

**FINAL AGENDA AND MINUTES  
TOWN OF JUPITER  
TOWN COUNCIL MEETING  
COUNCIL CHAMBERS  
TUESDAY, NOVEMBER 1, 2016**

Mayor Wodraska called the meeting to order at 7:00 P.M.

Roll Call: Mayor Todd R. Wodraska; Councilor Ron Delaney; Councilor Jim Kuretski; Councilor Wayne R. Posner; Town Manager Andrew D. Lukasik; Town Attorney Thomas J. Baird; Town Clerk Sally M. Boylan and Vice-Mayor Ilan G. Kaufer was absent due to a work conflict.

**PUBLIC HEARINGS:**

**1. Ordinance 19-16, Second Reading, Approval of 2017 Millage rate.**

Mr. Mike, Villella, Director of Finance, explained the Florida Department of Revenue stated the Town was not in compliance with their Truth in millage (TRIM) regulations and that was the reason the budget hearing was on the agenda to be readopted.

**2. Resolution 80-16, Correcting Resolution 59-16 that adopted the Fiscal Year 2016/2017 Operating Budget and Pay Plan.**

**3. Ordinance 20-16, Second Reading, Approval of 2016-2017 Community Investment Program.**

Mr. Andy Weston, resident of Dolphin Court, mentioned the 3 million dollar economic development fund affecting the Reserve and was against having any more loans.

Councilor Delaney moved to approve the Second Reading of Ordinance 19-16; seconded by Councilor Posner; motion passed.

Title read by Mr. Baird.

Wodraska	Delaney	Kuretski	Posner
Yes	Yes	No	Yes

Councilor Posner moved to approve Resolution 80-16; seconded by Councilor Delaney; motion passed.

Wodraska	Delaney	Kuretski	Posner
Yes	Yes	No	Yes

**PUBLIC HEARINGS:**

1. **Ordinance 19-16, Second Reading, Approval of 2017 Millage rate.**
2. **Resolution 80-16,** Correcting Resolution 59-16 that adopted the Fiscal Year 2016/2017 Operating Budget and Pay Plan.
3. **Ordinance 20-16, Second Reading, Approval of 2016-2017 Community Investment Program.**

Councilor Delaney moved to approve the Second Reading of Ordinance 20-16; seconded by Councilor Posner; motion passed.

Title read by Mr. Baird.

Wodraska	Delaney	Kuretski	Posner
Yes	Yes	No	Yes

**Note: Items 1-3 were approved by the Town Council on 9/20/16. The Department of Revenue opined the Town’s advertisement was not in compliance with regulatory requirements. Accordingly, the Town is required to re-advertise and hold an additional public hearing. Please see the backup material for more details.**

**PRESENTATION**

4. Jupiter Elementary School Volunteers – Principal Daniel K. Smith.

Mr. Smith, Principal of Jupiter Elementary School, thanked Council for putting the kids first and mentioned he had been working with the Assistant Town Manager, Lori Bonino, to have employees visit the elementary school to read to the students once or twice a month.

**CITIZEN COMMENTS**

Mr. Ben Klug, resident of Raintree Trail, thanked the Recreation Department for the Kooky Halloween event.

**MINUTES**

5. October 20, 2016 Town Council Special Meeting Minutes.

Councilor Kuretski asked for a revision to the October 20, 2016 Town Council Special Meeting Minutes on page 8, after the end of the Consent Agenda.

Councilor Posner moved to approve the October 20, 2016 Town Council Special Meeting Minutes, as amended; seconded by Councilor Delaney; motion passed.

Wodraska	Delaney	Kuretski	Posner
Yes	Yes	Yes	Yes

**CONSENT AGENDA**

All items listed in this portion of the agenda are considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilor or citizen so requests; in which event, the item will be removed and considered at the beginning of the regular agenda.

- Councilor Kuretski pulled item 6.
- Mr. Lukasik pulled item 6.

Councilor Delaney moved to approve the Consent Agenda, as amended; seconded by Councilor Posner; motion passed.

