

AFTER ACTION AGENDA

**REGULAR CITY COMMISSION MEETING
TUESDAY, SEPTEMBER 6, 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 – August 15, 2011.
 - B. Additions or Deletions to Agenda.**
- 5. PRESENTATIONS/AWARDS/REPORTS:**
 - A. Presentation – Commemorative Flag to the Fire Department/City in remembrance of September 9-1-1.**
 - B. Presentation – Certificate of Recognition for Deputy William Maxwell II as VCSO's Employee of the Quarter, 2nd Quarter of 2011.**
 - C. Presentation – Certificate of Recognition for Mr. Ken Grant as VCSO's Volunteer of the Quarter, 2nd Quarter of 2011.**
- 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:

*** A. Request for approval of award of Bid #PW 11-14, Florida Drive and Greynolds Street Sidewalk Construction.**

The City of Deltona has been approved, through the Florida Department of Transportation, for the design and construction of a sidewalk on portions of Florida Drive and Greynolds Street. This project has been approved through the Local Agency Program (LAP) which provides funding for this type of work and coincides with the Safe Routes to School Program which encourages the construction of sidewalks around schools. This sidewalk has been designed using LAP funding and now funds have been allocated through LAP for the construction portion of this project.

The Public Works Division solicited bids for the Florida Drive and Greynolds Street Sidewalk Construction project. The bid was solicited on Demandstar and went out to 654 Contractors. There were 32 plan holders for this bid and 4 bids were received as follows:

- 1. Conpilog International Company \$39,748.70*
- 2. Volusia General Contractors \$42,390.25*
- 3. LAS Contracting Corp. \$46,508.00*
- 4. Barracuda Building Corp. \$47,565.00*

The low bidder, Conpilog International Company, Inc., is verified as a Disadvantaged Business Enterprise by F.D.O.T. standards and has proven past positive references for similar work. Conpilog International Company has the appropriate license for this project and has been verified through the Department of Business and Professional Regulation.

Approved by Consent Agenda to approve award of Bid #PW 11-14 for the Florida Drive and Greynolds Street Sidewalk Construction project to Conpilog International Company at a total cost of \$39,748.70.

B. Request for approval to renew 2006 Interlocal Agreement for Fire/Rescue Mutual Aid.

In October of 2006, the City entered into an interlocal agreement with other public agencies in Volusia County to provide fire and rescue mutual aid services in emergency situations. The agreement was for a period of five years and expires in October 2011. Staff desires to renew this agreement for another five year period under the same terms and conditions, as provided for in Section 19 of the agreement.

After discussion, the Commission voted unanimously to authorize the Mayor to execute the First Amendment to the 2006 interlocal agreement providing for fire and rescue mutual aid services in emergency situations within Volusia County.

C. Request for approval of 2011-2012 Law Enforcement Services Agreement.

This Agreement is to authorize the County of Volusia to continue to provide law enforcement services and equipment to the City of Deltona for fiscal year 2011-2012, for the sum of \$9,046,134.00. The Agreement provides for 73 sworn personnel inclusive of supervisors as full staffing, plus three (3) unsworn office workers. Between January 1, 2012 through September 30, 2012, the County shall provide seventy-six (76) sworn personnel inclusive of supervisors as full staffing plus three (3) unsworn office workers. This staffing reflects the three (3) additional deputies as authorized by the City Commission during the recent budget workshops. As occurred this current fiscal year, the additional staffing (3 deputies) will not be available until the start of the new calendar year (January 1, 2012).

After discussion, the Commission voted 6 to 1 (with Commissioner Zischkau voting against the motion) to authorize the Mayor and City Manager to execute the Law Enforcement Services Agreement for fiscal year 2011-2012 in the amount of \$9,046,134.

D. Request for approval to utilize the Volusia County Public Works Division in the stabilizing and overlaying of Collins Road.

Collins Road is a dirt road that is partially owned by both Volusia County and the City of Deltona. This dirt road is currently maintained by Volusia County, as the City contracts with the County to grade the City's portion of the road on a monthly basis. The annual amount the City pays the County to grade this road is approximately \$2,000.00.

