



City of Deltona

2345 Providence Blvd.
Deltona, FL 32725

Agenda

City Commission Workshop

Mayor John C. Masiarczyk Sr.
Vice Mayor Chris Nabicht
Commissioner Heidi Herzberg
Commissioner Gary Mitch Honaker
Commissioner Nancy Schleicher
Commissioner Diane J. Smith
Commissioner Brian Soukup

Monday, February 22, 2016

5:30 PM

2nd Floor Conference Room

1. CALL TO ORDER:

2. ROLL CALL – CITY CLERK:

3. PLEDGE TO THE FLAG:

PUBLIC COMMENTS: – Citizen comments limited to items not on the agenda and comments on items listed on the agenda will take place after discussion of each item.

4. BUSINESS:

- A.** Discussion - Lake McGarity Special Taxing District. - Becky Vose, Legal Department, (407) 448-0111.

Strategic Goal: Public Safety

Background:

The City of Deltona has received petitions from 51% of the owners of property on Lake McGarity requesting that chemical treatment of the lake take place to remediate invasive plant species that are doing damage to the lake. The City will not be introducing carp into the lake, because the State of Florida requires 100% of the lakefront property owners to consent to that treatment, and the City has received at least one objection to the introduction of carp.

The timeframe for the adoption of a special taxing district is controlled by Florida Statutes.

Under Florida Statutes, Section 197.3632 (3)(a), the City must “publish notice of its intent to use the uniform method of collecting such assessment weekly in a newspaper of general circulation within each county contained in the boundaries of the local government for

4 consecutive weeks preceding the hearing.”

Considering the time needed for that required publication, the first hearing on a resolution to adopt a non-ad valorem assessment roll could be held at the City Commission meeting on April 4, 2016.

After that hearing, the City is required under Florida Statutes, Section 197.3632(4)(a) to hold a public hearing that is preceded by “at least 20 days’ notice sent by first-class United States mail and by publication in a newspaper generally circulated within each county contained in the boundaries of the local government.” We could therefore have the final public hearing establishing the special taxing district by May 2, 2016.

Under Florida law, any person who wished to challenge the action of the City Commission would have 30 days from that hearing date to file a Petition for Certiorari in Circuit Court. Therefore, the action would be final and non-appealable as of June 2, 2016.

Therefore the schedule would be:

Advertising for 4 consecutive weeks

First hearing - April 4, 2016

Send mail notices and advertise assessment roll

Second hearing - May 2, 2016

Expiration of appeal time and action final - June 2, 2016

In order to meet this schedule, we would have to start the 4 week advertising process immediately after the workshop on February 22, 2016. Because spraying of the lake could cause excessive odors if done during hot weather, the spraying would probably not begin until fall.

Due to Florida law requirements, the assessment would not be put on the tax rolls until the 2017 taxes, for collection in 2018. The City Commission would need to approve advancing the money for the program if spraying of the lake would occur before the collection of the taxes for the payment of the costs. Otherwise, the spraying could not take place until the funds had been collected through the taxation process.

- B.** Discussion and review of future sidewalk installations for collector roads and within one mile of elementary schools as previously discussed in the transportation workshop. - Gerald Chancellor, Public Works Director (386) 878-8998.

Strategic Goal: Infrastructure - expansion of available sidewalks to make

Deltona a more sustainable community.

Background: As per previous direction from the City Commission and City Manager, staff has identified areas based on specific criteria for the installation of future sidewalks.

- C. Review of possible ordinance regulating materials - Becky Vose, Legal Department (407) 448-0111.

Strategic Goal: Public Safety

Background: The City is attempting to beautify its neighborhoods, but unsightly litter from unsolicited newspapers and advertisements negatively affect the looks of neighborhoods and add to the potential for crime. This ordinance would be an attempt to resolve these issues while still protecting the First Amendment rights of the public to distribute written materials.

- D. Discussion - Ordinance No. 09-2015, Amending Section 110-806, Fences, Walls & Hedges, of the City's Land Development Code. - Chris Bowley, Planning and Development Services, (386) 878-8602.

Strategic Goal: Public Safety; Focus on the City's Beautification Program.

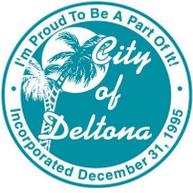
Background: The City Commission established the new Ordinance Review Committee (ORC) and assigned it review tasks. The first task is to review Ordinance No. 09-2015 and make recommendations to amend Section 110-806, Fences, Walls, and Hedges, of the Land Development Code (LDC). The ORC has reviewed this ordinance and makes the following recommendations (see the attached ordinance and ORC minutes). If acceptable by the City Commission, Ordinance No. 09-2015 will be brought to the Planning and Zoning Board and the City Commission through the public hearing process. Following this effort, the ORC will also review changes to the off-street parking requirements for residential uses and standards for itinerant merchants.

5. CITY MANAGER COMMENTS:

6. 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, Joyce Raftery 48 hours in advance of the meeting date and time at (386) 878-8500.



Agenda Memo

AGENDA ITEM:A.

