a synopsis of the first MPO/CAC Meeting (Citizens Advisory Council), they had in Brooksville. She advised of the Chairman and V Chairman they nominated. In addition, she noted that the Advisory Council deleted item # 13 on priority list regarding the Floral City Bypass. There was discussion on how changes to the priority lists were being made without the knowledge or action of the MPO Board. She advised that the CAC is trying to create priorities as far as intersections and major things that need to be done right away like the traffic signal at Independence and 41, and if anyone knows of anything that needs to get done she needs the information and needs to be done before their meeting in October.

Meeting adjourned at 7:40pm.

City Clerk

Council President