The County is currently in the process of stabilizing and overlaying their portion of this road which leads and connects to the City's portion of the road. The County is performing this service in house, through the Volusia County Public Works Division, by overlaying the road with recycled milled materials. The City

would like to take advantage of this opportunity in utilizing the Volusia County Public Works Division to provide the same stabilization and overlaying of the portion of the road owned by the City. In doing so, it would allow uniformity of the road, create stability within the road and reduce the need for future grading. It would also decrease the time in staff having to post a solicited bid to the public and will decrease the expenditures of having an outside company come in to provide the same service since the County is already there performing the work. The total amount of City road being stabilized and overlaid will be 1,100'.

After discussion, the Commission voted unanimously to approve the utilization of the Volusia County Public Works Division in the stabilizing and overlaying of Collins Road at a total cost of \$41,965.

8. ORDINANCES AND -PUBLIC HEARINGS:

A. Public Hearing – Resolution No. 2011-32, Adopting the Tentative Millage Rate for FY 2011/2012.

State law requires that the City hold a public hearing on the tentative budget and proposed millage rate between 65 and 80 days from the date (July 1, 2011) of certification of taxable value provided by the Property Appraiser. This hearing was publicized via the TRIM Notice mailed by the County Property Appraiser on or about August 23, 2011.

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 a tentative millage (Resolution No. 2011-32) and budget (Resolution No. 2011-33) by separate vote and in that order as required by State law.*
- If the tentatively adopted millage rate exceeds the proposed rate presented in the TRIM Notice (8.2995), each taxpayer within the City must be notified of the increase by first class mail.*
- Prior to adopting the millage-levy resolution, the name of the taxing authority (City of Deltona, Florida), the rolled-back rate (8.2995), and the percentage increase or decrease compared to the rolled-back rate (0%), and the millage rate to be levied (8.2995) must be publicly announced. The tentative millage rate and budget will be used to advertise the final hearing scheduled for September 19, 2011.*

Motion by Commissioner Zischkau, seconded by Commissioner Lowry to amend the budget that they are considering to remove this year's water rate increase of 17.25%. Motion failed 6 to 1 (with Commissioner Zischkau voting for the motion).

After discussion, the Commission voted 4 to 3 (with Commissioners Deniazc, Lowry and Zischkau voting against the motion) to approve Resolution No. 2011-32, adopting the tentative millage rate of 8.2995 mills for the levy of ad valorem taxes for fiscal year 2011-2012.

B. Public Hearing – Resolution No. 2011-33, Adopting the Tentative Annual Budget for FY 2011/2012.

State law requires that the City hold a public hearing on the tentative budget and proposed millage rate between 65 and 80 days from the date (July 1, 2011) of certification of taxable value provided by the Property Appraiser. This hearing was publicized via the TRIM Notice mailed by the County Property Appraiser on or about August 23, 2011.

At this hearing, the City will:

- *Amend the tentative budget and re-compute its proposed millage rate, and publicly announce the percent, if any, by which the recomputed proposed millage exceeds the rolled-back rate.*
- *Adopt a tentative millage (Resolution No. 2011-32) and budget (Resolution No. 2011-33), in that order.*
- *If the tentatively adopted millage rate exceeds the proposed rate presented in the TRIM Notice (8.2995), each taxpayer within the City must be notified of the increase by first class mail.*
- *The adopted tentative millage and budget will be used to advertise the final hearing scheduled for September 19, 2011.*

After discussion, the Commission voted 6 to 1 (with Commissioner Zischkau voting against the motion) to approve Resolution No. 2011-33, adopting a tentative budget for fiscal year 2011-2012.

C. Public Hearing – Ordinance No. 17-2011, Providing Commission District Boundaries for Election purposes (City of Deltona 2010 Reapportionment Plan), for second and final reading.