TO: Mayor and Commission

AGENDA DATE: 2/22/2016

FROM: Jane K. Shang, City Manager

AGENDA ITEM: 4 - A

SUBJECT:

Discussion - Lake McGarity Special Taxing District. - Becky Vose, Legal Department, (407) 448-0111.

Strategic Goal: Public Safety

LOCATION:

Lake McGarity waterfront property

BACKGROUND:

The City of Deltona has received petitions from 51% of the owners of property on Lake McGarity requesting that chemical treatment of the lake take place to remediate invasive plant species that are doing damage to the lake. The City will not be introducing carp into the lake, because the State of Florida requires 100% of the lakefront property owners to consent to that treatment, and the City has received at least one objection to the introduction of carp.

The timeframe for the adoption of a special taxing district is controlled by Florida Statutes.

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Considering the time needed for that required publication, the first hearing on a resolution to adopt a non-ad valorem assessment roll could be held at the City Commission meeting on April 4, 2016.

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Due to Florida law requirements, the assessment would not be put on the tax rolls until the 2017 taxes, for collection in 2018. The City Commission would need to approve advancing the money for the program if spraying of the lake would occur before the collection of the taxes for the payment of the costs. Otherwise, the spraying could not take place until the funds had been collected through the taxation process.

COST:

Possible loan from general fund in an amount to be determined to fund initial spraying, with loan repaid from tax receipts received from special taxing district.

SOURCE OF FUNDS:

General Fund - to be reimbursed

ORIGINATING DEPARTMENT:

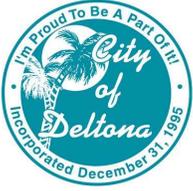
Public Works

STAFF RECOMMENDATION PRESENTED BY:

Becky Vose - to consider establishment of special taxing district for Lake McGarity and advance funding for spraying.

POTENTIAL MOTION:

N/A - For discussion and direction to staff as necessary.



Agenda Memo

AGENDA ITEM:B.

TO: Mayor and Commission

AGENDA DATE: 2/22/2016

FROM: Jane K. Shang, City Manager

AGENDA ITEM: 4 - B

SUBJECT:

Discussion and review of future sidewalk installations for collector roads and within one mile of elementary schools as previously discussed in the transportation workshop. - Gerald Chancellor, Public Works Director (386) 878-8998.

Strategic Goal: Infrastructure - expansion of available sidewalks to make Deltona a more sustainable community.

LOCATION:

Various locations identified throughout the city.

BACKGROUND:

As per previous direction from the City Commission and City Manager, staff has identified areas based on specific criteria for the installation of future sidewalks.

COST:

Approximately \$2 million

SOURCE OF FUNDS:

\$500k currently budgeted funds / \$1.5 million bond financing

ORIGINATING DEPARTMENT:

Public Works

STAFF RECOMMENDATION PRESENTED BY:

Gerald Chancellor, Public Works Director - for discussion and direction to staff

POTENTIAL MOTION:

Gerald Chancellor, Public Works Director - for discussion and direction to staff

Collector Roads Totaling \$1 Million

Street	District	From	To	Side	Estimated Footage	Totals (See Notes)
1 Elkcam Blvd	1	Howland Blvd	Courtland Blvd.	Even	350	\$ 5,816.13
2 Courtland Blvd.	5	Howland Blvd	Wavecrest St	Even	1257	\$ 20,888.20
3 Courtland Blvd.	1	Elkcam Blvd	Beckwith St	Odd	4599	\$ 76,423.88
4 Montecito	5	Roseway Av	Timbercrest Dr	Odd	1252	\$ 20,805.11
5 Haulover Blvd.	1	Lake Helen Osteen Rd	Courtland Blvd.	Even	2172	\$ 36,093.21
6 Anderson Dr.	3	Cloverleaf Blvd	Providence Blvd	Even	4217	\$ 70,076.00
Subtotal:					13,847	\$ 230,102.52
7 Elkcam Blvd.	2	N. Normandy Blvd	Providence Blvd	Odd	3963	\$ 65,855.15
8 Courtland Blvd.	1 & 5	Elkcam Blvd	Puerto Rico Dr	Odd	2654	\$ 44,102.85
9 Newmark Dr.	5	Howland Blvd	Ft. Smith Blvd	Even	3189	\$ 52,993.21
10 E. Normandy Blvd	3 & 4	Providence Blvd	Deltona Blvd	Odd	1149	\$ 19,093.51
11 N. Normandy Blvd.	3	Deltona Blvd	Saxon Blvd	Even	1347	\$ 22,383.77
12 Captain Dr.	1	Lake Helen Osteen Rd	Courtland Blvd.	Odd	6632	\$ 110,207.26
13 Cloverleaf Blvd	3	Deltona Blvd	Anderson Dr	Odd	4717	\$ 78,384.75
14 Elkcam Blvd.	1 & 5	Providence Blvd	Howland Blvd	Even	6546	\$ 108,778.16
15 India Blvd	6	Courtland Blvd	Ft. Smith Blvd	Even	5815	\$ 96,630.76
16 Ft. Smith Blvd	4	Providence Blvd	Elkcam Blvd	Odd	3973	\$ 66,021.33
17 Tivoli Dr.	4	E. Normandy Blvd	Providence Blvd	Odd	5619	\$ 93,373.73
Subtotal:					45,604	\$ 757,824.47
Total:					59,451	\$ 987,926.99

Notes:

1. Totals include \$14.45 per ft. & an additional 15% to cover miscellaneous surveying, ADA Mats, tree removal and/or sign relocation charges that may apply.
2. All existing sidewalk currently in the right of way will be incorporated into the new installation.

