

## AFTER ACTION AGENDA

**REGULAR CITY COMMISSION MEETING**  
**MONDAY, SEPTEMBER 19, 2011**  
**6:30 P.M.**

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

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### 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 – September 6, 2011.

The Commission voted unanimously to adopt the minutes of the Regular City Commission Meeting of September 6, 2011 as presented.
  - B. Additions or Deletions to Agenda.
5. PRESENTATIONS/AWARDS/REPORTS:
6. PUBLIC FORUM – Citizen comments for items not on the agenda.  
(4 minute maximum length)

**CONSENT**  
**AGENDA:**

All items marked with an \* will be considered by one motion unless removed 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 Bid #11008, for Nuisance Abatements.**

*Staff solicited bids for Nuisance Abatement contractors to provide mowing services and/or other abatement work needed to clear properties of trash and debris, on an as needed basis. These services will be performed at specific vacant, abandoned or occupied properties as designated by the City's Code of Ordinances. City Codes states that if the property owner does not remove the condition(s), the City shall have the condition(s) corrected at the owner's expense. The scope of work can also include fence repairs, pool coverings and possible window boarding up. This bid is for a period of up to three (3) years with the option to renew for two (2) additional one (1) year periods upon mutual agreement of both parties.*

*Six bids were received for this service. The estimated annual expenditure for this service is approximately \$30,000. Due to the amount of work, staff is recommending that award be made to three companies with each getting \$10,000 of work annually. The companies selected are S&M Landscaping, McQueen's Complete Lawn Care and Oracle Business Enterprises. A complete bid tabulation is attached.*

**After discussion, the Commission voted unanimously to approve award of Bid #11008 for Nuisance Abatements to S&M Landscaping, McQueen's Complete Lawn Care and Oracle Business Enterprises for a period of up to three (3) years with the option to renew for two (2) additional one (1) year periods upon mutual agreement of both parties.**

**\*B. Request for consideration for renewal of Halifax Humane Society Contract.**

*The Department of Enforcement Services utilizes Halifax Humane Society to house, care for and provide the humane disposition of impounded animals. Currently, there are only two humane societies that accept stray animals in Volusia County. Halifax Humane Society is one of those facilities we utilize on an as needed basis. There are no other known facilities who can perform or provide this service.*

**Approved by Consent Agenda - to renew the contract for services between Halifax Humane Society and the City of Deltona as specified for an additional year from October 1, 2011 through September 31, 2012.**

**\*C. Request for consideration for renewal of South East Volusia Humane Society Contract.**

*The Department of Enforcement Services utilizes South East Volusia Humane Society to house, care for and provide the humane disposition of impounded animals. Currently, there are only two humane societies that accept stray animals in Volusia County. South East Volusia Humane Society is one of those facilities we utilize on an as needed basis. There are no other known facilities who can perform or provide this service.*

**Approved by Consent Agenda - to renew the contract for services between South East Volusia Humane Society and the City of Deltona as specified for an additional year from October 1, 2011 through September 31, 2012.**

**D. Request to Certify Engineering Firms as Qualified to Perform Stormwater Engineering Services as needed under Continuing Contract**

*The Public Works Department requested Statements of Qualifications for Stormwater Engineering Services in accordance with the Consultants' Competitive Negotiation Act, F.S. Chapter 287.055 following the guidelines as set forth under the Act. A solicitation for qualifications were requested from Engineering firms to perform services related to Stormwater Engineering. Fifteen firms responded.*

*A Selection Committee was established. After a complete review of the responses received, four firms were determined to be the most highly qualified. The Selection Committee chose the following four firms as the most highly qualified in their ranking order:*

- *Tetra Tech, Inc. 271 points*
- *Baskerville-Donovan, Inc. 263 points*
- *Quentin L. Hampton Associates, Inc. 262 points*
- *Bowyer-Singleton & Associates, Inc. 261 points*

*In accordance with F.S. 287.055(2)(g), these firms will be put on a Continuing Services list to be utilized as needed when there is a project where the construction costs are not estimated to exceed \$2,000,000 or for study activity when the fee for such professional services does not exceed \$200,000.*

*In accordance with F.S. 287.055, any firm or individual desiring to provide professional services to the agency must first be certified by the agency as qualified to render the required services. The Selection Committee is requesting for the Commission to certify these firms as qualified so that they may be used for projects that do not exceed the above thresholds.*