In 1995, the City of Deltona (City) was incorporated and needed to adhere to the State political-geography law by establishing City Commission District boundaries. Since the City was established at the mid-point of the 1990 U.S. Census period and populations were dynamic, the first opportunity to officially create district boundaries was with the 2000 U.S. Census count. Work began and was finalized on that effort and the City created Ordinance No. 10-2002 incorporating data from that count.

On May 20, 2002, the City Commission unanimously adopted Ordinance No. 10-2002, which provided City Commission District boundaries for election purposes. The City Commission District boundaries (a.k.a. zones) were established pursuant to Section 9(b) of the City Charter that states, "...the District boundaries shall be

revised every 10 years based upon population figures following the release of census tract data.” The City Commission Districts are divided into six (6) zones to ensure contiguous areas with each district containing, to the fullest extent possible, equal populations.

To facilitate the most accurate and nearly equal distribution of population as possible and in compliance with Ordinance No. 10-2002, the City’s geographic information system (GIS) was used with the newly released 2010 U.S. Census data to provide an updated Reapportionment Plan. The City also coordinated with the Volusia County Supervisor of Elections for the report format and the County’s GIS Section to ensure that our methodology was performed consistently with their efforts and is ultimately adoptable.

The newly released 2010 U.S. Census Bureau’s total count for the City is 85,182 residents and was reapportioned, as equally as possible, using GIS. Concerning population distribution, Districts 1 and 5 have populations over 15,000, Districts 2 and 6 between 14,000 and 15,000, and Districts 3 and 4 with less than 14,000. The overall goal was to provide an equal distribution as possible to accommodate population fluctuations, adhere to streets and natural features as required, and to keep the current district boundaries intact with minimal deviation. As a result, the six (6) proposed districts include approximately equal populations, have followed physical features, and the proposed districts do not significantly deviate from the existing district boundaries. Further, the use of GIS has reduced the variation in the number of options that can be provided.

Thus, per the Volusia County Supervisors of Elections, the City Commission can take the following methods to reapportion district boundaries:

- 1. Either review and adopt the Reapportionment Plan with a two-thirds (2/3) vote of the full City Commission within six (6) months after the official publication of the U.S. Census totals that were published on March 17, 2011 (i.e. adopt by September 17, 2011); or*
- 2. The City Attorney, upon authorization of the City Commission and with the use of twenty-five (25) electors of the City, shall petition the Circuit Court having jurisdiction in Volusia County to make such reapportionment official. The City Commission shall have the power to reapportion, by ordinance, the zone districts and to change the boundary lines thereof, primarily due to population fluctuations. Neither the creation of the Office of the Mayor, City Commissioners from each of the six (6) zones, nor the redistricting contained herein, upon becoming a law, shall affect the remaining terms of those presently elected officials on the effective date of this act.*

This item was heard at the August 15, 2011, City Commission Public Hearing for first reading.

After discussion, the Commission voted 6 to 1 (with Commissioner Zischkau voting against the motion) to approve the 2010 Reapportionment Plan and Ordinance No. 17-2011 at second and final reading.

- D. Public Hearing – Ordinance No. 20-2011, Amendment to City’s Code of Ordinances, Chapter 2, Section 2-192 that gives the City more flexibility in methods of the disposal of surplus real property, for second and final reading.**

The current Code provision for the disposal of surplus real property does not address the disposal of such property when there are no bidders who respond to a request for sealed bids. The revised Ordinance gives the City more flexibility in the disposal of surplus property, and permits the listing of such property for sale with a real estate broker.

After discussion, the Commission voted 6 to 1 (with Commissioner Zischkau voting against the motion) to adopt Ordinance No. 20-2011 at second and final reading.

- E. Public Hearing – Ordinance No. 21-2011, Pertaining to Pension Plans, Amending Section 46-28 of the City’s Code of Ordinances, Pertaining to the Firefighters’ Pension Plan, Board of Trustees, for second and final reading.**

At the August 1st Commission Workshop meeting, the Commission requested the following change be made to the proposed Generic By-Laws as well as the Firefighter's Pension Board, Board of Trustees as proposed by the City Attorney:

All communications by or on behalf of the board or any board member(s) shall be made either in public at a board meeting, through communications to the Staff Liaison, or through items placed in the minutes of the board. Neither the board, nor any board member(s), shall purport to speak on behalf of the board or as an official board member through any other means of communication. This restriction shall not prevent any board member from expressing his or her individual ideas or opinions relating to any matter, so long as such expression of ideas or opinions are expressed as that individuals’ ideas or opinions, and not as the ideas or opinions of the board, or the ideas or opinions of such individual as a board member.