Scoring criteria for ranking sidewalk work on Collector Roads

1. Commercial areas were awarded 5 pts
2. Sidewalk needed to complete 1 side of a road was awarded 3 pts and 1 pt if for 2nd side
3. Small gaps needed to connect large existing sections (scored 1, 3, or 5 pts by length required with high
4. Reported area (scored 1, 3, or 5 pts by number of reports)
5. Part of future road project was scored -5 pts

Streets Within 1 Mile of Elementary Schools

Totaling \$1 Million

ELEMENTARY SCHOOL	DISTRICT	STREET	FROM	TO	SIDE	ESTIMATED FOOTAGE	Totals (See Notes)
1	Friendship	1	Chamberlain St.	Chastain Ave.	Laredo Dr.	Odd	1959 \$ 32,553.68
2	Friendship	1	Chastain Av.	Chamberlain St.	Kirkland St.	Odd	400 \$ 6,647.00
3	Friendship	1	Waterman St.	Chastain Ave.	Albury Av.	Even	590 \$ 9,804.33
4	Friendship	1	Kirkland St.	Chastain Ave.	Albury Ave.	Even	790 \$ 13,127.83
5	Friendship	1	Albury Av.	Elkcam Blvd.	Chamberlain St.	Odd	1087 \$ 18,063.22
6	Osteen	6	Bluestone Dr.	Courtland Blvd.	Foxdale Dr.	Odd	1890 \$ 31,407.08
7	Osteen	6	Dumont Ave.	Bluestone Dr.	Foxdale Dr.	Even	340 \$ 5,649.95
8	Osteen	6	Elkin Ave.	Bluestone Dr.	Foxdale Dr.	Odd	455 \$ 7,560.96
9	Osteen	6	Brierdale Dr.	Courtland Blvd.	Dumont Ave.	Odd	499 \$ 8,292.13
10	Osteen	6	Foxdale Dr.	Brierdale Dr.	End	Odd	1375 \$ 22,849.06
11	Pride	6	Norvell Ct	Bladon Av	Humphrey Blvd	Even	1701 \$ 28,266.37
12	Pride	6	Nadine Dr	Norvell Ct	Montoya Dr	Even	1941 \$ 32,254.57
13	Pride	6	Cloverdale St	Bladon Av	Dartmore Av	Odd	657 \$ 10,917.70
14	Pride	6	Keyport St	Bladon Av	Nadine Dr	Even	586 \$ 9,737.86
15	Pride	6	Bladon Av	Norvell Ct	Telford Ln	Odd	1482 \$ 24,627.14
Subtotal:						15,752	\$ 261,758.86
16	Spirit	4	Dunlap Dr	Providence Blvd	April St	Odd	1639 \$ 27,236.08
17	Spirit	4	Lavilla St	Deerfield Av	April St	Even	1064 \$ 17,681.02
18	Spirit	4	Enfield St	Darlington Av	April St	Odd	456 \$ 7,577.58
19	Spirit	4	Seahorse St	Ferendina Dr	April St	Even	553 \$ 9,189.48
20	Spirit	4	Laramore St	Ferendina Dr	April St	Odd	442 \$ 7,344.94
21	Sunrise	6	Mosquero Ave	Trade St	Phonetia dr	Even	585 \$ 9,721.24
22	Sunrise	6	Stallings Ave	Trade St	Tabb Dr	Odd	1935 \$ 32,154.86
23	Sunrise	6	Tabb Dr	Stallings Ave	Linwood Ct	Even	2039 \$ 33,883.08
24	Sunrise	6	Apple Orchard Dr	Stallings Ave	Ft. Smith Blvd	Odd	1686 \$ 28,017.11
25	Sunrise	6	Monument Dr	Pamona St	End	Even	2426 \$ 40,314.06
26	Timbercrest	2	Timber Lake Av	Catalina Blvd	Northvale St	Even	516 \$ 8,574.63
27	Timbercrest	2	Northvale St	Eustace Av	Sumitt Hill Dr	Even	378 \$ 6,281.42
28	Timbercrest	2	Voltaire St	Sumitt Hill Dr	Sedgefield Av	Even	1763 \$ 29,296.65
29	Timbercrest	2	Pine Grove Av	Catalina Blvd	Voltaire St	Even	240 \$ 3,988.20
30	Timbercrest	2	Leafyway Ln	Deep Creek Av	Catalina Blvd	Even	913 \$ 15,171.78
31	Forest Lake	4	W. Viscaya Cir	Snook Dr.	S. Lehigh Dr.	Odd	2065 \$ 34,315.14
32	Forest Lake	4	S. Lehigh Dr.	W. Kingway Dr.	E. Normandy Blvd.	Even	6291 \$ 104,540.69
33	Forest Lake	4	Coble Dr.	Saxon Blvd.	E. Lehigh Dr.	Even	1230 \$ 20,439.53
34	Forest Lake	4	Heley Ter.	N. Kingway Dr.	Coble Dr.	Even	600 \$ 9,970.50
35	Forest Lake	4	Carrin St.	Saxon Blvd.	E. Lehigh Dr.	Even	1207 \$ 20,057.32
36	Deltona Lakes	1	Alster Ln.	Candelwick St.	Fountain Rd.	Odd	341 \$ 5,666.57
37	Deltona Lakes	1	Fountain Rd.	Montecito Av.	Quintilis Ct	Even	811 \$ 13,476.79
38	Deltona Lakes	1	Amherst Av.	Elkcam Blvd.	Alton Rd.	Odd	1194 \$ 19,841.30
39	Deltona Lakes	1	Carson Ln.	Montecito Av.	Amherst Av.	Odd	449 \$ 7,461.26
40	Deltona Lakes	1	Henry Ln.	Montecito Av.	Amherst Av.	Even	510 \$ 8,474.93
41	Discovery	3	Buttercup Ter	Providence Blvd	Clayton Dr	Odd	468 \$ 7,776.99
42	Discovery	3	Bluefield Ter	Providence Blvd	Clayton Dr	Odd	425 \$ 7,062.44
43	Discovery	3	Addison St	Hemingway Dr	Providence Blvd	Even	1355 \$ 22,516.71
44	Discovery	3	Section Line Tr	Hemingway Dr	Providence Blvd	Odd	1849 \$ 30,725.76
45	Discovery	3	Landover Ave	Section Line Tr	Saxon Blvd	Odd	505 \$ 8,391.84
46	Friendship	1	Academy Av.	Elkcam Blvd.	Chamberlain St.	Even	1503 \$ 24,976.10
47	Friendship	1	Ainsworth Av.	Elkcam Blvd.	Chamberlain St.	Odd	1260 \$ 20,938.05
48	Friendship	1	Moonstone Av.	Laredo Dr.	Chamberlain St.	Even	625 \$ 10,385.94
49	Friendship	1	Laredo Dr.	Courtland Blvd.	Sky St.	Even	6155 \$ 102,280.71
Subtotal:						45,478	\$ 755,730.67
Total:						61,230	\$1,017,489.53

