



CITY OF OKEECHOBEE, FLORIDA
FEBRUARY 7, 2023, REGULAR CITY COUNCIL MEETING
MEETING MINUTES

I. CALL TO ORDER

Mayor Watford called the regular meeting of the City Council for the City of Okeechobee to order on February 7, 2023, at 6:00 P.M. in the City Council Chambers, located at 55 Southeast (SE) 3rd Avenue, Room 200, Okeechobee, Florida. The invocation was offered by Pastor Chad Keathley, Okeechobee Church of God; followed by the Pledge of Allegiance led by Vice Mayor Clark.

II. ATTENDANCE

Roll was taken by City Clerk Lane Gamiotea to establish a quorum. Members present: Mayor Dowling R. Watford, Jr., Vice Mayor Monica M. Clark, Council Members Noel A. Chandler, and Robert "Bob" J. Jarriel. David R. McAuley was absent with consent.

III. AGENDA AND PUBLIC COMMENTS

- A. There were no requests for items to be added, deferred, or withdrawn from the agenda. However, content within Exhibits 6 and 8 were revised and a 41-page document was added to Exhibit 3.
- B. Motion and second by Council Members Chandler and Jarriel to approve the agenda as presented.
Motion Carried Unanimously.
- C. One comment card was submitted by Ms. Casey Rogers, Community Outreach Coordinator for Health Synergy Clinical Research, providing information regarding mental health services, upcoming research projects, and free memory scans offered by Dr. Mohammed Nisar through Health Haven. The information distributed was incorporated into the official minute file.

IV. PRESENTATIONS AND PROCLAMATIONS

- A. Miss Sorrel Panaro was recognized by Council Member Jarriel as a 2023 Special Agricultural Scholarship and South Florida Fair Scholarship recipient.
- B. Miss Jenna Larson was recognized by Council Member Jarriel as a 2023 Western Farm Bureau Scholarship and South Florida Fair Scholarship recipient.
- C. Mayor Watford proclaimed February as National Teen Dating Violence and Awareness Month. The Proclamation was presented to Mr. Jonathan Bean and Mr. Patrick Lawson, of Martha's House, and was read into the record as follows: **"Whereas, during National Teen Dating Violence Awareness and Prevention Month, we stand with those who have known the pain and isolation of an abusive relationship and endeavor to end the cycle of teen dating violence that affects too many of our young people; and Whereas, teen dating violence takes many forms including physical or sexual assault, stalking, coercive and controlling behavior, emotional abuse, harassment, and exploitation. It can occur in person, online, or through various forms of technology. Research shows that more than eight percent of high school students in the United States reported experiencing physical or sexual dating violence over the course of a one-year period with young women and LGBTQI+ youth facing the highest rates. Survivors of teen dating violence can suffer from depression, substance abuse, risk of suicide, eating disorders, poor academic outcomes, unintended pregnancy, and other issues. Sadly, survivors of teenage dating violence are more likely to be revictimized as adults. These effects are compounded for girls and young women of color, who are less often recognized as survivors of dating and sexual violence and face additional barriers to seeking help; and Whereas, Martha's House is committed to supporting programs that are proven to help preteens and teens develop safe and healthy relationships. Martha's House has a range of resources to equip communities with effective tools to prevent and address teen dating violence. These tools will help teens stay safe online and when they use electronic devices; and respond effectively to dating violence, sexual assault, stalking, and other forms of abuse; and provide resources and training programs that prevent abuse and promote healthy relationships; and Whereas, during National Teen Dating Violence Awareness and Prevention Month, we recommit ourselves to ending this scourge of our society and providing our young people every chance to live the fulfilling and productive lives they deserve. Now therefore, I, Dowling R. Watford, Jr., by virtue of the authority vested in me as Mayor of the City of Okeechobee, Florida, do hereby proclaim February 2023, as National Teen Dating Violence Awareness and Prevention Month, and I do further call upon all citizens to educate themselves and others about teen dating violence so that together we can stop it.**