*Once certified and in accordance with F.S. 287.055(5)(a,b,c), a contract and pricing schedule will be negotiated with these firms and utilized in any as needed projects. Should a satisfactory contract and pricing schedule not be negotiated with these firms, then negotiations will be completed with the next highest scoring firms on the list. Failing accord with the next highest qualified firms, then negotiations shall proceed with the next most qualified firm and so on.*

**After discussion the Commission voted unanimously to certify, Tetra Tech, Inc., Baskerville-Donovan, Inc., Quentin L. Hampton Associates, Inc., McKim-Creed and Bowyer-Singleton & Associates, Inc. as qualified to perform Stormwater Engineering Services for the City and to put them on a Continuing Services list to render these services as needed within the guidelines of F.S. 287.05.**

**E. Request for Selection of Code Enforcement Special Magistrate.**

*Resolution No. 2009-37 effective October 5, 2009, providing for Charles Cino as our Special Master – the initial term of the appointment was for one year – expired October 5, 2010. However, the Resolution called for additional one (1) year appointments at the discretion of the City Commission.*

**After discussion, the Commission voted 6 to 1 (with Commissioner Denizac voting against the motion) to appoint Charles Cino as the Special Master at an hourly rate of \$175.00 for a one-year appointment.**

**F. Request for Approval of Microsoft Enterprise Agreement with Software House International.**

*In 2005, the City of Deltona chose to procure an Enterprise Agreement with Microsoft to obtain software for desktops and servers at a volume discount and ensure we have the latest software packages without the need to repurchase them. This agreement is critical for the City to stay in licensing compliance with Microsoft and allows the City to run the latest desktop operating systems, Office productivity suites, server operating systems, messaging environment for email (exchange), and computer management software.*

*In the past the City has paid for this yearly, at a cost of \$55,464 with no financing costs; however, this fiscal year the Finance Department has chosen to opt for one lump sum of \$166,392.*

**After discussion, the Commission voted 6 to 1 (with Commissioner Denizac voting against the motion) to approve piggybacking Florida State Contract #252-001-09-1 and entering into a Microsoft Enterprise Agreement with Software House International at a total cost of \$166,392 .**

**\*G. Request for Approval to inactivate items in the fixed asset tracking software.**

*Over the past year, the City's Finance Department has completed two physical inventories of all fixed assets within the City. Over the years, some items have been traded in, were at the end of their lifecycle, cannibalized, obsolete or no longer supported by the vendor but the proper paperwork may not have been turned in to Finance or items have been sold but not removed in the fixed asset tracking software. Most of the items on the attached list have little to no residual book value. This request is for approval to inactivate those items in the fixed asset tracking software in order to clean up our records. At least one annual inventory will be performed and reconciled to the accounting fixed asset tracking software from this point on. Training will also be provided to Directors and Fixed Asset Custodians to ensure that our fixed asset tracking software accurately reflects the City's Assets.*

*The removal of these items from the fixed asset software system will not have a budgetary or Governmental Fund financial statement impact.*

**Approved by Consent Agenda - to approve inactivating the items on the attached spreadsheet in order to clean up the fixed asset tracking software.**

**\*H. Request for Approval of Resolution No. 2011-38 declaring certain property of the City as surplus and authorizing the sale or disposal of such property.**

*Over time certain items of the City become obsolete or lose their usefulness and are either replaced, upgraded or are no longer functional and need to be declared surplus or disposed of by the most appropriate means available.*

*During the current FY, funding has been dedicated to address the City's computer needs and as a result of purchasing all of the new equipment, the attached list of equipment has been taken out of service and is ready for auction. We intend to put these items on GovDeals as has been done over the past several years. The attached resolution declares certain computers and hardware as surplus as they have long outlived their usefulness and in many cases are obsolete.*

**Approved by Consent Agenda - to adopt Resolution No. 2011-38 declaring certain property of the City as surplus and authorizing the sale or disposal of such property.**

**\*I. Request for approval of Supplemental Local Agency Agreement and execution of Resolution No. 2011-30.**

*On September 6, 2011, the City Commission approved award of Bid # PW 11-14 / Florida Drive & Greynolds Street Sidewalk Construction to Conpilog, Inc. This is*

*a sidewalk project that is being funded by grant money from the Florida Department of Transportation through their Local Agency Program. The total price of the awarded bid is for \$39,748.70.*

*The Florida Department of Transportation is now requiring the City of Deltona to approve the attached Supplemental LAP agreement and to execute a new resolution due to the fact that the original LAP Agreement and Resolution was for \$71,539.00 and the low bid for this project came in at \$39,768.70. This new resolution will supersede the old resolution that was approved on March 7, 2011.*

