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**CITY OF DELTONA, FLORIDA
REGULAR CITY COMMISSION MEETING
MONDAY, JULY 20, 2009**

A Regular Meeting of the Deltona City Commission was held on Monday, July 20, 2009 at the City Hall Commission Chambers, 2345 Providence Boulevard, Deltona, Florida.

1. CALL TO ORDER:

The meeting was called to order at 6:30 p.m. by Mayor Mulder.

2. ROLL CALL:

Mayor	Dennis Mulder	Present
Vice Mayor	Michael Carmolingo	Present
Commissioner	Zenaida Denizac	Present
Commissioner	Janet Deyette	Present
Commissioner	Michele McFall-Conte	Present
Commissioner	Paul Treusch	Present
Commissioner	Herb Zischkau	Present
City Manager	Faith G. Miller	Present
Acting City Attorney	Charles Cino	Present
Deputy City Clerk	Joyce Kent	Present

Also present: Human Resources Director Tom Acquaro; Planning & Development Services Director Chris Bowley; Building & Zoning Services Director Cy Butts; Finance Director Robert Clinger; Deputy City Manager Dave Denny; Parks & Recreation Director Steve Moore; Fire Chief Robert Staples; and Acting Public Works Director Glen Whitcomb.

3. SILENT INVOCATION AND PLEDGE TO THE FLAG:

Mayor Mulder led the audience in the silent invocation and the Pledge of Allegiance to the Flag.

Hailey Cooper sang the National Anthem.

4. APPROVAL OF MINUTES & AGENDA:

A. Minutes:

1. Regular City Commission Meeting – July 6, 2009.

2. Special City Commission Meeting – July 9, 2009.

3. Special City Commission Meeting – July 14, 2009.

Motion by Commissioner Denizac, seconded by Vice Mayor Carmolingo to adopt the minutes of the Regular City Commission Meeting of June 6, 2009, Special City Commission Meeting July 9, 2009 and Special City Commission Meeting July 14, 2009 as presented.

1
2 **Motion carried with members voting as follows: Commissioner Denizac, For; Commissioner**
3 **Deyette, For; Commissioner McFall-Conte, For; Commissioner Treusch, For; Commissioner**
4 **Zischkau, For; Vice Mayor Carmolingo, For; and Mayor Mulder, For.**

5
6 **B. Additions or Deletions to Agenda:**

7
8 Ms. Miller asked to pull Item 7-A because there are currently three (3) more disciplines out to bid and
9 she asked to bring back all seven (7) of the disciplines for the NSP Program to the Regular City
10 Commission Meeting on August 3, 2009.

11
12 **Ms. Miller asked that Item 7-A be pulled from the Agenda and the Commission concurred.**

13
14 **Motion by Commissioner Denizac, seconded by Commissioner Zischkau to add-on Item 10-C,**
15 **Discussion re: water rate increase.**

16
17 **Motion carried with members voting as follows:**

18
19 **Commissioner Denizac For**
20 **Commissioner Deyette Against**
21 **Commissioner McFall-Conte For**
22 **Commissioner Treusch Against**
23 **Commissioner Zischkau For**
24 **Vice Mayor Carmolingo For**
25 **Mayor Mulder Against**

26
27 **A. PRESENTATIONS/AWARDS/REPORTS:**

28
29 **A. Presentation – Quarterly Board Reports of City Advisory Board/Committees.**

30
31 **• Parks & Recreation Advisory Committee – Larry French, Chair**

32
33 Three (3) year member and Vice Chair, Danah Ludvick Grant resigned her position in June due to
34 work commitments and her position is currently vacant. Members have voted on purchasing a
35 bench for a park walking trail through the “*Adopt A Bench*” program. A decision regarding the
36 bench inscription and park placement is pending. Select members of this Advisory Board
37 measured and marked the various City park walking/jogging trails for distance, by quarter mile,
38 during June. Parks & Recreation staff ordered the necessary products so that Public Works could
39 make the signage which should be ready for installation by the Parks & Recreation staff by the end
40 of July. There are plans underway for members to tour the Amphitheater and the Thornby sites.

41
42 **• Youth Advisory Sub-Committee**

43
44 The Committee has been very busy this quarter. Through their hard work they have managed to
45 get more of the community’s youth involved and interested in local government. Some of their
46 accomplishments thus far include continuing effort to enhance the Teen Web Page; held a Car
47 Wash in April and raised almost \$100; plan and Host a teen end of the school year dance at Wes

1 Crile; had the Volusia County Sheriff's Department in for a valuable question and answer session
2 on situational safety and events that directly related to teens in the community; and are starting
3 now to plan involvement in the Spooktacular in October and Deltona Days in November.

4
5 Through their great promotion of the Committee in their schools the group has had several new
6 teens show interest in joining the Committee and have had two (2) teen guests most recently at the
7 June meeting looking to get involved. The Group has also started a discussion with the Senior
8 Advisory Committee to see about having the two (2) groups come together for a day to share
9 ideas.

