

AFTER ACTION AGENDA REPORT

REGULAR CITY COMMISSION MEETING MONDAY, SEPTEMBER 21, 2009 **6:30 P.M.**

**DELTONA COMMISSION CHAMBERS
2345 PROVIDENCE BLVD.
DELTONA, FLORIDA**

AGENDA

1. CALL TO ORDER - 6:30 p.m.
2. ROLL CALL - CITY CLERK
 - All present.
3. SILENT INVOCATION AND PLEDGE TO THE FLAG:
4. APPROVAL OF MINUTES & AGENDA:
 - A. Minutes:
 1. Regular City Commission Meeting – September 8, 2009.

Commission voted 6 to 1 (Commissioner Zischkau voted against the motion) to adopt the minutes of the Regular City Commission Meeting of September 8, 2009 as presented.
 - B. Additions or Deletions to Agenda:

Commission voted 6 to 1 (Commissioner Treusch voted against the motion) to add Item 10-F to the agenda.
5. PRESENTATIONS/AWARDS/REPORTS:
 - A. Proclamation – Fire Prevention Month – October, 2009.
 - B. Proclamation – Hispanic Heritage Month – October, 2009.
6. PUBLIC FORUM – Citizen comments for items not on the agenda.

CONSENT All items marked with an * will be considered by one motion unless removed
AGENDA: from the Consent Agenda by a member of the City Commission. If an item is removed for clarification only, it will be discussed immediately following action on the Consent Agenda. If an item is removed for further discussion, it will be discussed under New Business immediately following the last listed item.

7. CONSENT AGENDA:

A. Request for renewal of Facility Use Agreement – Debra MacDonald Dancing.

Debby MacDonald Dancing has had a Long Term Facility Use Agreement with the City of Deltona for many years. They conduct youth dance classes and lessons for the youth of Deltona and Southwest Volusia.

Debby MacDonald Dancing accesses the meeting room at Wes Crile Park located at 1537 Norbert Street, Deltona on Thursdays from 2:30PM-6:45PM.

Debby MacDonald Dancing has met the criteria requirements for a Long Term Facility Use Agreement with the City.

Staff recommends a one (1) year Facility Use Agreement with an option to renew for an additional one (1) year period (not to exceed two consecutive years) upon written agreement by both parties.

After discussion, the Commission voted unanimously to approve the renewal of the Facility Use Agreement with Debra MacDonald Dancing for use of the meeting room located at Wes Crile Park, two (2.5) hours weekly for a period of eight (8) months effective September 24, 2009 through May 31, 2009.

B. Resolution No. 2009-34, Addressing concerns related to cluster mailboxes on City thoroughfares.

At September 15th's Commission Workshop, the Commission discussed issues related to the installation of cluster mailboxes, particularly the mailboxes installed on the new portion of North Normandy Blvd., between Saxon Blvd. and Firwood Drive. The Commission asked staff to prepare a Resolution to express these concerns that can be forwarded to the United States Post Office for action.

After discussion, the Commission voted 2 to 5 (Commissioner Denizac, Commissioner Deyette, Commissioner McFall-Conte, Commissioner Treusch and Mayor Mulder voted against the motion) to have the Acting City Attorney research to see what can be done to suspend the effective date of the Ordinance already passed and provide the amended Ordinance for first reading at the October 5th meeting.

After discussion, the Commission voted unanimously to adopt Resolution No. 2009-34, changing the time period in Section 2 from six (6) months to 45 days

and adding language that in the future cluster mailboxes be installed before removal of a resident's current mailbox.

8. ORDINANCES AND PUBLIC HEARINGS:

A. Public Hearing - Resolution No. 2009-32, Adopting the Final Millage Rate for FY 2009/210.

State law requires that the City hold a public hearing to adopt the final millage rate and budget.