Notes:

- Totals include \$14.45 per ft. & an additional 15% to cover miscellaneous surveying, ADA Mats, tree removal and/or sign relocation charges that may apply.
- All existing sidewalk currently in the right of way will be incorporated into the new installation.
- Schools are rotated after sidewalk installations are completed on 5 streets.

Criteria for sidewalk work within 1 mile of Elementary Schools

- Streets within 1 mile of elementary schools
- Streets without reasonable connectivity to the schools were removed from this list
- Reported Areas



Agenda Memo

AGENDA ITEM:C.

TO: Mayor and Commission

AGENDA DATE: 2/22/2016

FROM: Jane K. Shang, City Manager

AGENDA ITEM: 4 - C

SUBJECT:

Review of possible ordinance regulating materials - Becky Vose, Legal Department (407) 448-0111.

Strategic Goal: Public Safety

LOCATION:

City-wide

BACKGROUND:

The City is attempting to beautify its neighborhoods, but unsightly litter from unsolicited newspapers and advertisements negatively affect the looks of neighborhoods and add to the potential for crime. This ordinance would be an attempt to resolve these issues while still protecting the First Amendment rights of the public to distribute written materials.

COST:

N/A

SOURCE OF FUNDS:

N/A

ORIGINATING DEPARTMENT:

Legal Department

STAFF RECOMMENDATION PRESENTED BY:

N/A - For discussion and direction to staff as necessary.

POTENTIAL MOTION:

N/A - For discussion and direction to staff as necessary.

ORDINANCE NO. __ – 2016

AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, CREATING A NEW ARTICLE II, “DISTRIBUTION OF UNSOLICITED MATERIALS”, OF CHAPTER 38, “ENVIRONMENT,” OF THE DELTONA CODE OF ORDINANCES, MAKING FINDINGS, PROVIDING DEFINITIONS, PROHIBITING CERTAIN ACTS AND EXCEPTIONS, AND PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY, AND EFFECTIVE DATE.

WHEREAS, the City Commission recognizes an individual’s first amendment right of free speech and that some kinds of distribution of unsolicited newspapers, handbills, advertisements, or other paper materials have first amendment implications; and

WHEREAS, the City Commission finds that the indiscriminate throwing of unsolicited newspapers, handbills, advertisements, or other paper materials on lawns, driveways, rights of way, or porches, when such materials can be blown around, can cause unsightly littering, visual blight and eyesores, and the clogging of storm drains, and can cause the general decrease in the aesthetic quality of neighborhoods with associated lowering of property values and lowering of property tax receipts; and

WHEREAS, the City of Deltona has a substantial public interest in maintaining the aesthetic qualities of its neighborhoods, the maintenance of cleanliness and beauty of its homes and streets, and in preventing littering; and

WHEREAS, it is the intent of the City of Deltona in this ordinance to narrowly tailor its restrictions to serve its substantial public interests, and to only put reasonable time, place and manner restrictions on the exercise of free speech as reflected in the distribution of unsolicited newspapers, handbills, advertisements, or other paper materials; and