10
11 • **Senior Advisory Sub-Committee**

12
13 Five (5) members of this Committee resigned for various reasons, one of which had previously
14 applied and was voted on to this Sub-Committee at the June meeting. The City has advertised for
15 the replacements of these members and to date only one (1) application has been received.
16 Accomplishments this quarter include finalizing the Board's By Laws which were under review;
17 working on the Goals and Objectives for seniors for 2009 to include physical fitness, educational
18 and social gatherings, a senior walking club and developing a volunteer program; the community
19 garden has been planted and is being tended by residents and volunteers from the Council on
20 Aging; the Senior Dance in May had 91 attendees and the Committee has decided to forego the
21 senior dances until November; and members actively recruited local businesses to purchase
22 benches through the "*Adopt A Bench*" program and to date have sold five (5) benches.

23
24 • **Citizen Accessibility Advisory Sub-Committee**

25
26 Vice-Chair of this Sub-Committee, Danah Ludvick Grant resigned her position in June due to an
27 increased work load from her employer and she would like the option to return to this Sub-
28 Committee sometime in the future as a regular member.

29
30 Members efforts for this quarter were spent organizing a "Wheelchair Flag Football Event"
31 originally scheduled for Saturday, July 18th at the Wes Crile Gymnasium but, was cancelled on
32 Monday, July 6th because efforts to obtain sponsors and teams were not successful. Despite the
33 economy, the "*Adopt A Bench Program*" has generated the following bench orders: Citizen
34 Accessibility Sub-Committee; Senior Advisory Sub-Committee; Youth Advisory Sub-Committee;
35 Budget Pool Supply; Riverside National Bank, Deland Dodge-Kia (3 benches) and the Parks &
36 Recreation Advisory Board.

37
38 **B. Presentation and Selection for award of RFQ #0933 for Engineering Services for the**
39 **Wastewater Treatment Plant Final Design and Permitting.**

40
41 Mr. Denny explained a four (4) member team of City employees ranked firms 1-3 all the firms are
42 present and the Commission has the choice of accepting staff's recommendation or making their own
43 choice.

44
45 • **McKim & Creed**

46
47 Mr. Craig Wells, Vice President of McKim & Creed, gave a PowerPoint presentation that included

1 an overview of their firm, their local presence, their concept of reclaimed water, and the best
2 solution for the City of Deltona.

3
4 Commissioner Zischkau asked what additional functionality would the \$24 Million plant give the
5 City and Mr. Law replied it would provide a little higher quality water on the back end; however, it is
6 not something that the City really needs. Commissioner Zischkau asked if the original project was to
7 produce any component that was potable or were both versions 100% reclaimed water and Mr. Law
8 replied "100% reclaimed".

9
10 Commissioner Denizac asked if any staff member of McKim & Creed or any consultants met with
11 City staff to discuss anything outside of the formal presentation and Mr. Wells replied "no".

12
13 • **CPH Engineers, Inc.**

14
15 Mr. Terry Zaudtke, Chief Operating Officer Principal of CPH Engineers, Inc., gave a PowerPoint
16 presentation that included the firms community involvement, client references, extensive local
17 experience, the firm's successes obtaining grants/funding, converting waste to energy, cost/time
18 savings through established work and CPH's Deltona economic stimulus program.

19
20 Commissioner Denizac asked if any staff member of CPH Engineers, Inc. met with City staff to
21 discuss anything outside of the formal presentation and Mr. Zaudtke replied "no".

22
23 Commissioner Zischkau asked if a membrane plant is required and Mr. Zaudtke replied a membrane
24 plant is a viable option when there is a smaller site, it is an option but it is not the only option.
25 Commissioner Zischkau asked if there was any significant cost differences between the different
26 options that CPH Engineers looked at and Mr. Matt Done with Tetra Tech replied "yes", they were
27 very similar to what was presented by McKim & Creed. Commissioner Zischkau asked if there was
28 any benefit regarding odor in the surrounding areas in having the membrane plant versus the step feed
29 plant and Mr. Zaudtke replied the odor could be minimalized with different processes.

30
31 • **Baskerville-Donavan, Inc.**

32
33 Mr. Brian Stahl, Baskerville-Donavan, Inc.(BDI), gave a PowerPoint presentation that included
34 the benefits of using BDI, reclaimed water, their proven performance and commitment, the local
35 impact of BDI, the State Revolving Fund (SRF), revenue bonds, funding options and that BDI
36 prepared the SRF Application submitted by the City.

37
38 Commissioner Denizac asked if any staff member of Baskerville-Donavan, Inc. met with City staff to
39 discuss anything outside of the formal presentation and Mr. Stahl replied "no".

40
41 Commissioner Zischkau asked if either the 20 year State Revolving Fund loan or the 30 year bond are
42 variable rate loans and Mr. Don Berryhill replied "no", once the loan agreement is signed the interest
43 rate is fixed for the life of the loan.

44
45 **Motion by Commissioner Denizac, seconded by Commissioner McFall-Conte to select**
46 **Baskerville-Donavan, Inc. for the Wastewater Treatment Plant and to confirm staff's rankings.**

1 **Motion carried with members voting as follows:**

2		
3	Commissioner Denizac	For
4	Commissioner Deyette	Against
5	Commissioner McFall-Conte	For
6	Commissioner Treusch	For
7	Commissioner Zischkau	For
8	Vice Mayor Carmolingo	For
9	Mayor Mulder	For

10
11 **C. Presentation – Special Assessment District of Fire Protection Services – Burton and Associates.**

12
13
14 Commissioner Denizac suggested that the Commission allow public participation during this item
15 and Mayor Mulder agreed.