At this hearing, the City will:

- *First discuss the percentage increase or decrease in millage over the rolled-back rate. The millage rate reflects no increase from the rolled-back rate.*
- *Adopt the millage rate and budget by separate votes with the millage adopted first. The millage rate adopted cannot exceed the millage rate tentatively adopted.*
- *Prior to adopting the millage-levy resolution, the name of the taxing authority (City of Deltona, Florida), the rolled-back rate (5.43755), the percentage decrease (0%), and the millage rate to be levied (5.43755) must be publicly announced.*

After conducting the public hearing, the Commission voted 4 to 3 (Commissioner Denizac, Commissioner Deyette, and Commissioner Zischkau voted against the motion) to approve Resolution No. 2009-32, adopting the final millage rate of 5.43755 mils for the levy of ad valorem taxes for fiscal year 2009/2010.

B. Public Hearing – Resolution No. 2009-33, Adopting the Final Annual Budget for FY 2009/2010.

State law requires that the City hold a public hearing to adopt the final millage rate and budget.

At this hearing, the City will:

- *First discuss the percentage increase or decrease in millage over the rolled-back rate. The millage rate reflects no increase from the rolled-back rate.*
- *Adopt the millage rate and budget by separate votes with the millage adopted first. The millage rate adopted cannot exceed the millage rate tentatively adopted.*

- *Prior to adopting the millage-levy resolution, the name of the taxing authority (City of Deltona, Florida), the rolled-back rate (5.43755), the percentage decrease (0%), and the millage rate to be levied (5.43755) must be publicly announced.*

After conducting the public hearing, the Commission voted 4 to 3 (Commissioner Denizac, Commissioner Deyette, and Commissioner Zischkau voted against the motion) to approve Resolution No. 2009-33, adopting the final General Fund, Special Revenue Fund, Enterprise Fund, Capital Projects Funds, and Capital Equipment Fund budgets for fiscal year 2009/2010.

C. Ordinance No. 13-2009, Adopting the City's Water Supply Facilities Work Plan and amendment of the existing text of the Comprehensive Plan Future Land Use, Infrastructure, Conservation, Intergovernmental Coordination, and Capital Improvements Elements to provide for a Water Supply Facilities Work Plan to comply with the Florida Statute requirements, for first reading.

Changes made by the 2005 Florida Legislature to Chapter 163, F.S., require local governments to adopt a water supply facilities work plan. The water supply plan is a State mandate and a local government's water supply plan needs to also be consistent with the adopted Water Management District Water Supply Plan. The consequence of not adopting a water supply plan is that the City will have difficulties amending its Comprehensive Policy Plan. The Department of Community Affairs (DCA) can object to an amendment if the local government does not have the permitted water capacity to support the proposed land use (i.e. Fernanda Landings). The City has been told by the DCA that water supply planning needs to be accomplished.

Ordinance No. 13-2009, which includes the water supply plan and related Comprehensive Plan amendments, is intended to address the Florida Statutes requirements. In addition, the water supply facilities work plan amendment is exempt from the twice-per-year amendment limitation. The water supply plan is a technical document that goes into the future water needs of the City related to expected population. As part of the plan, alternative water sources such as surface waters, are identified and analyzed. A component of the plan is an analysis of water conservation activities such as the use of reclaimed water, inclined rate structure, etc. The associated Comprehensive Plan amendments are intended to implement the plan and to create a linkage between the water supply plan and the Comprehensive Plan.

The Planning and Zoning Board heard Ordinance No. 13-2009 at their regular scheduled meeting on August 19, 2009, and voted to forward this Ordinance to the City Commission with a recommendation of approval with appropriate additions to applicable policies identifying the Lower Floridian Aquifer as a potential alternative water supply; as well as requiring the use and maintenance of rain sensors.

After conducting the public hearing, the Commission voted unanimously to transmit Ordinance No. 13-2009 that includes the City's Water Supply Facilities Work Plan and related Comprehensive Plan amendments to the Future Land Use, Infrastructure, Conservation, Intergovernmental Coordination and Capital Improvements Elements to the Florida Department of Community Affairs.

9. OLD BUSINESS:

10. NEW BUSINESS:

A. Consideration of request from JP Morgan Chase Bank for reduction of fine from \$10,000.00 assessed pursuant to Special Magistrate Case DEL 08-125.