V. **CONSENT AGENDA**

Motion and second by Vice Mayor Clark and Council Member Jarriel to:

- A. Dispense with the reading and approve the Minutes from January 17, 2023 [as presented]; and
- B. Temporarily close a portion of Southwest (SW) 3rd and 4th Avenues between North and South [Park] Streets from 5:00 P.M. on March 10, 2023, to 5:00 P.M. on March 12, 2023, for the Annual Speckled Perch Festival as submitted by Okeechobee Main Street [as presented in **Exhibit 1**]; and
- C. Temporarily close a portion of SE 2nd Avenue between SE 6th and 7th Streets from 8:00 A.M. to 2:30 P.M. on February 24, 2023, for a Field Day as submitted by Okeechobee Christian Academy [as presented in **Exhibit 2**].

Motion Carried Unanimously.

VI. **MAYOR WATFORD OPENED THE QUASI-JUDICIAL PUBLIC HEARING AT 6:24 P.M.**

The following items are quasi-judicial in nature. In accordance with section 286.0115, Florida Statutes (FS), an opportunity for persons to speak on each item will be made available after the applicant and staff have made their presentations on each item. All testimony, including public testimony and evidence, may be made under oath or affirmation. Additionally, each person who gives testimony may be subject to cross-examination. If you do not wish to be either cross-examined or sworn, your testimony will be given its due weight. The general public may request the Board to ask questions of staff or witnesses on their behalf. Any person presenting documents to the Council should provide the City Clerk with a minimum of 10 copies. Further details of the quasi-judicial procedure may be obtained from the Clerk. No verbatim record by a certified court reporter is made of these proceedings. Accordingly, any person who may seek to appeal any decision involving the matters noticed herein will be responsible for making a verbatim record of the testimony and evidence at these proceedings upon which any appeal is to be based (see Section 286.0105, FS.). In accordance with the Americans with Disabilities Act and Section 286.26, FS, persons needing a special accommodation to participate in this proceeding should contact the City Clerk's office at 863-763-9814 seventy-two (72) hours in advance of this proceeding.

- A. Special Exception Petition No. 22-003-SE, was submitted by Kyle Lotze, Agent for CitySwitch II-A, LLC, on behalf of the property owner, CSX Transportation Inc. The Petition requests to develop a portion of vacant property. The proposed development includes a 50-foot (ft) by 50-ft compound with perimeter fencing surrounding a 150-ft tall freestanding communications tower with lighting rods for a total height of 160-ft, storage, two electric service H-frames, and landscaping; and to develop an access corridor that is 30-ft by 120-ft located at 1117 Northwest (NW) 9th Street. Special Exception approval is required to allow a structure exceeding 45-ft in height in an Industrial (IND) Zoning District; and final approval by the City Council is required to allow the new freestanding communications tower.

This being a Quasi-Judicial proceeding, Attorney Fumero collectively administered an oath to: Mr. Ben Smith, City Planner of Morris-Depew Associates, Inc.; Attorney W. Patton Hahn, of Baker, Donelson, Bearman, Caldwell, and Berkowitz, P.C. (on behalf of the Applicant); Attorney Melissa Murrin, of Jimerson Birr; and Mr. Jason Laskey, of SBA Communications Corporation (in opposition of the Petition); all affirmed.

Planner Smith reviewed the Revised Planning Staff Report, dated January 18, 2023, which recommended approval. The Technical Review Committee (TRC), and the Board of Adjustment (BOA) recommended approval with special conditions of which the landscape and fencing plans have been met. The Planning Staff Report findings outline the obligation by CitySwitch II-A, LLC, that they demonstrated the six requirements for consistency with the City of Okeechobee Code of Ordinances (Code) Section 70-373(b) and eight requirements for consistency with Code Section 70-373(c), which pertain to all Special Exception Petitions.