16
17 Mr. Mike Burton gave a brief presentation that included the project scope, background information,
18 possible residential assessment rates, non-residential assessment rates, and he went over the FY 2009
19 fire assessment per residential unit per year.

20
21 Mayor Mulder stated the Commission started in this process because there was a need to build three
22 (3) fire stations. He stated the study allows for the adoption of up to 100% cost recovery rate which is
23 not acceptable to him but, he was prepared to accept \$2-\$4 dollars a month which is a 35% cost
24 recovery rate. He stated it is misunderstood in the public that all the property taxes do not pay for
25 police and fire services and the Commission understood that this would be supplemented out of the
26 General Fund.

27
28 Mr. Kevin Kruger explained that at 35% cost recovery rate would generate \$2 million and a resident
29 would pay \$1.64 a month for a 1-1100 square foot home; \$3.11 a month for an 1101-1900 square foot
30 home; \$4.37 a month for a 1901-2700 square foot home; \$5.62 a month for a 2701-3500 square foot
31 home; \$6.87 a month for a 3501-4300 square foot home; and \$8.09 a month for a 4300+ square foot
32 home.

33
34 Commissioner Deyette asked what residents would pay a month if the Commission agreed on a 50%
35 cost recovery rate. Mr. Kruger explained that at 50% cost recovery rate would generate \$2.8 million
36 and a resident would pay \$2.35 a month for a 1-1100 square foot home; \$4.45 a month for an 1101-
37 1900 square foot home; \$6.24 a month for a 1901-2700 square foot home; \$8.03 a month for a 2701-
38 3500 square foot home; \$9.82 a month for a 3501-4300 square foot home; and \$11.56 a month for a
39 4300+ square foot home.

40
41 Mr. Clinger stated everyone agrees that over time the City needs more fire stations but, to support one
42 (1) fire station it takes a quarter of a billion dollars of new property.

43
44 Commissioner McFall-Conte stated she was under the impression that the amount of revenue from
45 the SAD would be taken out of the Fire Department budget and would replace the Fire Department
46 part of the budget and it would not be extra and Mr. Clinger replied “no”.

47

1 Commissioner Treusch asked if seniors on limited incomes could be included in the list of exempt
2 and non-exempt categories or would there be any impact to seniors. Mr. Burton stated if the
3 Commission chose to include another class of properties then the cost they otherwise would have
4 paid would not be redistributed to the other properties and it would have to bring from the general
5 fund those dollars that would otherwise have come from the SAD so the assessment would stay the
6 same.

7
8 Chief Staples stated with these difficult times the Fire Department is looking to just survive and some
9 of the debt capacity he is looking for is to replace things like some of the apparatus which is over 11
10 years old that does not always start the first time they are started and require \$40,000-\$50,000 in
11 annual maintenance. He stated in a 10 year financial plan he is looking at another fire station but, he
12 is looking at replacing apparatus which is something that he has not been doing. He stated there
13 needs to be a schedule where a fire engine is replaced every year because of the size of the fleet and
14 as it ages. He stated another concern he has is the fire station is in need of a ladder truck which takes
15 approximately two (2) years to build.

16
17 Commissioner Denizac stated she wanted the public to understand that approving any percentage
18 does not mean there will be fire stations on every corner.

19
20 David Santiago, 2631 Eustace Avenue, spoke regarding citizens of Florida approving Amendment
21 #1, the City's priorities and spoke against the approval of the SAD.

22
23 Thomas Nile, 1780 N. Normandy Blvd., spoke against the approval of the SAD.

24
25 Nancy Schleicher, 1460 S. Baton Drive, spoke against the approval of the SAD.

26
27 Heidi Herzberg, 556 Nardello Drive, spoke for the approval of the SAD.

28
29 Mr. Burton stated if the Commission decides to move forward with this it is not a final vote and there
30 will need to be a public hearing.

31
32 **Motion by Commissioner Treusch, seconded by Commissioner Deyette to accept the report**
33 **regarding possible implementation of a City-wide Fire Special Assessment District to aid in the**
34 **funding of providing fire protection services to the residents of Deltona as presented by Burton**
35 **and Associates, and to direct staff to proceed with steps necessary to create a City-wide Special**
36 **Assessment District at the 35% cost recovery rate.**

37
38 Commissioner Zischkau stated he is disturbed by the fact that this is being added on to the tax burden
39 that is already going to be raised 31% which is the rollback rate. He stated the assessment is not fair
40 and equitable because tax payers are already paying for the service and will continue to pay as much
41 under 31% ad valorem increase and then there is an assessment which does not come within the 3%
42 save our homes cap which is not deductible. He stated this assessment will apply to vacant land but,
43 the calculations were based on floor area and vacant land has zero (0) floor area. He stated vacant
44 land also does not offer the burden that houses do and he does not think assessing this on vacant land
45 has been explained to the Commission. He stated this is not the time to be engaged in major new
46 capital projects and the Commission needs to re-examine when the City can have new fire stations.
47 He stated in the current situation the City should not borrow any new money and should not raise

1 taxes by adding this new assessment.
2

3 **Motion carried with members voting as follows:**
4

5	Commissioner Denizac	Against
6	Commissioner Deyette	For
7	Commissioner McFall-Conte	Against
8	Commissioner Treusch	For
9	Commissioner Zischkau	Against
10	Vice Mayor Carmolingo	For
11	Mayor Mulder	For