An order Imposing Fine/Lien was entered on June 25, 2008, by the City of Deltona Special Magistrate, ordering JP Morgan Bank to pay to the City of Deltona a fine in the amount of two hundred and fifty dollars (\$250.00) per day beginning July 24, 2008 for each and every day the violations exist and continue to exist or until a maximum amount of \$10,000.00 is reached. The violation occurred when the respondent failed to repair the siding on the home located on the property at 3216 South Dorchester Drive. The respondent failed to come into compliance for 103 days. The total accumulated amount due is \$10,000. On April 22, 2009 the respondent's representative Jason Searl Esq. appeared before the Special Magistrate to request a recommendation to reduce the fine.

After discussion, the Commission voted 3 to 4 (Commissioner Denizac, Commissioner Devette, Commissioner McFall-Conte, and Commissioner Treusch voted against the motion) to reduce the fine to \$3,000.

After discussion, the Commission voted 5 to 2 (Commissioner Zischkau and Vice Mayor Carmolingo voted against the motion) to grant the request for a reduction in fine to the sum of \$5,000 concerning Case No. DEL 08-125 for the property located at 3216 South Dorchester Drive, Deltona, Florida, to be paid within 30 days (August 20, 2009) or the fine(s) revert(s) back to the original amount of \$10,000.

B. Consideration of request from Dean Montgomery for reduction of fine from \$5,000.00 assessed pursuant to Special Magistrate Case DEL 06-028.

An order Imposing Fine/Lien was entered on September 27, 2006, by the City of Deltona Special Magistrate, ordering Jean Young to pay to the City of Deltona a fine in the amount of one hundred dollars (\$100.00) per day beginning September 27, 2006 for each and every day the violations exist and continue to exist or until a maximum amount of \$5,000.00 is reached. The violation occurred when the respondent failed to repair the roof which was in disrepair and leaking on the

home located on the property at 706 Vardon Avenue. The respondent failed to come into compliance and a total accumulated amount due is \$5,000. The new owner Mr. Dean Montgomery brought the property into compliance and on August 26, 2009 appeared before the Special Magistrate to request a recommendation to reduce the fine.

After discussion, the Commission voted unanimously to grant the request of Dean Montgomery for a reduction of the fine concerning Case No. DEL 06-028 for the property located at 706 Vardon Ave., Deltona, Florida, to the sum of \$1,289.42 which has already been paid.

C. Request for approval of the Management Plan for the Thornby Property.

A Management Plan for the Thornby Property is required per the Volusia County ECHO Grant that the City of Deltona was awarded on March 19, 2009, following acquisition of the site in partnership with Volusia County within the Volusia Forever Program on March 9, 2009.

The intent of the purchase was to enhance recreational opportunities and further natural resource protection goals. As has been previously stated, the Thornby property is located within the municipal limits of the City of Deltona and the City has land-use jurisdiction over the property. However, pursuant to Chapter 171.062 (2) F.S., the Thornby site has County designations of future land use (LIU) and zoning (A-3(1)) which makes it still possible for a City to allow development under County regulations. Therefore, since the County's Comprehensive Plan and the A-3 zoning allow public parks, the recreational use of the Thornby property can occur without amendment to the City Comprehensive Plan. In order to maintain internal Comprehensive Plan consistency and integrity, the City should sponsor an administrative Future Land Use Map amendment to change the County land use. Appropriate municipal future land use designation(s) will be Conservation, Recreation, or a combination of the two designations depending on the determined use and management of the site. Such an amendment should be conducted at the earliest available City amendment cycle, but not before a management plan vision for the Thornby property has been approved.

After discussion, the Commission voted 6 to 1 (Commissioner Zischkau voted against the motion) to approve the Management Plan for the Thornby property in compliance with receipt of Volusia County ECHO Grant funds and in keeping with lands acquired through the Volusia Forever Program that are used as recreational facilities.

D. Discussion re: Re-establishment Affordable Housing Advisory Committee (AHAC) (requested by Commissioner Zischkau).

The Affordable Housing Advisory Committee (AHAC) was established by Ordinance No. 07-2008 on March 3, 2008, to advise the Community Development

section of the Planning and Development Services Department on affordable housing matters. Their duties were established in the adopted By-Laws for the committee and their term was established for a period of one (1) year to meet once a month, with the first meeting commencing in July 2008. Thus, the sunset of the AHAC was July 2009.