Wodraska  
Yes

Delaney  
Yes

Kuretski  
Yes

Posner  
Yes

**CONSENT AGENDA**

**PUBLIC HEARINGS**

6. **Ordinance 22-16, Second Reading, Zoning Code Correction – Accessory Residential** – An amendment to re-establish accessory residential use in Industrial Park Light (I-1) and Industrial General (I-2) zoning districts. **MOVED TO REGULAR AGENDA**

**PUBLIC BUSINESS**

7. Approving the use of State Forfeiture Funds for a total amount of \$3,000. \$2,000 for the “Shop with a Cop” event and a \$1,000, donation to the Palm Beach County Head Start Program.
8. Approving the purchase of (15) Police Vehicles in the total amount of \$520,000 funded through the Community Investment Program (CIP) for police vehicle replacement.

**END OF CONSENT AGENDA**

**REGULAR AGENDA**

**ITEMS REMOVED FROM CONSENT AGENDA TO REGULAR AGENDA**

6. **CONTINUED TO 11/15/16**  
**Ordinance 22-16, Second Reading, Zoning Code Correction – Accessory Residential** – An amendment to re-establish accessory residential use in Industrial Park Light (I-1) and Industrial General (I-2) zoning districts.

Mr. Lukasik stated there was a previous disagreement amongst Council members on adopting the ordinance and suggested continuing the item to have the discussion with all Council present.

**REGULAR AGENDA**

**ITEMS REMOVED FROM CONSENT AGENDA TO REGULAR AGENDA**

**6. CONTINUED TO 11/15/16**

**Ordinance 22-16, Second Reading, Zoning Code Correction – Accessory Residential** – An amendment to re-establish accessory residential use in Industrial Park Light (I-1) and Industrial General (I-2) zoning districts.

Councilor Posner moved to continue Ordinance 22-16, Second Reading, Zoning Code Correction – Accessory Residential to November 15, 2016; seconded by Councilor Delaney; motion to continue passed.

Wodraska  
Yes

Delaney  
Yes

Kuretski  
Yes

Posner  
Yes

**PUBLIC HEARINGS**

**9. Ordinance 24-16, First Reading,** - Approving the award of a franchise to Advanced Disposal Services Solid Waste Southeast, Inc. to provide services associated with the collection and disposal of solid waste refuse, multi-material recycling and vegetative waste. (Second Reading 11/15/16)

Mr. Lukasik recommended allowing all the following bidders: Advanced Disposal Services Solid Waste Southeast Inc.; Waste Management, Inc. and Waste Pro ten minutes each to provide presentations. The Council unanimously agreed. The representative from Waste Pro indicated he did not wish to address the Council.

Mr. Thomas Driscoll, Engineering and Public Works Director said the current contract with Waste Management would expire February 28, 2017. He said the proposed five year term ordinance would commence on March 1, 2017.

Mr. Driscoll said the current rate was \$12.03 for Waste Management Services and the proposed rate from Advanced Disposal was \$8.45 per month for residential services. Mr. Driscoll explained the two part competitive selection process.

Mr. Driscoll noted Advanced Disposal returned an incorrect price proposal form, which did not break down their monthly rate; they only provided the total monthly cost. However, the form was resubmitted and the price remained the same. Advanced Disposal overall scored lowest on technical score, adjusted score and price.

Mr. Driscoll stated Advanced Disposal's proposed rate represented an approximate 30 percent reduction. He noted Advanced Disposal had good references and understood the Town's requirements. Mr. Driscoll said Staff recommended awarding the franchise to Advanced Disposal.

## **REGULAR AGENDA**

### **PUBLIC HEARINGS**

#### **9. Ordinance 24-16, First Reading**

Mr. Greg Huntington, Advanced Disposal's Municipal Marketing Governmental Affairs Manager, highlighted their experience, growth of employee numbers, financial health and fleet.

Mr. Juan "JR" Romero, Advanced Disposal's General Manager highlighted the transition plan, phase one including safety, local locations and no expected changes to routing.