Then further, the Report findings outline that CitySwitch II-A, LLC, met the four requirements to meet consistency for Code Section 90-603(e), as well as the 14 requirements to meet consistency for Code Section 90-602(c). One of those 14 items was noted by Planner Smith, and was read into the record, the "Staff Comments" found on page eight of the Report, paragraph (2) b: **"While the Applicant did not provide reasonable assurances concerning a 'demonstrated need' for the subject communication facility (a cell tower), it did provide reasonable assurances that there is a 'demonstrated demand' for the communication facility. Specifically, through sworn statements, made on the record in this proceeding, by CitySwitch and AT&T representatives, there exists reasonable assurances that there is a 'demonstrated need' because AT&T desires to locate certain communications equipment on the subject communications facility. There is also information in the record that CSX intends on locating communications equipment on the subject communications facility."**

VI. QUASI-JUDICIAL PUBLIC HEARING CONTINUED

- A. No. 22-003-SE Continued. Attorney Hahn explained that once the communications tower is built, CSX will be a tenant, and they will be leasing space to AT&T Wireless to install their equipment. AT&T has been a tenant of the existing SBA tower, but due to increases in rent, are looking to move to the proposed new tower (see Letter of Support dated October 17, 2022, signed by Matt Hannah within Exhibit 3), and additional documentation provided within Exhibit 3 showing expanded coverage within the City Limits. He added the Planning Staff Report was thorough and he agreed with the recommendations from the City Planning Staff, TRC, and BOA. They have additional requirements to be met by the Federal Aviation Administration (FAA).

Attorney Murrin and Mr. Laskey expressed their reasons for denying the Petition, which are documented in the 41-page Letter of Opposition, dated February 6, 2023, and entered as part of the official record. The opposition summary noted that the Applicant failed to demonstrate a need or demand for the proposed tower, as required in Code Section 90-602(2)(b), failed to demonstrate compliance with the performance and construction standards listed in Code Section 90-603, as required by 90-602(2)(d). She further offered that there were ongoing negotiations between SBA and AT&T, for AT&T to remain at their existing tower by offering them a lower lease rate. Attorney Hahn offered in rebuttal that as required by City Code, should CitySwitch II-A, LLC, not have a tenant for the tower, they would be required to remove it. Comments or questions were posed by Mayor Watford, Vice Mayor Clark, and Council Member Chandler. [Notation for the record: the previous content covers the main highlights or required documentation during the discussion on this matter and is not a verbatim record or a complete summary.]

Motion and second by Council Members Chandler and Jarriel to approve Special Exception Petition No. 22-003-SE, to permit a structure exceeding 45-ft in height in the IND Zoning District, reference Code Section 90-345(4), waive the minimum separation from off-site uses, reference Code Section 90-603(c); and to waive the separation distances between communication towers, reference Code Section 90-603(d); for a wireless telecommunication facility as provided in Code Section 90-603(e) [based on the findings and recommendation by Planning Staff as presented in **Exhibit 3**, which includes the following special conditions as outlined in the Revised Planning Staff Report: prior to issuance of a building permit, Applicant must submit FAA approval for proposed tower and design; the use of any portion of a tower height for sign or advertising purposes is prohibited; if the use of the tower has been discontinued for a period of 180 consecutive days, the tower shall be deemed abandoned; and Certification of Compliance with all current Federal Communication Commission standards be submitted prior to final inspection by the Building Department.