**Approved by Consent Agenda - to approve the Supplemental LAP Agreement with the Florida Department of Transportation and the execution of Resolution No. 2011-30.**

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

### **A. Public Hearing - Resolution No. 2011-36, Adopting the Final Millage Rate for FY 2011/2012.**

*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 (8.2995), the percentage decrease (0%), and the millage rate to be levied (8.2995) must be publicly announced.*

**After discussion, the Commission voted 4 to 3 (with Commissioners Denizac, Lowry, and Zischkau voting against the motion) to approve Resolution No. 2011-36, adopting the final millage rate of 8.2995 mills for the levy of ad valorem taxes for fiscal year 2011/2012.**

### **B. Public Hearing - Resolution No. 2011-37, Adopting the Final Annual Budget for FY 2011/2012.**

*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 (8.2995), the percentage decrease (0%), and the millage rate to be levied (8.2995) must be publicly announced.*

**After discussion, the Commission voted 5 to 2 (with Commissioners Denizac and Zischkau voting against the motion) to adopt Resolution No. 2011-37, adopting the final General Fund, Special Revenue Funds, Enterprise Funds, Capital Projects Funds, and Capital Equipment Fund budgets for fiscal year 2011/2012.**

**C. Public Hearing - Ordinance No. 13-2011, Providing for a Future Land Use Map Amendment to change the Future Land Use category of Medium Density Residential (MDR) to Commercial (C) for ±3.2 acres located within the 2200 block of Fernwood Drive, for second and final reading.**

*On April 26, 2011, the City Commission, at a scheduled workshop, directed staff to sponsor two administrative Small Scale Future Land Use Map Amendments, which includes the ±3.2 acres covered by Ordinance No. 13-2011. The property consists of ten (10) individually-owned parcels of land located along the Fernwood Drive corridor. Nine (9) of the ten (10) parcels are in private ownership and the remaining parcel, a 50-foot wide strip of land, is owned by the City.*

*The amendment area is currently designated as Medium Density Residential (MDR); a residential category that allows for multi-family development within a density range of 6.1 to 12 units per acre. This proposal is to change the amendment area to Commercial (C).*

*The amendment area is separated from Elkcarn Boulevard by a tier of lots already designated as Commercial and City Alley No. 1915. Therefore, the intent of this amendment is to provide the incentive and opportunity for private entities to buy and assemble larger and deeper tracts of commercially entitled land to facilitate prototypical commercial development formats that are commonly associated with major urban thoroughfares.*

*For more information concerning the amendment, including, detailed maps, public service analysis, environmental characteristics, etc. see the attached staff*

*report. Also note that on July 20, 2011, the Planning and Zoning Board recommended that the City Commission adopt the proposed amendment from Medium Density Residential to Commercial. On August 15, 2011, the City Commission approved the item to be sent to the VGMC for consistency determination. The VGMC members have not objected to the proposed amendment.*

**After discussion, the Commission voted unanimously to approve Ordinance No. 13-2011, a Small Scale Future Land Use Map Amendment for property along Fernwood Drive at second and final reading.**

**D. Public Hearing - Ordinance No. 12-2011, Pertaining to the Comprehensive Plan Future Land Use Map Amendment to change the Future Land Uses of Recreational and Public/Semi-Public to Commercial for property known as DuPont Lakes Park and Fire Station 63, for second and final reading.**

*The proposed amendment area consists of ±9.6-acre City-owned property that is used for an active park (DuPont Lakes Park), a lift station, a fire station (Station 63), cell tower, and a public well. At the April 26, 2011, City Commission Workshop, the City Commission directed staff to prepare a Future Land Use Map Amendment to change the zoning designation on the property from Recreational and Public/Semi-Public to Commercial.*

*The intent of the land use change is to create a marketable tract of land for potential commercial opportunity in an area that represents an intensive urban node within the City. There is recognition that any of the uses (park, fire station, etc.) that are displaced by envisioned commercial uses will need to be re-located. In the meantime the existing public oriented uses can continue. For more information concerning this proposal including detailed graphics, public service analysis, environmental review, etc. see the attached staff report. Thus, the proposed amendment does not change use of the site as an active park, nor will it facilitate the park to become inactive without relocation of the ballfields and associated uses prior to sale and/or development. As intended, the fire station, well, cell tower, and lift station will remain on-site following any sale of property, if any.*