WHEREAS, the collection of numerous unsolicited newspapers, handbills, advertisements or other paper materials at unoccupied houses is unsightly and also contributes to the potential for crime since they draw attention to such houses and their unoccupied status; and

WHEREAS, it is reasonable to believe that when newspapers, handbills, advertisements or other paper materials are specifically desired and solicited by homeowners, such homeowners will both collect these materials before they become litter or eyesores, and assume the responsibility, as they do with other home door-step deliveries, to suspend delivery or to arrange for these materials to be picked up in their absence, thus making the regulation of specifically solicited materials unnecessary to accomplish the goals of this ordinance; and

WHEREAS, the City Commission finds establishing an ordinance to address and prevent the indiscriminate throwing of unsolicited newspapers, handbills, advertisements, or other paper materials on lawns, driveways, rights of way, or porches, when such materials can be blown

around, can cause unsightly littering and the clogging of storm drains, and can cause the general decrease in the aesthetic quality of neighborhoods with associated lowering of property values; and

WHEREAS, the regulations of this ordinance constitute the minimum regulations necessary relating to the time, place and manner of the distribution of unsolicited newspapers, handbills, advertisements, or other paper materials, while at the same time providing a reasonable method of delivering such materials to homes without violating the provisions of this ordinance.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA:

SECTION 1. The foregoing “Whereas” clauses are true and correct and are hereby ratified and confirmed by the City Commission.

SECTION 2. Article II, “*Distribution of Unsolicited Materials*”, of Chapter 38, “*Environment*” of the Code of Ordinances of the City of Deltona is hereby created to read as follows:

Sec. 38-31. Definitions

- (a) *Doorhanger* means i) a plastic or cardboard sign cut to hang from the handle or knob of a door, and/or ii) a bag supported by a rubber band, twist tie or other hanger, which contains materials and is hung from the handle or knob of a door.
- (b) *Materials* means newspapers, handbills, advertisements, or other similar paper materials, whether or not located inside a plastic or other wrapper or bag.
- (c) *Solicited materials* means materials specifically requested or purchased by the homeowner.
- (d) *Unsolicited materials* means materials not specifically requested or purchased by the homeowner.
- (e) *Unaccepted materials* means any materials that remain on a handle or knob of a door.

Sec. 45-2. Certain distribution of materials regulated/prohibited; exception

- (a) It shall be unlawful to throw or otherwise deposit or place any unsolicited doorhanger or unsolicited material on any right of way, yard, driveway or porch within the City of Deltona. Unsolicited doorhangers and/or unsolicited materials may be handed to any person, or may be hung on any handle or knob of any door; provided, however, unsolicited doorhangers and/or unsolicited materials may not be hung on any handle or knob of any door, if such door already has unaccepted materials hanging on such handle or knob of that door.

- (b) It shall be unlawful to deposit or place any unsolicited doorhanger or unsolicited material on any handle or knob of any door earlier than 8:00 am or later than 8:00 pm.
- (c) The provisions of this Section shall not apply to doorhangers or materials left by the U.S. Postal Service, or by any recognized delivery service such as Federal Express, UPS, or similar services.

Sec. 45-3. Penalty

Any person who commits any act declared unlawful in this chapter shall be punished by a fine not exceeding \$500.00, or imprisonment for a term not exceeding sixty (60) days, or by both such fine and imprisonment in the discretion of the court. If committed in the presence of a law enforcement officer, any act declared unlawful in this chapter shall be considered to be an arrestable offense. Alternatively, this Article may be enforced through the Special Magistrate as an ordinance violation with a penalty of up to \$250.00 for the first offense, and up to \$500.0 for the second and subsequent offenses.

SECTION 3. CONFLICTS. All Ordinances or parts of Ordinances insofar as they are inconsistent or in conflict with the provisions of this Ordinance are hereby repealed to the extent of any conflict.

SECTION 4. CODIFICATION. The provisions of this Ordinance shall be codified as and become and be made a part of the Code of Ordinances of the City of Deltona. The sections of this Ordinance may be renumbered or relettered to accomplish such intention.

SECTION 5. SEVERABILITY. In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its final passage and adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2016.

FIRST READING: _____

ADVERTISED: _____

SECOND READING: _____

JOHN C. MASIARCZYK SR., MAYOR

ATTEST:

JOYCE RAFTERY, CITY CLERK

Approved as to form and legality for use
and reliance by the City of Deltona, Florida

GRETCHEN R. H. VOSE, CITY ATTORNEY



Agenda Memo

AGENDA ITEM:D.

TO: Mayor and Commission

AGENDA DATE: 2/22/2016

FROM: Jane K. Shang, City Manager

AGENDA ITEM: 4 - D

SUBJECT:

Discussion - Ordinance No. 09-2015, Amending Section 110-806, Fences, Walls & Hedges, of the City's Land Development Code. - Chris Bowley, Planning and Development Services, (386) 878-8602.

Strategic Goal: Public Safety; Focus on the City's Beautification Program.