12

13 **6. PUBLIC FORUM – Citizen comments for items not on the agenda.**
14

- 15 a) Jennifer Chasteen, 662 Mosquero Avenue, spoke regarding the roll back rate, the SAD and the
16 unemployment rate.
17
- 18 b) Jamie Jessup, 557 Noremac Street, spoke regarding the City Attorney and his qualifications.
19
- 20 c) Mark Masterson, 2700 Austin Avenue, spoke regarding foreclosed homes which are not
21 maintained.
22
- 23 d) Jeannette Fraser, 2763 Captain Drive, spoke regarding the resolving of City Commissioners
24 differences and the City Attorney.
25
- 26 e) Damien Fraser, 2763 Captain Drive, spoke regarding the suspension of the City Attorney and the
27 Commission supporting fundraisers to provide sports for the youth of the City.
28
- 29 f) Jack Hoyt, 1024 Pearl Tree Road, spoke regarding the suspension of the City Attorney.
30
- 31 g) Harry Wilkins, 2177 Gretna Drive, spoke regarding the suspension of the City Attorney,
32 foreclosures and the Affordable Housing Board.
33
- 34 h) Omar Roman, 1711 Providence Blvd., spoke regarding his embarrassment of the City's
35 representation by the Commission and the Acting City Attorney's salary.
36

37 **7. CONSENT AGENDA:**
38

39 **Motion by Commissioner McFall-Conte, seconded by Vice Mayor Carmolingo to approve**
40 **Item 7-B and 7-C.**
41

42 **Motion carried with members voting as follows: Commissioner Denizac, For; Commissioner**
43 **Deyette, For; Commissioner McFall-Conte, For; Commissioner Treusch, For; Commissioner**
44 **Zischkau, For; Vice Mayor Carmolingo, For; and Mayor Mulder, For.**
45

46 **A. Selection of Companies for the City of Deltona's Neighborhood Stabilization**
47 **Program (NSP).**

1
2 **Item pulled from Agenda.**

3
4 ***B. Request for approval of Facility Use Agreement for Henkels & McCoy (TechBridge).**

5
6 **Approved by Consent - to approve the renewal of the Facility Use Agreement with Henkels &**
7 **McCoy for use of the Harris M. Saxon Community Center for a period of one (1) year effective**
8 **July 20, 2009 through July 20, 2010.**

9
10 ***C. Resolution No. 2009-18, declaring certain property of the City as surplus and**
11 **authorizing the sale or disposal of such property.**

12
13 **Approved by Consent – to adopt Resolution No. 2009-18 declaring certain property of the City**
14 **as surplus and authorizing the sale or disposal of such property.**

15
16 Mayor Mulder called a 10 minute recess at 9:05 p.m. and called the meeting to order at 9:15 p.m.

17
18 **8. ORDINANCES AND PUBLIC HEARINGS:**

19
20 **A. Public Hearing - Ordinance No. 12-2009, Amending the Future Land Use Map by**
21 **changing the designation of approximately 120 acres from County Forestry Resource and**
22 **County Agricultural Resource to City Low Density Residential and Conservation generally**
23 **located northeast of Pine Ridge High School, and amending the Future Land Use Element of**
24 **the City of Deltona's Comprehensive Plan by adding Goal 4, Objective R, and Policy R1 to**
25 **address the development on individual properties within the City, for first reading (Project No.**
26 **CP09-002).**

27
28 The public hearing was opened and closed as there were no public comments.

29
30 Mr. Bowley stated this is a policy application and the applicant is looking to apply for a future
31 land use map designation onto the property which currently has a County designation. He stated
32 the widening of S.R. 415 needs to occur which would handle a lot of the anticipated traffic
33 generated for this project or any project on the east side of town. Access from this property to
34 S.R. 415 is key over time which would come from the applicant in the form of offsite
35 improvements.

36
37 Mr. Paradise stated there is a comprehensive plan citizen courtesy information list which is
38 required by the Department of Community Affairs (DCA) for anyone interested in the application
39 will be notified as the process continues. Mr. Paradise gave a brief presentation which included
40 the history and an overview of the property, issues from past applications, and staff
41 recommendations.

42
43 Ty Harris with Storch Morris and Harris, representing the applicant, stated the density was
44 lowered to two (2) units per acre, the conservation area was increased, received confirmation that
45 Howland Blvd. is funded for construction and a date to start construction. He stated the property
46 has been in the City since 2004 and it still does not have a City comprehensive land use
47 designation and nothing else makes sense.

1
2 **Motion by Commissioner McFall-Conte, seconded by Commissioner Treusch to approve**
3 **Ordinance No. 12-2009 at first reading and to direct staff to transmit the Ordinance changing**
4 **the future land use designation of 120 acre site from County Forestry Resource and Agriculture**
5 **Resource to City Conservation (60 acres) and Low Density Residential (60 acres) and to**
6 **transmit the proposed Future Land Use Element text amendments to the Florida Department**
7 **of Community Affairs.**

8
9 Mr. Cino read the title of Ordinance No. 12-2009.