Mr. Romero said they were securing new equipment for the contract that included DriveCam, Fleet-Tracker, Backing Sensors and Route ITT. He said their culture was safety and their mission was "Service First, Safety Always".

Mr. Romero said their transition timeline involved ordering new equipment, adding new employees and test running the routes one month prior to the start date.

Mr. Huntington mentioned their customer services survey average was 9.25 out of 10. He also mentioned the Town would be saving an average of five million dollars over the life of the contract.

Mr. Jeff Sabin, Waste Management Governmental Affairs, highlighted their forty years of service to the Town. He noted Waste Management complied with all the requirements to the Request for Purchase (RFP) process and chose not to protest, which was highlighted in the letter and presentation provided to Council.

Mr. Sabin stated Advanced Disposal ranked lowest by the Selection Committee and failed to complete the pricing form and was allowed to resubmit the form. He said it was essentially a redo, resulting in awarding price over service.

Mr. Sabin discussed Waste Management's residential equipment/employee comparison to current and actual verses Advanced Disposal and said it was a forty percent difference in services.

Ms. Dawn McCormick, Waste Management's Director of Communications, stated the residents of Jupiter overwhelming supported retaining Waste Management even with the price difference. She mentioned the handout provided to Council showed the 90 percent satisfactory survey results from residents and a scientific public opinion survey including pricing.

## **REGULAR AGENDA**

### **PUBLIC HEARINGS**

#### **9. Ordinance 24-16, First Reading**

Ms. McCormick also mentioned a Change.Org Petition, "Keep Waste Management in Jupiter" was created and as of 3PM today, 204 supporters had signed the petition.

Ms. Theresa Bishop, Waste Management's Public Affairs Manager, mentioned a few Jupiter organizations Waste Management supported generously. She asked for Council's support in continuing their community involvement in Jupiter.

Mr. Sabin said Waste Management had lived up to the Town's level of service and exceeded it. He requested Council reject the recommended firm and direct Staff to negotiate with Waste Management.

Mayor Wodraska and Mr. Driscoll discussed the protesting process according to the Town's policy and the average number of complaints from residents.

Councilor Posner asked why the bidder wasn't disqualified since the information they provided was inaccurate. Mr. Driscoll said the omission did not materially affect the proposal and the price was not altered.

Mr. Driscoll said the commercial rates were not included in the bid since the Town provided the rates for commercial.

Councilor Kuretski asked if community involvement was a factor in the process. Mr. Driscoll said he did not specifically include corporate sponsorship or donations.

Mr. Driscoll and Councilor Kuretski discussed the rates that were built into the contract at a five percent cap, which did not require Council's approval.

Councilor Delaney asked Mr. Huntington if Advanced Disposal was ready to add assets if necessary to achieve quality service and if it was economically feasible. Mr. Huntington said Advanced Disposal would do what was necessary to fulfill the contract.

Councilor Delaney asked if new trucks were purchased for new contracts. Mr. Huntington said no, not always, but Advanced Disposal was committing new equipment.

Mr. David Webb, resident of Dolphin Drive, said Advanced Disposal did not complete the bid documents completely, which he felt was nonresponsive and should have been rejected.

## **REGULAR AGENDA**

### **PUBLIC HEARINGS**

#### **9. Ordinance 24-16, First Reading**

Mr. Don Kiselewski, resident of Tiki Drive, felt the 40 year relationship with Waste Management should stand. He said they were reliable and added value to the community.

Mr. Kevin Foley, resident of Tequesta, said Waste Management had been a great business partner and corporate citizen for the community.

Ms. Nadine Burns, resident of Woodlake Drive and former Councilwoman from the City of Lake Worth, said she was extremely pleased with the superior services of Waste Management and supported keeping them.

Mr. Ben Klug, resident of Raintree Trail and President of the Indian Creek Master Association, mentioned Waste Management's willingness to work out issues. He felt Jupiter residents were willing to pay more for a high level of service and a company invested in the community.