LOCATION:

Citywide

BACKGROUND:

The City Commission established the new Ordinance Review Committee (ORC) and assigned it review tasks. The first task is to review Ordinance No. 09-2015 and make recommendations to amend Section 110-806, Fences, Walls, and Hedges, of the Land Development Code (LDC). The ORC has reviewed this ordinance and makes the following recommendations (see the attached ordinance and ORC minutes). If acceptable by the City Commission, Ordinance No. 09-2015 will be brought to the Planning and Zoning Board and the City Commission through the public hearing process. Following this effort, the ORC will also review changes to the off-street parking requirements for residential uses and standards for itinerant merchants.

COST:

N/A

SOURCE OF FUNDS:

N/A

ORIGINATING DEPARTMENT:

Planning and Development Services

STAFF RECOMMENDATION PRESENTED BY:

Chris Bowley, AICP, Director, Planning and Development Services - Staff recommends that the City Commission process Ordinance No. 09-2015, with the recommendations provided from the Ordinance Review Committee.

POTENTIAL MOTION:

None.

ORDINANCE NO. 09-2015

AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AMENDING SECTION 110-806, "FENCES, WALLS, AND HEDGES," OF ARTICLE VIII, "SUPPLEMENTARY REGULATIONS", OF CHAPTER 110 "ZONING", OF THE LAND DEVELOPMENT CODE OF THE CITY OF DELTONA; PROVIDING FOR AMENDMENTS ADDRESSING STRUCTURAL HEIGHT, DEFINITION, OPACITY, AND PUBLIC SAFETY; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Deltona adopted Article VIII, Supplementary Regulations, and Chapter 110, Zoning, as its "Zoning Code"; and

WHEREAS, the City of Deltona has included Chapter 110, Zoning, within the Land Development Code; and

WHEREAS, Section 110-806, "Fences, Walls and Hedges", of Article VIII, "Supplementary Regulations", of Chapter 110, "Zoning", of the Land Development Code shall be amended to address the maximum allowable height and opacity percentage for fences, walls, and hedges, and increased public safety, a strategic goal within the City of Deltona.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, as follows:

Section 1. The Ordinance for Section 110-806, "Fences, Walls and Hedges", of Article VIII, "Supplementary Regulations", of Chapter 110, "Zoning", of the Land Development Code of the City of Deltona, is hereby amended to read, as follows:

Sec. 110-806. - Fences, walls and hedges.

(a) Purpose and intent. Fences, walls, and hedges are a recognized method to establish property boundaries, provide a level of privacy and security, and contain domesticated animals. However, fences, especially along roads, can alter the streetscape, where vistas associated with the open space and natural characteristics of the city are diminished. In addition, fencing along roads can harmfully impact pedestrian and motorist safety by

impeding sightlines and visibility. The requirements of this section are intended to ensure that the benefits of fencing, walls, and hedges remain an option, while protecting the scenic characteristics of the city and maintaining a level of safety for the traveling public.

(b) A fence permit is required prior to building or installing any fence or wall within the City of Deltona.

(c) Walls erected in accordance with this section shall meet the requirements of the Florida Building Code, as amended.

(d) Materials.

(1) Fences or walls may be constructed of wood, chain link, masonry, concrete, vinyl, or wrought iron and with a uniform percentage of opaqueness. It shall be the homeowner's responsibility to maintain fences, walls, and hedges on their property.

(2) Agricultural fencing, such as razor wire, barbed wire, chicken wire, and electric fences are prohibited in residential zoning districts or development, except that electric fences to contain horses are permitted in the RE-5 and RE-1 zoning districts, where lots are 2.45 acres or larger and horses are present on the lots.

(e) Height and setback requirements. The measurement of fence, wall, and hedge height shall be taken from the natural contour of the ground of adjoining lots or the particular lot above the natural grade and relative to adjoining properties (whichever is lower). Refer to section 70-30 (Definitions) for graphic illustration of yard areas. For fence height and setback requirements on waterfront and golf course lots, refer to section 110-806(g).

(1) Front yard. Fences, walls, and hedges no higher than ~~four (4)~~ five (5) feet may be erected, placed, or maintained within any front yard and a minimum six (6) foot visibility triangle be maintained from the intersection of a sidewalk and a driveway.

(2) Rear yard. Any fence or wall constructed along the rear property line shall not exceed six (6) feet in height. ~~For fence height and setback requirements on waterfront and golf course lots, refer to section 110-806(g).~~

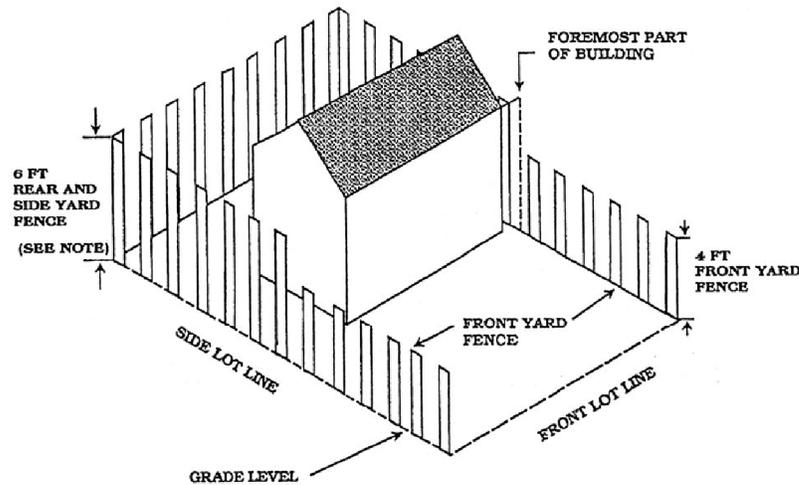
(3) Side yard. Any fence or wall constructed along a side lot line between properties shall not exceed six (6) feet in height.