10
11 **AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AMENDING THE FUTURE**
12 **LAND USE MAP OF DELTONA’S COMPREHENSIVE PLAN BY CHANGING THE**
13 **FUTURE LAND USE DESIGNATION OF 120+/- ACRES OF LAND LOCATED**
14 **NORTHEAST OF THE PINE RIDGE HIGH SCHOOL, MORE PARTICULARLY**
15 **DESCRIBED HEREIN, FROM COUNTY FORESTRY RESOURCE AND COUNTY**
16 **AGRICULTURAL RESOURCE TO CITY LOW DENSITY RESIDENTIAL AND**
17 **CONSERVATION; AMENDING THE FUTURE LAND USE ELEMENT OF THE CITY**
18 **OF DELTONA’S COMPREHENSIVE PLAN BY ADDING A GOAL, OBJECTIVE AND**
19 **POLICY TO ADDRESS THE DEVELOPMENT ON INDIVIDUAL PROPERTIES**
20 **WITHIN THE CITY; FINDING CONFORMITY WITH STATE STATUTES AND THE**
21 **COMPREHENSIVE PLAN OF THE CITY OF DELTONA; PROVIDING FOR**
22 **CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.**

23
24 **Motion carried with members voting as follows: Commissioner Denizac, For; Commissioner**
25 **Deyette, For; Commissioner McFall-Conte, For; Commissioner Treusch, For; Commissioner**
26 **Zischkau, For; Vice Mayor Carmolingo, For; and Mayor Mulder, For.**

27
28 Ordinance No. 12-2009 was adopted at 9:35 p.m.

29
30 **9. OLD BUSINESS:**

31
32 **A. Discussion re: employment of City Attorney.**

33
34 Mayor Mulder stated the voters approved the Charter amendment stating that it takes five (5)
35 members of the Commission, not four (4), to fire or dismiss Charter officers and he disagreed with
36 it because he felt it put too much power in the hands of the Charter officers. He stated he has
37 asked the Commission to not take legal advice from one of their colleagues and nobody on the
38 dais can provide an unbiased opinion on anything. He stated his first role is to protect the City and
39 he hopes that it was not the intention of the Commission to circumvent the Charter. He stated
40 some of the issues with the proposed resolution provided by Commissioner Zischkau is it states
41 “the Commission has suspended Mr. Trovato and as a result he has abandoned his office”, the
42 resolution “resolves and recognizes Mr. Trovato no longer holds the office of City Attorney”, that
43 the Commission is willing to “pay the contract severance package in full settlement of all Mr.
44 Trovato’s claims” and it discusses the hiring of an outside law firm. He stated the Commission
45 needs to think very wisely and carefully and move in a direction to try to fix this situation. He
46 stated if it really is a divisive issue where the Commission cannot come together without making a
47 change he would be happy to discuss that possibility.

1
2 Commissioner McFall-Conte stated it is not uncommon for Charter officers to be suspended and
3 she provided many examples of cities who have suspended their Charter officers with or without
4 pay. She stated over the past two (2) weeks she did not speak to the press, however, Mr. Trovato
5 was quoted in the Daytona Beach News Journal and the Orlando Sentinel after the majority of the
6 Commission suspended him. She stated last week she received an email from a citizen who stated
7 Mr. Trovato used the City Hall address for his private legal practice which she researched and she
8 found on the Volusia County website a case classified as dissolution of marriage being handled by
9 Mr. Trovato that indeed had the address for City Hall listed. She stated the Commission as the
10 elected body is responsible to those who elected them and as of the vote two (2) weeks ago the
11 majority of the Commission does not support Mr. Trovato's employment with the City. She stated
12 under the continued leadership of Ms. Miller the City can continue moving in the right direction.
13 She stated it is time to heal as a Commission but cannot until this issue is resolved.

14
15 Commissioner Zischkau stated part of problem is that Mr. Trovato has made himself ineligible to
16 continue as City Attorney. He asked the labor attorney Denise Heekin with Bryant Miller Oliver
17 who gave her the assignment as stated in her letter dated July 17th. Ms. Heekin replied she was
18 contacted by the Human Resources Director Tom Acquaro regarding her availability to speak with
19 the City Manager and Acting City Attorney. Ms. Heekin stated she was asked to look at and
20 provide an opinion regarding the entire issue of the City Attorney's employment agreement, the
21 City Charter provision regarding the proper procedure for removal of the City Attorney, the
22 suspension of the City Attorney and whether that could be considered a removal, and whether
23 there are grounds to provide severance or not. Ms. Heekin stated the discussions were with the
24 City Manager and Acting City Attorney but, not with Mr. Trovato.

25
26 Commissioner Denizac asked in regards to the provision in the City Attorney's contract under
27 suspension was the action of the majority of the Commission who voted for the suspension of Mr.
28 Trovato illegal. Ms. Heekin replied it is an issue of interpretation but, what the provision does is
29 give the City Attorney the option to resign which he has not exercised.

30
31 Commissioner Treusch stated there are a lot of opinions, accusations, and ridicule. He thinks the
32 Commission needs to address Mr. Trovato or have someone meet with him to address his future
33 with the City.

34
35 Mayor Mulder stated one of two (2) things needs to happen, there is five (5) votes needed to
36 terminate the City Attorney or if the Commission would like he will meet with Mr. Trovato and
37 negotiate his exit. He stated he does not pretend to believe considering the way things have gone
38 down that it will be as simple as Mr. Trovato accepting the severance package as it is stated in his
39 contract. He stated he wants to clear Mr. Trovato's name, make him whole and employable.