Legal Description: 50-ft by 50-ft Tower Compound Area as surveyed: A PORTION OF THE CSX TRANSPORTATION, INC. TRACT DESCRIBED IN BOOK (BK) 745, PAGE (PG) 850 AS RECORDED IN THE OFFICE OF THE CLERK OF CIRCUIT COURT FOR OKEECHOBEE COUNTY, FLORIDA (FL), LYING IN THE NW QUARTER, SECTION 16, TOWNSHIP 37 SOUTH (S), RANGE 35 EAST (E), SAID COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A CAPPED REBAR, STAMPED DEHAYES PSM 5178, FOUND MARKING THE NW CORNER OF SAID TRACT, HAVING FL E STATE PLANE COORDINATES: N:1060999.896, E:706535.719; THENCE RUN S 14°33'54" E FOR A DISTANCE OF 119.78-FT TO A SET 5/8-INCH (IN) REBAR AND THE POINT OF BEGINNING (POB); THENCE RUN N 89°52'26" E FOR A DISTANCE OF 50.00-FT TO A POINT; THENCE RUN S 00°07'34" E FOR A DISTANCE OF 50.00-FT TO A POINT; THENCE RUN S 89°52'26" W FOR A DISTANCE OF 50.00-FT TO A POINT; THENCE RUN N 00°07'34" W FOR A DISTANCE OF 50.00-FT TO THE POB. SAID TOWER COMPOUND AREA CONTAINS 2,500.00-SQUARE (SQ) FT OR 0.06 ACRES, MORE OR LESS. Together with 30-ft Wide Access and Utility Corridor as surveyed: A PORTION OF THE CSX TRANSPORTATION, INC. TRACT DESCRIBED IN BK 745, PG 850 AS RECORDED IN THE OFFICE OF CLERK OF CIRCUIT COURT FOR OKEECHOBEE COUNTY, FL, LYING IN THE NW QUARTER, SECTION 16, TOWNSHIP 37 S, RANGE 35 E, SAID COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A CAPPED REBAR, STAMPED DEHAYES PSM 5178, FOUND MARKING THE NW CORNER OF SAID TRACT, HAVING FL E STATE PLANE COORDINATES: N:1060999.896, E:706535.719; THENCE RUN S 14°33'54" E FOR A DISTANCE OF 119.78-FT TO A SET 5/8-IN REBAR; THENCE RUN N 89°52'26" E FOR A DISTANCE OF 25.00-FT TO THE POB; OF AN ACCESS AND UTILITY CORRIDOR BEING 30-FT IN WIDTH AND LYING 15-FT EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE; THENCE RUN N 00°00'00" W FOR A DISTANCE OF 56.21-FT TO A POINT; THE BEGINNING OF AN ARC TURNING TO THE RIGHT HAVING A RADIUS OF 309.45-FT, HAVING A CHORD BEARING AND DISTANCE OF N 05°56'55" E FOR A DISTANCE OF 64.14-FT; THENCE RUN ALONG SAID ARC FOR 64.26-FT TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY OF NW 9TH STREET, A VARIABLE PUBLIC RIGHT-OF-WAY AND THE POINT OF ENDING. SAID EASEMENT CONTAINS 3,613.93-SQ FT OR 0.08 ACRES, MORE OR LESS].

Motion Carried Unanimously.

MAYOR WATFORD CLOSED THE QUASI-JUDICIAL PUBLIC HEARING AT 7:09 P.M.

VII. NEW BUSINESS

- A. The dates to hold, cancel, or change the regular Council Meetings for 2023 were discussed with a **consensus to hold the Town Hall Meeting on March 21, 2023, in lieu of the regular meeting, at either the First United Methodist Church Fellowship Hall or City Hall, and cancel the July 4, 2023, meeting.** There was not a clear consensus on canceling the June 6, 2023, meeting and moving the November 21, 2023, meeting to November 28, 2023. The new Charter requires the Council hold at least ten regular meetings a year with a resolution adopting the dates, times, and places. **A resolution will be drafted and presented at the next meeting.**
- B. Motion and second by Council Member Jarriel and Vice Mayor Clark to read by title only, proposed Ordinance No. 1270, regulating the use of fireworks [as presented in **Exhibit 4**]. **Motion Carried Unanimously.**

City Attorney Fumero read into the record the title of proposed Ordinance No. 1270 as follows: **“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OKEECHOBEE, FLORIDA RELATING TO THE REGULATION OF FIREWORKS, AMENDING PART II THE CODE OF ORDINANCES OF THE CITY OF OKEECHOBEE AT CHAPTER 14 BUSINESSES BY SPECIFICALLY AMENDING SECTION 14-173 FIREWORKS; AMENDING AT CHAPTER 30, ENVIRONMENT, SPECIFICALLY AMENDING SECTION 30-43 PUBLIC NUISANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.”**