(4) Side street yard. Any fence or wall constructed along a side street yard shall not exceed six (6) feet in height and may be placed within the side street yard, as allowed below, in order to facilitate greater use of the yard.

- a. The nearest exterior wall of the dwelling;
 - b. The side street setback line; or
 - c. The side street accessory structure setback line for the R1-AAA, AA, A, and R1, per section 110-307(e).
- (f) ~~Residential~~ ~~f~~ Fences shall be constructed with the finished side facing outward from the property. Fence posts and support beams shall be on the side of the fence facing away from the neighboring property.
- (g) Fences, walls, and hedges on waterfront, or golf course lot. ~~On waterfront or golf course properties, f~~ Fences, walls, and hedges constructed along the rear or side yard property/lot line and within that portion of the side lot lines located within the rear yard shall comply with the following on a waterfront or golf course lot, shall be of uniform height and opacity along the property perimeter. Fences, walls, and hedges shall not exceed six (6) feet in height if it has less than 25 percent opacity; and shall not exceed four (4) feet in height if it has 25 percent or greater opacity, as measured from above natural grade.
- ~~(1) Up to four (4) feet in height: Fences, walls, and hedges constructed on a waterfront or golf course lot with opacity of 25 percent or more shall not exceed four (4) feet in height, above natural grade.~~
 - ~~(2) Up to six (6) feet in height: Fences, walls, and hedges constructed on a waterfront or golf course lot with an opacity of 25 percent opacity or less shall not exceed six (6) feet in height, above natural grade.~~
 - ~~(3) Fences shall be built with a uniform percentage of opaqueness.~~
- (h) Fences, walls, and hedges on vacant lots. On vacant lots, the permitted fencing is the same as that for developed lots in the same zoning district. On vacant corner lots, fences, walls, and hedges shall be located only within the minimum allowable setback area. If a dwelling is added later, the fence, wall or hedge may need to be relocated with possible height adjustments to meet code requirements.
- (i) Non-conforming fences. Unless it is integral or a necessary part of another structure, whether principal or accessory, at such time that an entire fence on a property is destroyed or planned to be replaced, the property owner shall obtain a building permit and locate the new fence in accordance with the provisions of the City Code. In cases where the fence is integral or a necessary part of the structure noted above, the type, size, and location of the fence may be replaced in-kind.
- (j) The above regulations also apply to residential uses within non-residential zoning districts.

(k) This section shall not be applied to any agricultural, commercial, industrial, resource protection (RP), public (P) use classifications, or any publicly used property.

FENCING REQUIREMENTS



Section 2. Conflicts. All Ordinances or parts of Ordinances, insofar as they are inconsistent or in conflict with the provisions of this Ordinance, are hereby repealed to the extent of any conflict.

Section 3. Codification. The provisions of this Ordinance shall be codified as and become and be made a part of the Code of Ordinances of the City of Deltona. The sections of this Ordinance may be renumbered or relettered to accomplish such intention.

Section 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this ordinance which can be given effect without the invalid provision or application.

Section 5. Effective Date. This Ordinance shall take effect immediately upon its final adoption by the City Commission.

**PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF
DELTONA, FLORIDA THIS _____ DAY OF _____, 2016.**

First Reading: _____

Advertised: _____

Second Reading: _____

BY: _____
JOHN C. MASIARCZYK, SR., Mayor

ATTEST:

JOYCE RAFTERY, CMC, MMC, City Clerk

Approved as to form and legality
for use and reliance of the City of
Deltona, Florida

GRETCHEN R. H. VOSE, City Attorney



City of Deltona

2345 Providence Blvd.
Deltona, FL 32725

DRAFT Minutes - Final Ordinance Review Committee

Thursday, January 7, 2016

6:00 PM

Second Floor Conference Room

1. CALL TO ORDER:

The meeting was called to order at 6:00 pm.

2. ROLL CALL:

Also present: Chris Bowley, Planning and Development Services; Becky Vose, City Attorney and Kathrine Kyp, Administrative Assistant

Present: 6 - Vice Chair Sonjia Kihlmire
Chair Kelly Latham
Member Cherri Taylor
Member Thomas Walsh
Member Melissa Roberts
Member Rossana Sepulveda

Excused: 1 - Member Joseph Cerrato

3. APPROVAL OF MINUTES & AGENDA:

A. Approval of Minutes for December 3, 2015.

Motion by Member Walsh, seconded by Vice Chair Kihlmire, to approve the minutes from December 3, 2015. The motion carried unanimously.