40
41 Commissioner Denizac suggest that the person to negotiate with Mr. Trovato should be Mr. Cino
42 and to take the Commission out of the equation. Mr. Cino replied he would not negotiate without
43 one (1) member of the Commission present and Commissioner Denizac suggested Commissioner
44 McFall-Conte.

45
46 **Motion by Commissioner McFall-Conte, seconded by Vice Mayor Carmolingo to direct the**
47 **Acting City Attorney and Commissioner McFall-Conte to negotiate a resignation severance**

1 **agreement with Mr. Trovato and in it include a hold harmless agreement and an agreement**
2 **that Mr. Trovato will not talk despairingly about the City in the media and that Mr. Trovato**
3 **suspension with pay be continued until the next Commission meeting or before if the**
4 **agreement is reached before then.**

5
6 Mayor Mulder asked how many votes of the Commission it would take to give Mr. Trovato the
7 package and to allow him to part company with the City and Mr. Cino replied four (4) votes.

8
9 **Amended motion by Commissioner Zischkau, seconded by Commissioner Denizac to include**
10 **the words “continue to” before the word “despairingly”.**

11
12 **Commissioner Denizac withdrew her second.**

13
14 Commissioner Deyette read an email from a citizen who was upset regarding the issue of the
15 suspension of the City Attorney, she read from the City Charter regarding removal of a Charter
16 officer and she read the Oath of Office signed by Commissioner Zischkau which she believes he
17 has violated by providing legal advice outside his scope of duties and that he is not supposed to be
18 practicing law on the dais.

19
20 Mayor Mulder asked about the validity of the proposed resolution provided by Commissioner
21 Zischkau as a whole and Ms. Heekin replied in an attempt to remove the City Attorney it is not
22 valid.

23
24 **Motion carried with members voting as follows:**

25		
26	Commissioner Denizac	For
27	Commissioner Deyette	Against
28	Commissioner McFall-Conte	For
29	Commissioner Treusch	Against
30	Commissioner Zischkau	For
31	Vice Mayor Carmolingo	For
32	Mayor Mulder	For
33		

34 **10. NEW BUSINESS:**

35
36 **A. Appointment of one (1) member to the City’s Beautification Advisory Board.**

37
38 **Motion by Commissioner Zischkau, seconded by Commissioner McFall-Conte to table the**
39 **appointment to the Beautification Advisory Board to August 3, 2009.**

40
41 **Motion carried with members voting as follows: Commissioner Denizac, For; Commissioner**
42 **Deyette, For; Commissioner McFall-Conte, For; Commissioner Treusch, For; Commissioner**
43 **Zischkau, For; Vice Mayor Carmolingo, For; and Mayor Mulder, For.**

44
45 **B. Re-appointment of Charles Cino as the City of Deltona’s Special Magistrate.**

46
47 **Motion by Commissioner Zischkau, seconded by Commissioner McFall-Conte to continue**

1 **the appointment of Charles Cino until the next Regular City Commission Meeting.**

2
3 **Motion carried with members voting as follows: Commissioner Denizac, For; Commissioner**
4 **Deyette, For; Commissioner McFall-Conte, For; Commissioner Treusch, For; Commissioner**
5 **Zischkau, For; Vice Mayor Carmolingo, For; and Mayor Mulder, For.**

6
7 **C. Discussion re: water rate increase.**

8
9 Commissioner Denizac stated during her discussions on Thursday with the City Manager she
10 stated that if the SAD passes that it is intended that around 20% of that fee would go toward the
11 funding of the debt service of the public safety building at which point the City Manger corrected
12 her by stating it would be 24%. She stated she asked where the other 80% would come from to
13 fund the public safety building and the City Manager told her there was \$1.1 million that could be
14 transferred from the Deltona Water Enterprise Fund to the General Fund and that money would be
15 used for financing. She stated then Mr. Denny was called into the meeting and he quoted cost
16 allocation study which was done by Dorothy Pendergrass. She stated all the staff members
17 including the City Manager, Deputy City Manager, and Mr. Clinger admitted that the study is
18 complicated and hard to understand. She stated according to the study done by Dorothy
19 Pendergrass the Deltona Enterprise Fund will owe the General Fund \$1.1 million for services
20 provided for human resource, managing, accounting, and clerical duties and therefore \$1.1 million
21 needs to be paid to the City for the services provided on top of the \$100,000 a year payment to
22 recuperate the loss of ad valorem taxes from when the City bought Florida Water. She stated that
23 is also on top of the \$270,000 payment that Deltona Water gives to the General Fund for providing
24 IT services. She stated the next day she met with staff again and the versions changed somewhat.
25 She stated if the City is going to be using the \$1.1 million plus the \$400,000 from the SAD which
26 equals the \$1.5 million needed to fund the public safety building in her opinion it is not going to
27 add any more firemen or policemen on the streets. She believes something is wrong, something
28 was done without the approval of the Commission and that the residents are being over taxed.

