

AFTER ACTION AGENDA

REGULAR CITY COMMISSION MEETING
MONDAY, FEBRUARY 7, 2011
6:30 P.M.

DELTONA COMMISSION CHAMBERS
2345 PROVIDENCE BLVD.
DELTONA, FLORIDA

AGENDA

1. CALL TO ORDER
2. ROLL CALL - CITY CLERK
3. SILENT INVOCATION AND PLEDGE TO THE FLAG:
4. APPROVAL OF MINUTES & AGENDA:
 - A. Minutes:

Regular City Commission Meeting – January 18, 2011.
Special City Commission Meeting – January 24, 2011.

The Commission voted unanimously to approve the minutes of the Regular City Commission Meeting of January 18, 2011 and the Special City Commission Meeting of January 24, 2011 as presented.
 - B. Additions or Deletions to Agenda.
5. PRESENTATIONS/AWARDS/REPORTS:
 - A. Presentation - Superstar Students of the Month Certificates - January, 2011.
 - B. Presentation – Quarterly Board Reports of City Advisory Boards/Committees.
6. PUBLIC FORUM – Citizen comments for items not on the agenda.
(4 minute maximum length)

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: NONE**

8. **ORDINANCES AND -PUBLIC HEARINGS:**

A. **Public Hearing - Ordinance 01-2011, Pertaining to dispensing of controlled substances in the City of Deltona, for first reading.**

In December 2010, the City Commission requested the preparation of an ordinance which would help curtail those medical offices where an overabundance of controlled substances are not only prescribed, but also dispensed. In an effort to eliminate or greatly reduce the possibility of an improper connection between the prescribing of controlled substances and the dispensing of controlled substances, the attached ordinance was drafted. Ordinance No. 01-2011 prohibits the dispensing of controlled substances from the same site or location where the substances in question are prescribed, with some limited exceptions.

This item was heard by the Planning and Zoning Board on January 19, 2011. Discussion centered on clarifying certain language in the ordinance and whether the Land Development Code was the appropriate section of City Code for this item. The Board moved to forward Ordinance No. 01-2011, finding it consistent with the Comprehensive Plan, but with the unanimous recommendation to place the item somewhere other than the Zoning Ordinance. If the Commission chooses to place the prohibition in other than the Zoning Ordinance, a separate chapter could be created, much like Chapter 78 dealing with adult entertainment.

The Commission voted unanimously to approve Ordinance No. 01-2011 pertaining to dispensing of controlled substances in the City of Deltona, at first reading, and to schedule second and final reading for February 21, 2011.

B. **Public Hearing - Request for approval of revised Final Site Plan application FSP 09-006 for a Family Dollar Store.**

The applicant submitted a revised Final Site Plan to allow for the construction of a ±9,200 SF Family Dollar store located at the southeast corner of Doyle Road and Braddock Road. The preceding site plan application was denied by the City Commission on April 5, 2010. Public concerns focused principally on traffic impacts, but also identified issues related to buffer yards, as well as building

design and size. Following a judicial challenge and review, a determination was made that the denial of this application was warranted based upon nonconformance with certain ordinance requirements. The applicant submitted a revised site plan that was reviewed by the Development Review Committee on December 16, 2010, and conditionally approved on January 6, 2011. These conditions include addressing the gopher tortoise issue, which has been resolved, submittal to the City of any changes to the stormwater management system, and receipt of all site and use permits prior to issuance of a development order.

This item was heard by the Planning and Zoning Board on January 19, 2011. Following a summary presentation by the applicant, six citizens who live in the vicinity of the subject property voiced objection to this application. The objections opined by the citizens related to traffic impacts, buffer yards, building design and size. City staff provided the Board with an overview of these issues that included specific information and data in support of the favorable recommendation to conditionally approve this item.

Following a brief discussion, the Board voted unanimously to recommend approval of this revised Final Site Plan application with the following four conditions:

- 1. Add a sidewalk along Braddock Road to tie into the existing sidewalk on Doyle Road;*
- 2. Upgrade the type of foundation landscaping proposed on the east side of the building;*
- 3. Restrict hours of delivery from 9 a.m. to 4 p.m.; and*
- 4. Evaluate traffic accident data in the vicinity of the entrance within one year.*

After discussion, the Commission voted 6 to 1 (with Vice Mayor Treusch voting against the motion) to approve the revised Final Site Plan, FSP No. 09-006, for the Family Dollar store proposed to be located at 951 Doyle Road, subject to the Planning and Zoning Board's Conditions of Approval.