Dr. Stefan Harzen, resident of Stonewood Court, thought the quality of technical service should be weighed equal to or higher than cost. He also felt community involvement should be considered in the equation.

Mr. Dan Comerford, Mayor of Jupiter Inlet Colony, also mentioned the incomplete bid documents. He has been pleased with Waste Management's level of service in his Town and felt service was essential and more important than cost.

Ms. Maria Marino, resident of Palm Beach Gardens and Executive Director of the Jupiter Children's Foundation, stated Waste Management had been a fabulous corporate partner and had sponsored many events. She supported keeping them as Jupiter's service provider.

Ms. Karen Golonka, resident of West Norfolk Road and former Mayor, said she supported keeping Waste Management and paying a little extra for the service. Ms. Golonka felt more Public input was needed and that news coverage would get the public involved.

Mr. Ernie Cox, resident of Santiago Drive, stated he has been very satisfied with Waste Management's level of service. He also mentioned his engagement with Waste Management on behalf of Jupiter High School's Athletic department and that Waste Management had always been willing to commit time and money to the school.

## **REGULAR AGENDA**

### **PUBLIC HEARINGS**

#### **9. Ordinance 24-16, First Reading**

Councilor Kuretski asked Mr. Huntington if Advanced Disposal was aware of the service expectations specified in the contract and the complaint resolution provisions. Mr. Huntington said they were aware.

Mayor Wodraska asked Mr. Driscoll to explain the relationship of scoring cost to technical service. Mr. Driscoll explained as a public servant it was his duty to evaluate cost. He mentioned there had to be an incentive for vendors to give competitive prices.

Mayor Wodraska asked what the savings was for the Town as a whole. Mr. Driscoll said it was five million over the term of the contract or about one million dollars per year for residential customers. Mayor Wodraska asked if community sponsorship was factored into the choice. Mr. Driscoll said a dollar amount for community support was not asked for and would be difficult to evaluate.

Mayor Wodraska asked what Staff's motivation was to go out for an RFP this year versus five years ago when the Town did not. Mr. Driscoll noted five years ago Council elected to negotiate with Waste Management for additional services. Mr. Lukasik said shortly after the last renewal, the Inspector General's office notified municipalities it was a best practice to go out for new bids for services and the best value for the community.

Mayor Wodraska asked Mr. Baird, regarding the mention of incomplete bid documents, if he thought from a legal perspective he was comfortable with Staff's recommendation and allowing the oversight. Mr. Baird said it was Staff's responsibility to determine if a bid was responsive and complied with mandatory conditions, and Staff made that determination.

Councilor Delaney asked if the RFP specified minimum equipment requirements. Mr. Driscoll said no, they considered individual proposals and levels of service.

Councilor Kuretski said he was influenced by the Inspector General's opinion and it was a difficult decision based on the long term relationship. He noted some of the differences in the contract provisions and the continued high level of service. He felt the expectations would be the same for a lower price.

Mayor Wodraska agreed with Councilor Kuretski's comments and also had hoped Waste Management would have come in lower. He felt Waste Management had been a wonderful contributor and friend to the community but the savings was too great to ignore.

## REGULAR AGENDA

### PUBLIC HEARINGS

#### **9. Ordinance 24-16, First Reading**

Councilor Delaney said he had been very satisfied with Waste Management's service and was slightly worried about Advanced Disposal's ability to live up to that, but based on the savings and their commitment to the contract he would support them.

Councilor Posner explained as a contractor he had not seen great success with low bidders. He said he would rather choose best service versus assumed best service. Councilor Posner felt the controlling factor should be trust not collection of penalties.

Councilor Delaney asked if the contract provisions were not met, if the Town could get out of the contract. Mr. Baird said there were default provisions which could be exercised.

Councilor Kuretski moved to approve Ordinance 24-16, First Reading, as amended, for Staff to meet with Advanced Disposal and determine they have a complete understanding about level of service provisions; seconded by Councilor Delaney; motion passed.