Further, the AHAC finalized their recommendations by December 31, 2008. The City Commission had 90 days after receipt of recommendations to amend the Local Housing Assistance Plan (LHAP) and incorporated incentives by March 31, 2009. A new AHAC needs to be created for the upcoming program year. With the Commission's approval, staff will proceed with advertising for interested applicants to serve on the AHAC, and come forward to the Commission at a later date with a Resolution to appoint such members to the AHAC.

After discussion, the Commission concurred to direct staff to advertise the Board openings and allow the interested previous members of the Affordable Housing Advisory Committee (AHAC) to apply and that it be at the same one (1) year term.

E. Request for waiver of fees – SE09-009 Volusia County Hispanic Association Cultural Awareness Latin Festival.

The City has received a request from Carlos Rivera, President, Volusia County Hispanic Association, for waiver of the applicable costs and permit fees associated with the Volusia County Hispanic Association Cultural Awareness Latin Festival scheduled for Sunday, October 11, 2009 at Dewey O. Boster Sports Complex.

Attached, for your information, is a copy of Commission Policy #CC99-005 regarding waiver of fees.

The costs associated with the request for waiver of associated costs and services from Public Works Department, Parks and Recreation Department, the Fire and Sheriff's Departments include the following:

*Parks & Recreation - \$ 990.00
Fire/Rescue - \$2,100.00
Sheriff's Dept. - \$3,080.00
Public Works - \$1,082.50
Total = \$7,252.50*

It is the intent of the Volusia County Hispanic Association to charge an admission fee to support the anticipated expenses for this event. The funding for the construction of the Sports Complex was provided by FRDAP funds which prohibit charging an admission fee without previous approval.

The Commission tabled consideration of this item to October 5, 2009.

F. ADD-ON AGENDA ITEM - Consideration and approval of contract for purchase of vacant property located at 593 Tradewinds Drive, for the construction of a stormwater management pond for the planned widening of Fort Smith Boulevard (Section 3) – from Primrose Terrace to Rookery Avenue improvements.

Fort Smith Boulevard has been identified as a future road widening project. The City of Deltona proposes to widen Fort Smith Boulevard (Section 3) from Primrose Terrace to Rookery Avenue. Fort Smith Boulevard is an existing two-lane rural facility and is proposed to be reconstructed to a three-lane undivided urban roadway. The proposed improvements are required to accommodate present and future traffic demands safely and efficiently.

The purchase of certain properties is required for the successful completion of the Fort Smith Boulevard (Section 3) – from Primrose Terrace to Rookery Avenue improvements.

On July 7, 2008, the City Commission approved and authorized staff to commence eminent proceedings on one of those properties, located at 593 Tradewinds, Deltona, is owned by Robert Hartford and Rubette Hartford, Trustees, and is the subject of this agenda request.

The referenced property is the subject of a Contract for Sale and Purchase in the amount of \$88,250.00 (recent appraisal), plus attorney's fees in the amount of \$29,416.67 (33%), and court costs in the amount of \$150, for a total of \$117,816.67. The purchase price was negotiated by the Acting City Attorney, conditioned on approval and acceptance by the City Commission.

The City has cleared and used the site since March 2009, prior to legal possession.

An appraisal for the referenced property was done back on July 8, 2008, and the market value came in at \$41,000.

Should the City Commission approve the purchase of this property, a closing date of on or before September 30, 2009 has been set.

After discussion, the Commission voted unanimously (Commissioner Treusch was absent from the vote) to approve and accept the Contract for Sale and Purchase for the purchase of vacant property located at 593 Tradewinds Drive, Deltona, legally described and in accordance with the terms thereof, at a purchase price of \$88,250.00 (resent appraisal), plus attorney's fees in the amount of \$117,816.67; said sale to be closed on or before September 30, 2009, or as otherwise agreed by the City Manager.

11. CITY COMMISSION COMMENTS:

12. CITY MANAGER COMMENTS:

13. CITY ATTORNEY COMMENTS:

14. ADJOURNMENT:

NOTE: If any person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings, and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (F.S. 286.0105). Individuals with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk at least three (3) working days in advance of the meeting date and time at (386) 878-8100.