Motion and second by Vice Mayor Clark and Council Member Jarriel to approve the first reading of proposed Ordinance No. 1270, and set March 7, 2023, as the final hearing date. **Motion Carried Unanimously.**

- C. Motion and second by Council Member Jarriel and Vice Mayor Clark to approve the purchase of City Police equipment in the amount of \$29,175.45 [to Global Public Safety for the five 2023 Dodge Chargers as presented in **Exhibit 5**]. **Motion Carried Unanimously.**
- D. Mr. Jonathan Einhorn and Mr. Reuven Rogatinsky, representing Emerald Greens Apartments, addressed the Council regarding a proposed 190-unit apartment complex to be located on SW 6th Street, between SW 7th to 10th Avenues. They requested the Council consider an ad valorem tax abatement for the project. After some discussion, with Attorney Fumero clarifying the process, Mayor Watford asked for a consensus. Vice Mayor Clark and Council Member Jarriel were in favor of considering the options for a policy to be adopted. Mayor Watford and Council Member Chandler were not in favor. **The matter was deferred to the next meeting when Council Member McAuley would be present.**
- E. Motion and second by Council Member Chandler and Vice Mayor Clark to approve a Piggyback Agreement from Okeechobee County Independent Contractors Agreement, with CW Roberts Contracting, Inc., in the amount of \$100,000.00 for asphalt milling and paving [as presented in **Revised Exhibit 6**]. **Motion Carried Unanimously.**
- F. Motion and second by Council Members Jarriel and Chandler to approve a Piggyback Agreement from Broward College Storm Drain Cleaning, Repairs, and Maintenance Agreement, with Shenandoah Construction Company, LLC., for the South 4th Street Pipe Lining Project [from SW 5th Avenue to SE 6th Avenue] in the amount of \$1,000,000.00 [as presented in **Exhibit 7**]. **Motion Carried Unanimously.**
- G. Motion by Council Member Chandler to not appeal the Magistrate ruling of a 100 percent fine reduction in Code Enforcement Case No. 220128007. Motion failed for lack of a second.

Motion and second by Vice Mayor Clark and Council Member Jarriel to appeal the Magistrate ruling of a 100 percent fine reduction in Code Enforcement Case No. 220128007 in the sum of \$5,700.00 plus a \$50.00 Administrative fee. Property owner, Perry Sylvester Arnold Jr. of 620 Northeast 4th Avenue, Violation of Code of Ordinances Chapter 30, Sections 30-41 Disabled Vehicles, 30-43 Public Nuisances, 30-44 General Cleaning and Beautification; Chapter 82, Section 82-124 Permits [as presented in **Revised Exhibit 8**].

After the costs to pursue this and the process was explained by Attorney Fumero, Council Member Jarriel and Vice Mayor Clark withdrew their second and motion. **No official action was taken.**

VIII. CITY ATTORNEY UPDATE

No updates provided at this time.

IX. CITY ADMINISTRATOR UPDATE

Work on the landscape for the endcaps along South Park Street scheduled to begin Thursday, February 10, 2023.

X. COUNCIL COMMENTS

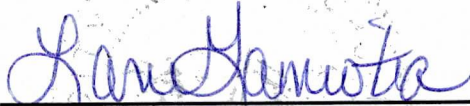
Council Member Chandler suggested, after accompanying City Staff on a recent inspection of the facilities at the Primitive Baptist Church property [1003 SW 3rd Avenue], that the \$40,000.00 budgeted would not cover the required renovations. He was not in favor of budgeting future funds, but to only pursue grants to cover those costs.

Council Member Jarriel expressed his appreciation to the Council for recognizing Miss Panaro and Miss Larson; and his excitement to see several developments happening.

XI. ADJOURNMENT

There being no further items of discussion, Mayor Watford adjourned the meeting at 8:24 P.M.

Submitted By:



Lane Gamiotea, CMC, City Clerk

Please take notice and be advised that when a person decides to appeal any decision made by the City Council with respect to any matter considered at this meeting, s/he may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based. City Clerk media are for the sole purpose of backup for official records of the Clerk.