29
30 Commissioner Denizac asked if in Mr. Denny's professional opinion if it would cost \$1.1 million
31 to run human resources or accounting. Mr. Denny stated the \$1.1 million is to cover the
32 administrative charges by the departments located in City Hall who provide an administrative
33 service to the Enterprise Fund and the departments included are the Commission Office, City
34 Manager's Department, Finance Department, Purchasing Department, and the Human Resources
35 Department. He stated he agrees the consultant's report is very difficult to go through, match up
36 and try to make sense of. He stated the \$100,000 is payment in lieu of taxes which is how it has
37 been since 2003. He stated when he was told the new administrative fees was \$1.1 million he was
38 shocked and he has not looked to see if there are any firms that do this kind of thing but, if he had
39 to make a big guess it would be around \$250,000-\$200,000 to provide those services.

40
41 Mr. Denny stated Burton & Associates did the rate study and he received in writing that should the
42 Commission remove the \$1.1 million the rate increase scheduled for October 1st at 17.25% would
43 be 15.25% but, he stated the Enterprise Fund should pay something for administrative fees.

44
45 **Motion by Commissioner Denizac to go back and change the water rate from 17.25% to**
46 **reflect 15.25%.**

1 **Motion died for lack of a second.**

2
3 Mr. Cino stated that could not be done tonight because it has not been noticed and would need to
4 be placed on the next agenda.

5
6 Ms. Miller stated the cost allocation study was requested by Dorothy Pendergrass under the
7 direction of Steve Thompson and it has been identified in the auditor's reports as a criticism that
8 the City does not properly account for administrative charges from Deltona Water that should be
9 accounted for or paid back to the General Fund. She stated she does not know if the cost is \$1.1
10 million but, the study was never implemented or brought to the Commission because there is no
11 funding for it. She stated this is the proper way of doing business from an Enterprise Fund to a
12 General Fund. She stated this has been mentioned by the auditors numerous times and when
13 Burton & Associates came in to look at all the expenses of running Deltona Water this was put in.

14
15 Mayor Mulder stated there is nothing wrong with this practice, it has not been implemented and if
16 it were to be implemented it would come before the Commission.

17
18 Commissioner Denizac asked if the \$1.1 million is reflected in the 17.25% and Mr. Denny stated
19 the \$1.1 million was reflected as an expense which went into determining the rates but it was not
20 in year one (1) of the new rates but, in year two (2).

21
22 Mr. Clinger stated it is reflected in the study as part of the five (5) year project but, it is not in the
23 budget. He stated this is a very typical practice and this is part of the general fund budget.

24
25 Commissioner Zischkau asked if the \$1.1 million is in next year's budget and Mr. Clinger replied
26 "it is not, Deltona Water cannot pay it."

27
28 **11. CITY COMMISSION COMMENTS:**

29
30 a) Commissioner Zischkau stated the Commission has heard the Mayor's and Commissioner
31 Deyette's legal opinion this evening and he would like to correct one (1) misapprehension
32 Commissioner Deyette had which is the four (4) to nothing vote she claimed is invalid did not
33 seek to remove Mr. Trovato and that is why it was perfectly legal. He stated an outside attorney,
34 Ms. Heekin, could not define her scope of assignment, claimed not to know any of the facts and
35 therefore evaded questions. He stated the distinction is not between who is giving the legal
36 advice but, whether the legal advice is competent or not and his advice has been competent
37 throughout and he has always been able to back it up with facts and law.

38
39 b) Commissioner Zischkau stated he wanted to thank and congratulate Vice Mayor Carmolingo for
40 being a man of principle on the issue of the City Attorney because he realizes how difficult it is to
41 assume leadership on this Commission and be the swing vote and affect the outcome of such a
42 serious issue. He stated he thinks the issue of whether the Commission is getting competent and
43 unbiased legal advice from Mr. Trovato is one (1) of the most important issues the City has faced
44 in the last year. He stated Vice Mayor Carmolingo provided the leadership to get this done and to
45 see that the City has a new City Attorney at some point.

46
47 c) Commissioner Zischkau stated the 17.25% increase in the water rates goes to a couple of deeper

1 issues, one is procedural where Commissioners should be able to get items on the agenda without
2 having a majority vote before it is put on the agenda and we should not be advocating the
3 Commission's responsibility to the City Manager to set the agenda for this Commission. He
4 stated the Commission needs at some future time when there is a permanent City Attorney to re-
5 examine the agenda process.
6

7 d) Commissioner Zischkau stated people do not understand that the increase in water rates was not
8 just for one (1) year, it was a 17.25% increase for each of five (5) years. He stated the City is
9 going to have a crisis as far as water costs if not this year than a couple of years down the road
10 especially because the third bracket was raised so significantly where some people who water
11 their yard have watched their water bill go from \$50 to \$150 a month and others have complained
12 their water bills have gone from \$30 to \$90 a month or more. He stated the Commission needs to
13 have come before them an examination of what the water rates are because when this
14 Commission voted to increase the water rates it did not have a number as to how high that third
15 bracket was going to be. He stated he believed the Commission gave an open ended
16 authorization to the water enterprise to increase the third bracket substantially to make it higher
17 than the lower brackets and to "encourage conservation" and he thinks that was wrong. He stated
18 the Commission needs to find out what the rate structure is and have it brought back to the
19 Commission.
20

21 e) Commissioner Deyette thanked the firemen at the July 4th celebration because one of the
22 American Business Women's Association (ABWA) members came very close to passing out and
23 she spends three (3) days in the hospital for food poisoning but, she is okay now.
24