9. OLD BUSINESS:

A. Resolution No. 2011-02, Requiring Background Screening for certain facility users.

The Commission directed the creation of a draft background screening policy to allow for a discussion of background screening and the circumstances under which facilities will not be made available to users based upon those background checks.

A draft resolution was submitted doe Commission comments. The revised resolution attached hereto continues to borrow heavily from the State's background check system, but includes revisions based upon Commission

comments. The resolution excludes those users who were convicted of the offense in question or convicted of a lesser offense if charged initially with an excludable offense. It no longer excludes persons based upon an arrest only. Arrests still awaiting disposition exclude users. A waiver of a conviction is allowable after five (5) years, but the eligibility has been limited to persons convicted of vehicular homicide, arson and burglary. The revised resolution also allows the City to designate the entity responsible for performing the background check.

After discussion, the Commission agreed to table this item.

10. NEW BUSINESS:

A. Request for approval of Budget Amendment for Thornby Park Project.

The construction of the All-Inclusive Playground at Thornby Park has been a Commission driven initiative. The project was to be partially funded by Volusia County through an ECHO grant up to (\$393,750), the Community Development Block Grant Program (\$200,000) and the funds from the City's Park Projects Fund up to (\$193,750) constructed on the Thornby Property, totaling \$787,500. The budget for the project involved three separate funding years, FY 2008/09, 2009/2010, 2010/2011.

As you may recall, a listing of key dates was presented to the Commission along with a Thornby Park Update on December 13, 2010. During that presentation it was mentioned that the Bids for constructing Thornby Park were due to staff on June 28, 2010. We received five (5) bids ranging from \$294,000 - \$360,000. On July 19, 2010, the Commission approved a contract award of \$294,000 to Southern Building Services (SBS). On July 28, 2010 SBS signed the contract, with the City of Deltona signing the same contract on August 3, 2010 (originally projected completion date of November 3, 2010). Staff conducted a pre-construction meeting on August 11, 2010 with SBS, instructing them to provide proof of a performance bond as originally outlined in the project specifications. On September 16, 2010, SBS dropped off the performance bond, and requested a meeting outlining specific project details occurred on September 23, 2010. The notice to proceed was issued on September 27, 2010, with an effective date of December 27, 2010 (90 days) for project completion.

Due to the fact that the contractor (SBS) did not provide proof of a performance bond, the project was delayed in beginning construction until the City had the required documents. Therefore, only \$18,323 was expended out of the budget of \$400,000 in the previous budget year FY 09/10. The remaining amount of expenses will take place during this current FY 10/11 budget year, totaling approximately \$477,412. In summary, this is a Capital Budget carryover item; the budget amendment does not represent any additional City Spending.

*Original Project Cost FY 09/10/11 \$ 787,500
Final Project Costs \$ 697,000*

Project Total Savings \$ 90,500

The Commission voted unanimously to approve the requested budget amendment as presented with no additional City spending.

11. CITY COMMISSION COMMENTS:

Original motion by Commissioner Zischkau to direct the City Manager to accomplish a thorough study as to how the City Manager's severance package compares to those provided to other City Managers in all the Volusia County Cities and those Cities in Counties surrounding Volusia County and to report back to the Commission within 30 days.

Amended motion by Commissioner Lowry, seconded by Commissioner Zischkau, to direct the City Manager to accomplish a thorough study as to how the City Manager's and City Attorney's severance packages compare to those provided to other City Managers and City Attorneys in all of the Volusia County Cities and also those Cities in Counties surrounding Volusia County and to report back to the Commission within 30 days.

On the amended motion the Commission voted 5 to 2 (with Vice Mayor Treusch and Mayor Masiarczyk voting against the motion).

On the original motion, the Commission voted 4 to 3 (with Commissioner Herzberg, Vice Mayor Treush, and Mayor Masiarczyk voting against the motion).

12. CITY ATTORNEY COMMENTS:

13. CITY MANAGER 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.