Title read by Mr. Baird.

Wodraska	Delaney	Kuretski	Posner
Yes	Yes	Yes	Yes

At approximately 9:22 PM, Mayor Wodraska recessed the meeting.

At approximately 9:26PM, Mayor Wodraska reconvened the meeting.

#### **10. Circle K Redevelopment**

**A. Ordinance 14-16, Second Reading** - Abandonment of a 25 foot by 300 foot alley located approximately 155 feet south of the Indiantown Road right-of-way line, extending 300 feet east from Orange Avenue.

**B. Resolution 35-16 - Quasi-judicial** - A special exception and site plan amendment for the expansion and redevelopment of an existing gas station and convenience store onto adjacent properties, totaling 2.0 +/- acres, located at 126 West Indiantown Road.

Mayor Wodraska stated both items would be taken together.

The Town Clerk swore in seven people.

## **REGULAR AGENDA**

### **PUBLIC HEARINGS**

#### **10. Circle K Redevelopment**

##### **A. Ordinance 14-16, Second Reading**

##### **B. Resolution 35**

#### *Ex Parte Communications*

- Mayor Wodraska met several times within the last two years with Mr. Hearing and Circle K representatives to discuss site plan, the access easement, Annie's Italian Ice, and the ingress/egress of Indiantown Road.
- Councilor Delany met a few times in the last couple of months with Mr. Hearing and Circle K representatives to discuss and the ingress/egress of Indiantown Road.
- Councilor Posner met twice with Mr. Hearing and Circle K representatives to discuss the project, the easement, access for drive ways, square footage of the building, extra lighting and the public benefits.

Mr. Donaldson Hearing, with Cotleur & Hearing, representing the applicant, gave an overview of the proposed site plan and request for special exception. He explained the applicant had been asked to contribute \$75,000 toward payment for the abandoned alley, but the applicant proposed an easement to go throughout the site which would allow the applicant to retain the alley as well as maintain it. Mr. Hearing stated the two access points off of Indiantown Road were essential and the applicant would rather keep the existing store than to not have the two access points.

Ms. Stephanie Thoburn, Assistant Director of Planning and Zoning, stated Staff recommended approval of the abandonment. She explained the issue of payment was in the Town Code section 27.97 subsections E and F, which stated payment was based on the appraised value. She clarified the appraisal had been \$150,000, but Staff recommended fifty percent due to a precedent set by Council for a recently approved abandonment in 2007. Ms. Thoburn said Staff suggested approval of the site plan and special exception, but felt two access points on Indiantown Road may cause detrimental impact on the flow of traffic to the facility for both vehicular traffic and pedestrian safety.

## **REGULAR AGENDA**

### **PUBLIC HEARINGS**

#### **10. Circle K Redevelopment**

##### **A. Ordinance 14-16**

##### **B. Resolution 35-16**

Mr. Brian Seymour with Gunster Law Firm, on behalf of the applicant, said section 17.72 of the Town's Code stated the Town should include the consideration to be applicable to the abandonment if any, in its determination. Section 17.71 stated the Planning Commission to the extent to which the public interest and general welfare may be compensated by obtaining any alternate right-of-way or any monetary contribution for additional right-of-way or combination in exchange for the abandonment. Mr. Seymour felt what the Town was receiving as payment was an even exchange for things such as no maintenance.

Mr. Adam Kerr with Kimely-Horn & Associates explained the reduction of drive way area and the decrease in footage from 124 feet to 64 feet. He stated the two access points on Indiantown Road would help with inbound traffic flow and onsite circulation.

Mayor Wodraska asked for Mr. Hearing to repeat the comment about keeping the existing store. Mr. Hearing stated the applicant would rather keep the existing store than to not have the two access points because it would impact the functionality of the center.

Mr. Ryan Plate from Circle K stated the store was successful and they wanted to keep it that way, but he felt the two access points would allow for continued convenience.