After discussion, the Commission voted 6 to 1 (with Commissioner Zischkau voting against the motion) to adopt Ordinance No. 21-2011 at second and final reading.

- F. Public Hearing – Resolution No, 2011-34, Pertaining to Planning and Zoning Board, Amending Section 110-1201 of the City’s Code of Ordinances, pertaining to the Rules of Procedures for the Planning and Zoning Board, for second and final reading.**

At the August 1st Commission Workshop meeting, the Commission requested the following change be made to the proposed Generic By-Laws as well as the Planning and Zoning Board as proposed by the City Attorney:

All communications by or on behalf of the board or any board member(s) shall be made either in public at a board meeting, through communications to the Staff Liaison, or through items placed in the minutes of the board. Neither the board, nor any board member(s), shall purport to speak on behalf of the board or as an official board member through any other means of communication. This restriction shall not prevent any board member from expressing his or her individual ideas or opinions relating to any matter, so long as such expression of ideas or opinions are expressed as that individuals' ideas or opinions, and not as the ideas or opinions of the board, or the ideas or opinions of such individual as a board member.

After discussion and at the request of the City Attorney, the Commission voted 6 to 1 (with Commissioner Zischkau voting against the motion) to adopt Resolution No. 2011-34 at second and final reading.

G. Public Hearing – Ordinance No. 18-2011, Amending the Flood Hazard Management Sections 90-26 through 90-30 of the Land Development Code of the City of Deltona, for first reading.

The City of Deltona (City) has floodplain management regulations, known as Flood Control, within Chapter 90 of the City's Code of Ordinances. However, as a result of changes to the FEMA Flood Insurance Rate Maps (a.k.a. FIRM panels), the City is mandated by the Federal government to update its floodplain management regulations periodically. The maps were changed by FEMA and are considered by them to be finalized.

To memorialize this change, the City has to adopt a new floodplain ordinance to replace the existing City floodplain management requirements. The proposed ordinance is a Federal mandate and is critical for the City to remain included within the National Flood Insurance Program (NFIP). Participation in the NFIP provides benefits to City citizens by making flood insurance available, facilitating the ability to secure Federal mortgage insurance guarantees, in certain areas, and promotes the protection of floodplains and related functions.

For more information concerning the history of the FIRM changes relating to the proposed floodplain ordinance, a short comparison and contrast is provided between existing and proposed floodplain regulations and a synopsis the potential Federal sanctions for not adopting an appropriate floodplain management ordinance.

After discussion, the Commission voted unanimously to adopt Ordinance No. 18-2011 at first reading and schedule second and final reading for September 19, 2011.

H. Public Hearing – Consideration of Purchase Agreement for property located at 1250 Wheeling Avenue which is needed for the Tivoli/Wheeling Pump Station Project. This property may be taken by eminent domain.

The City needs to acquire the vacant property located at 1250 Wheeling Avenue, Deltona, Florida for the Tivoli / Wheeling Pump Station project. The subject property was appraised at \$16,000 on March 18, 2011. The City has communicated with Nelson Marin Ospina who is located in Spain and has Power of Attorney for the property owners. The owners are asking for \$27,000 for the vacant property. In addition to the purchase price, the City shall be responsible for the costs of recording fees for the Warranty Deed and Title Insurance Policy.

The Tivoli / Wheeling Pump Station project will not be possible without the acquisition of this property. Failure to complete this project would mean losing out on the DCA grant money that has been allocated for this project in addition to the surrounding areas remaining with a strong threat of severe flooding in the event of a storm.

After discussion, the Commission voted unanimously to make a written offer, complying with F. S. Chapter 73, for the purchase of the property located at 1250 Wheeling Avenue, (contemplating eminent domain) for \$16,500.