25 f) Commissioner Deyette stated she would like for more people to know about the July 4th
26 celebration because it is such a nice community event. She stated this year with the help of
27 Charity Cars a car was given to a disabled Veteran and his kids and it was a really nice thing to
28 do.
29

30 g) Commissioner Deyette stated she had asked to be able to involve school kids in an art poster
31 contest and Ms. Miller replied she would get back to her on the status of that.
32

33 h) Commissioner Deyette stated the County gives the additional senior homestead exemption and
34 she asked if staff has ever thought about looking into this and Ms. Miller stated she thought it was
35 around \$100,000 but, staff will verify that. Commissioner Deyette stated she would like to
36 consider the exemption and hopes it would not affect the budget too much.
37

38 i) Commissioner Deyette stated that Sergeant Patrick Leahy will help startup a Neighborhood
39 Watch to help combat crime and she would encourage anyone to consider doing this in their
40 neighborhood. She stated her neighborhood is starting one and at the first meeting there were 25
41 people and there is another meeting planned in only two (2) weeks.
42

43 j) Commissioner Deyette stated she heard a citizen say at least one (1) Commissioner was supported
44 in the campaign by Mr. Trovato which is what Commissioner Denizac stated at the last meeting
45 and she believes it was aimed at her but, it is not true.
46

47 k) Commissioner Treusch stated he was pleased with the way the contracts were presented by the
48 engineering firms, the contracts were easy to follow and he wished all contracts would come

1 before the Commission that way.

2
3 l) Commissioner Denizac stated that her comments at the last meeting were not directed to
4 Commissioner Deyette.

5
6 m) Commissioner McFall-Conte stated the Commission received the business development plan
7 from the County and she looked it over but, as one person she cannot identify how it would
8 benefit the City. She suggested that staff do a workshop or a joint meeting with the Economic
9 Development Advisory Board.

10
11 **Ms. Miller asked to clarify if the Commission wanted a workshop or a joint meeting and the**
12 **Commission concurred to have a workshop.**

13
14 n) Vice Mayor Carmolingo stated he was driving down Howland Blvd. and got a good look at the
15 median which is the entryway to the City and it is a disgrace. He stated a great job has been done
16 on Providence Blvd. and he would like to see something done on Howland Blvd. because it is the
17 first impression for people coming into the City.

18
19 Mayor Mulder stated he saw Public Works tearing up a part of the median on Howland Blvd.
20 today. Mr. Denny stated everything on Howland Blvd. has to get approval by the County because
21 it is a County maintained road. He stated everything dies in that median so Public Works is going
22 to mound it up with dirt and put Bahia grass in there which is all staff can do that the County will
23 approve of. He stated the problem is there is a stormwater issue there that does not allow
24 stormwater to drain properly and floods that end of the median and the County states they do not
25 have funds to address that issue.

26
27 o) Mayor Mulder stated he takes it very hard and he finds it very difficult that some do not
28 acknowledge the City has the lowest tax rate, the lowest water rate even with the increases and
29 the lowest garbage rate and the City should be proud of it. He stated he does not believe the
30 argument that people are over taxed in the City.

31
32 **12. CITY ATTORNEY COMMENTS:**

33
34 Mr. Cino thanked the Commission for their cooperation and he stated there is real good staff
35 working in the Legal Department.

36
37 **13. CITY MANAGER COMMENTS:**

38
39 Ms. Miller stated she wanted to clarify that any Commissioner that asks to place an item on the
40 agenda before the packets have been distributed and made public has been placed on the agenda
41 but, it is when the agenda has already been distributed and published to the public that staff asks
42 for the Commission to have a vote for the item to be added onto the agenda.

43
44 Ms. Miller stated she is seeking direct from the Commission regarding staff receiving large
45 volumes of public record requests. She stated the Charter provides for reimbursement of expenses
46 of Commissioners. She stated when staff receives a public records request that involves, this
47 particular one, 13 hours of staff time and over a thousand pages of documents she needs to know
48 as staff if staff should ever make a distinction that it is a public records request verses a

1 Commissioner requests and should there be a charge for it. She stated she would like some rules
2 or set perimeters because staff receives requests that they are unsure if it is related to particular
3 subject or not.

4
5 Mayor Mulder stated his only opinion is that there is absolutely some abuse and some harassment.
6 He stated he has never asked for anything that required more than 30-45 minutes of staff time.

7
8 Mr. Cino stated the Commission could come up with a policy. He thinks if a Commissioner wants
9 something they should get it but, he would agree with Ms. Miller that if it takes an enormous
10 amount of staff time that may be different. He stated if the request takes less than one (1) hour of
11 staff time the Commissioner should get the request and if it take more than that it should be
12 brought to the Commission's attention.

13
14 Mayor Mulder asked if the Commission wanted to discuss the topic at a workshop and
15 Commissioner McFall-Conte agreed.

16
17 Ms. Miller stated there is one (1) request pending that the work has already been done and the
18 copies have been made and Mayor Mulder stated to provide the Commissioner with the request.

19
20 **14. ADJOURNMENT:**

21
22 There being no further business, the meeting adjourned at 11:24 p.m.

23
24
25
26
27 **ATTEST:**

Dennis Mulder, MAYOR

28
29
30 _____
Joyce Kent, DEPUTY CITY CLERK

31