Councilor Posner asked if the Town's Traffic Engineer had taken into account the length of some vehicles that would turn onto Orange Avenue from the station. Ms. Thoburn stated the current turn was on an existing right-of-way with corner clip requirements which addressed turning radiuses for large trucks. Mr. John Sickler, Director of Planning and Zoning stated the Traffic Engineer had considered the turning radiuses.

Councilor Delaney asked where the marine fueling stations would be located. Mr. Hearing stated they would be on either end of the project.

**REGULAR AGENDA**

**PUBLIC HEARINGS**

**10. Circle K Redevelopment**

**A. Ordinance 14-16**

**B. Resolution 35-16**

Councilor Delaney asked what the increase of fuel capacity would be for the project. Mr. Plate stated the capacity would be between 40,000 and 60,000 gallons. Councilor Delaney asked how long the station could run after a hurricane. Mr. Edward Giunta from Circle K stated the diesel generators could run for four to five days.

Councilor Kuretski had mixed emotions about changing the access points, but was very concerned about safety.

Mayor Wodraska asked if a conservation easement was ever discussed for the project. Ms. Thoburn stated there were no discussions on a conservation easement but landscaping and green space were discussed.

Councilor Posner believed the two access points would allow for better traffic flow.

Councilor Kuretski said he would have liked to have had a discussion with the Traffic Engineer regarding balancing possible conflicts with one or two access points.

Councilor Posner moved to approve Ordinance 14-16, Second Reading, as amended to exclude the payment of \$75,000 for the abandonment of the alley.

*Mayor Wodraska passed the gavel to Councilor Delaney.*

Seconded by Mayor Wodraska, motion passed.

Title read by Mr. Baird.

Wodraska	Delaney	Kuretski	Posner
Yes	Yes	No	Yes

*Councilor Delany returned the gavel to Mayor Wodraska.*

Councilor Posner moved to approve Resolution 35-16,; seconded by Councilor Delaney, as amended to include two access points on Indiantown Road; motion passed.

Wodraska	Delaney	Kuretski	Posner
Yes	Yes	No	Yes

## **REGULAR AGENDA**

### **PUBLIC HEARINGS**

#### **11. Ordinance 26-16, First Reading, Reasonable Accommodation Regulations**

Text amendments to Chapter 21, to repeal in its entirety Division 5 of Article VIII and replace it with new reasonable accommodation procedures. (Second Reading - 11/15/16)

Mr. Baird stated Ordinance 26-16 was to help the Town have regulations on places similar to half-way houses or sober houses.

Councilor Kuretski asked if Ordinance 26-16 would override or change the overcrowding Ordinance.

Mr. Baird stated it would not violate the provisions of the Town Code.

Councilor Posner moved to approve Ordinance 26-16, First Reading, Reasonable Accommodation Regulations; seconded by Councilor Kuretski; motion passed.

Title read by Mr. Baird.

Wodraska  
Yes

Delaney  
Yes

Kuretski  
Yes

Posner  
Yes

### **REPORTS**

#### **TOWN ATTORNEY**

- CHS Pharma Litigation – Mr. Baird provided a brief update. He indicated due to a third party involvement some progress had been made.
- Harbourside Litigation – Mr. Baird stated no decision had been made and the Town's Attorneys continued to recommend Staff not to move forward with any enforcement related to code violations.

#### **TOWN MANAGER- NONE**

#### **TOWN COUNCIL – LIAISON REPORTS AND COMMENTS**

##### **COUNCILOR KURETSKI**

- Metropolitan Planning Organization (MPO) – Councilor Kuretski highlighted the issues which related to the MPO as an independent agency. He explained there may be the perception the County had too much influence. He indicated there may be a vote scheduled for the December 2016 MPO meeting to propose changes. Councilor Kuretski suggested the Town oppose any changes, at this time.

Mayor Wodraska agreed and felt more information was needed for him to consider any support. The majority of Council agreed not to support any changes. (WP, RD, TW, JK)

**ADJOURNMENT** – 10:44 P.M.

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Sally M. Boylan, Town Clerk

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Todd R. Wodraska, Mayor