I. Ordinance No. 23-2011, Amending the City’s Code of Ordinances, Chapter 22, Pawnbrokers, Section 22-111, to remove references to firearms as required by State Statute, for first reading.

On April 28, 2011, the Florida Legislature passed HB 45 which preempts the regulation of the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage and transportation of firearms and ammunition. The bill declared all existing ordinances and regulations relating to the regulation of firearms null and void and prohibited any future enactment of an ordinance regulating firearms. A search of the City Code of Ordinances found two references to firearms in Chapter 22 regulating Pawnbrokers. This Ordinance is to amend Chapter 22 to remove the reference to firearms in order to be in compliance with State law.

After discussion, the Commission voted unanimously to approve Ordinance No. 23-2011 at first reading and to schedule second and final reading for September 19, 2011.

J. Ordinance No. 24-2011, Amending City’s Code of Ordinances, Chapter 22, Pawnbrokers, Section 22-68, to remove references to firearms as required by State Statute, for first reading.

On April 28, 2011, the Florida Legislature passed HB 45 which preempts the regulation of the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage and transportation of firearms and ammunition. The bill declared all existing ordinances and regulations relating to the regulation of firearms null and void and prohibited any future enactment of an ordinance regulating firearms. A search of the City Code of Ordinances found two references to firearms in Chapter 22 regulating Pawnbrokers. This ordinance is to amend Chapter 22 to remove the reference to firearms in order to be in compliance with State law.

After discussion, the Commission voted unanimously to approve Ordinance No. 24-2011 at first reading and to schedule second and final reading for September 19, 2011.

9. OLD BUSINESS:

A. Consideration of appointment of three (3) members to the William S. Harvey Deltona Scholarship Advisory Board (Commissioner Carmolingo, Commissioner Denizac, and Commissioner Lowry).

The terms of all seven (7) members of the William S. Harvey Deltona Scholarship Advisory Board expired on June 30, 2011. All of the current members with the exception of Alice Russell have expressed that they wish to be re-appointed to this Board. Don Philphitt has expressed an interest ONLY if the Generic By-laws are approved as he would only like to be considered for a one (1) year term.

The Commission appointed four (4) members at the August 15th Regular City Commission Meeting and Commissioner Carmolingo, Commissioner Denizac and Commissioner Lowry tabled their appointments to the September 6th Regular City Commission Meeting.

The City has run press releases and posted the openings on D-TV, the City's webpage and bulletin boards. To date, the City has received applications from the following interested individuals: Jennifer Cherry, Francis Houston, Vernon Moore, Paul Blanchard, Walter Dawson and Patricia Lax.

After discussion, the Commission voted unanimously to confirm the appointment of the following three (3) individuals: Gretel McNaney, (Commissioner Carmolingo's appointment), Walter Dawson, (Commissioner Denizac's appointment), and Vernon Moore (Commissioner Lowry's appointment) to the William S. Harvey Scholarship Advisory Board.

10. NEW BUSINESS:

A. Resolution No. 2011-31, Adopting a minimum fund balance policy for the City of Deltona General Fund.

In the interest of prudent financial planning, and in an effort to formalize by way of a Commission resolution the minimum amount of reserves to be maintained by the City's General Fund, staff is recommending that the City formally maintain two General Fund reserves, a Natural Disaster Reserve and an Operating Reserve. The purpose of the Natural Disaster Reserve is to provide the City with some fiscal means to respond to natural disasters. The purpose of the Operating Reserve is to provide the City with some fiscal means to respond to unexpected operational changes, legislative impacts, or other economic events affecting the City's operations that could not have been reasonably anticipated at the time the budget was prepared. This conforms to best practices and recommendations of the Government Finance Officers' Association.

After discussion, the Commission voted 6 to 1 (with Commissioner Zischkau voting against the motion) to approve Resolution No. 2011-31, adopting a minimum fund balance policy for the General Fund.

- 11. CITY COMMISSION COMMENTS:**
- 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.