4. PRESENTATIONS/AWARDS/REPORTS:

5. PUBLIC FORUM:

6. OLD BUSINESS:

A. Ordinance No. 09-2015, Amending Section 110-806, Fences, Walls And Hedges

Discussion occurred regarding fence and hedge opacity, height, setbacks within the front yard, side yard and back yard. Mr. Bowley suggested that the committee vote on each section, beginning with the front yard to keep the issues organized.

Motion by Member Walsh, seconded by Vice Chair Kihlmire, to recommend for approval that fences, walls and hedges no higher than

five (5) feet may be erected, placed, or maintained within any front yard.

The motion carried by the following vote:

For: 6 - Vice Chair Kihlmire, Chair Latham, Member Taylor, Member Walsh, Member Roberts and Member Sepulveda

Mr. Bowley described the need for a visibility triangle. The Committee discussed adding a provision regarding the visibility triangle in the front yard due to pedestrian safety.

Motion by Member Taylor, seconded by Member Walsh, to recommend for approval that a minimum six foot visibility triangle be maintained at any point of intersection and the driveway. The motion carried by the following vote:

For: 6 - Vice Chair Kihlmire, Chair Latham, Member Taylor, Member Walsh, Member Roberts and Member Sepulveda

Motion by Member Roberts, seconded by Vice Chair Kihlmire, to recommend for approval that the opacity of the fence wall or hedge be 25 percent or less. The motion carried by the following vote:

For: 6 - Vice Chair Kihlmire, Chair Latham, Member Taylor, Member Walsh, Member Roberts and Member Sepulveda

Discussion amongst the Committee ensued regarding whether the language in the ordinance, referencing the application for a variance, should remain or be struck.

Motion by Vice Chair Kihlmire, seconded by Member Taylor, to recommend for approval that the language regarding the variance application be removed from the ordinance. The motion passed by the following vote:

For: 5 - Vice Chair Kihlmire, Member Taylor, Member Walsh, Member Roberts and Member Sepulveda

Against: 1 - Chair Latham

The Committee discussed the rear yard fence height dimensions and how it was measured. Ms. Vose noted that the measurement is taken from the natural grade to the top of the fence.

Motion by Member Walsh, seconded by Member Sepulveda, to recommend for approval that, for the rear yard, side yard and side street yard, any fence or wall constructed along the rear property line shall not exceed six (6) feet in height. The motion carried by the following vote:

For: 6 - Vice Chair Kihlmire, Chair Latham, Member Taylor, Member Walsh, Member Roberts and Member Sepulveda

The Committee discussed omitting section (g)(1) of the ordinance, which states, "Up to four (4) feet in height: Fences, walls, and hedges constructed on a waterfront or golf course lot with an opacity of 25 percent or more shall not exceed four feet in height, above natural grade" and stating that the height should be changed up to (6) feet in height.

Motion by Member Walsh, seconded by Member Roberts, to recommend for approval that fences, walls, and hedges constructed on a waterfront or golf course lot with an opacity of 25 percent or more shall not exceed six feet in height, above natural grade. The motion carried by the following vote:

For: 6 - Vice Chair Kihlmire, Chair Latham, Member Taylor, Member Walsh, Member Roberts and Member Sepulveda

After discussion the Committee stated to add section (g)(1) of the ordinance back in, which states, "Up to four (4) feet in height: Fences, walls, and hedges constructed on a waterfront or golf course lot with an opacity of 25 percent or more shall not exceed four feet in height, above natural grade".

Motion by Member Taylor, seconded by Vice Chair Kihlmire, to recommend for approval that fences, walls, and hedges constructed on a waterfront or golf course lot with an opacity of 25 percent or more shall not exceed four feet in height, above natural grade. The motion carried by the following vote:

For: 4 - Vice Chair Kihlmire, Member Taylor, Member Roberts and Member Sepulveda

Against: 2 - Chair Latham and Member Walsh

Mr. Bowley explained that the revision of the ordinance will be distributed to the members, once updated.

B. Discussion: Sec. 110-828. - Off-street parking and loading. (Regulations)

The Committee discussed the different locations for off-street parking and loading. Mr. Bowley explained that, throughout the city, there are different sizes and shapes for the single family detached lots and that careful consideration of the different types and sizes of vehicles, impervious surface ratios, access potential, and curbing is necessary.

Discussion ensued regarding safe access, septic tanks underground ingress and egress of the driveway apron. Member Roberts suggested a permitted area or pad for parking. Discussion regarding the setbacks, dimensions and locations for the permitted parking pad.

Motion by Member Walsh, seconded by Member Taylor, to table Sec. 110-828. - Off-street parking and loading. (Regulations) till February's meeting. The motion carried by the following vote:

For: 6 - Vice Chair Kihlmire, Chair Latham, Member Taylor, Member Walsh, Member Roberts and Member Sepulveda

7. NEW BUSINESS:

8. STAFF COMMENTS:

City Manager Jane Shang entered the meeting at 7:18 pm to say thank you to the Committee for their hardwork and dedication.

9. BOARD/COMMITTEE MEMBERS COMMENTS:

10. ADJOURNMENT:

The meeting was adjourned at 7:32 pm.

Kelly Latham, Chairperson

ATTEST:

Kathrine Kyp, Board Secretary