*On July 20, 2011, the Planning and Zoning Board heard the proposed amendment. Discussion centered around floodplain line extents on the property, intensity of use on the land, and traffic volume issues. Based on that discussion, the Planning and Zoning Board recommended that the City Commission not approve Ordinance No. 12-2011. On August 15, 2011, the City Commission approved the item to be sent to the VGMC for consistency determination. The VGMC members have not objected to the proposed amendment.*

**After discussion, the Commission voted 5 to 2 (with Commissioners Carmolingo and Zischkau voting against the motion) to adopt Ordinance No. 12-2011, a Small Scale Future Land Use Map Amendment for DuPont Lakes**

**Park at second and final reading.**

- E. Public Hearing - Ordinance No. 14-2011, Pertaining to the Zoning Map Amendment to change the Zoning Designation from Public Use (P) to Retail Commercial (C-1), for property known as DuPont Lakes Park and Fire Station 63, for second and final reading.**

*The proposed amendment area consists of ±9.6-acre City-owned property that is used for an active park (DuPont Lakes Park), a lift station, a fire station (Station 63), cell tower, and a public well. At the April 26, 2011, City Commission Workshop, the City Commission directed staff to prepare a Zoning Map Amendment to change the zoning designation on the property from Public Use (P) to Retail Commercial (C-1).*

*The intent of the zoning change is to create a marketable tract of land for potential commercial opportunity in an area that represents an intensive urban node within the City. There is recognition that any of the uses (park, fire station, etc.) that are displaced by envisioned commercial uses will need to be re-located. In the meantime the existing public oriented uses can continue. For more information concerning this proposal including detailed graphics, public service analysis, environmental review, etc. see the attached staff report. The proposed amendment does not change use of the site as an active park, nor will it facilitate the park to become inactive without relocation of the ballfields and associated uses prior to sale and/or development. As intended, the fire station, well, cell tower, and lift station will remain on-site following any sale of property, if any.*

*On July 20, 2011, the Planning and Zoning Board heard the proposed amendment. Discussion centered around floodplain extents on the property, land use intensity, and traffic volume issues. Based on that discussion, the Planning and Zoning Board recommended that the City Commission not approve Ordinance No. 14-2011. The City Commission approved the ordinance at first reading at the August 15, 2011, Public Hearing.*

**After discussion, the Commission voted 5 to 2 (with Commissioners Carmolingo and Zischkau voting against the motion) to approve Ordinance No. 14-2011, a Zoning Map Amendment for DuPont Lakes Park at second and final reading.**

- F. 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, at second and final 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 of the potential Federal sanctions for not adopting an appropriate floodplain management ordinance (see the attached July 15, 2011, memorandum). Finally, also attached is a copy of the existing floodplain management ordinance (Ordinance No. 18-2011) in a ~~strike-through~~ format and new ordinance language underlined.*

*This Ordinance was approved at first reading on September 6, 2011.*

**After discussion, the Commission voted unanimously to adopt Ordinance No. 18-2011 at second and final reading.**

- G. Public Hearing - 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 second and final 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.*

*This Ordinance was approved at first reading on September 6, 2011.*

**After discussion, the Commission voted unanimously to approve Ordinance No. 23-2011 on second and final reading.**

- H. Public Hearing - 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 second and final 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.*

*This Ordinance was approved at first reading on September 6, 2011.*

**After discussion, the Commission voted unanimously to approve Ordinance No. 24-2011 on second and final reading.**

- I. Ordinance No. 25-2011, Pertaining to procedures in the event a City official receives an ethics complaint and the official desires insurance coverage for attorney's fees and costs relating thereto, for first reading.**

*This Ordinance was suggested by the City Attorney to ensure that requests for insurance coverage for the cost of attorney's fees regarding an ethics complaint would not be rejected due to not being submitted in a timely manner.*

**After discussion, the Commission voted 3 to 3 (MOTION FAILED with Commissioners Carmolingo, Herzberg and Treusch voting against the motion and Commissioner Zischkau abstaining from the vote) to table this item until the next Regular City Commission meeting.**

**After discussion, the Commission voted 4 to 2 (with Commissioners Denizac and Lowry voting against the motion and Commissioner Zischkau abstaining from the vote) to adopt Ordinance No. 25-2011 at first reading and to schedule second and final reading for October 3, 2011.**

**9. OLD BUSINESS:**

**10. NEW BUSINESS:**

- A. Consideration of one (1) Commission representative to the Volusia Transportation Planning Organization (TPO).**

*At the September 6th Regular City Commission Meeting, Commissioner Zischkau announced his resignation as the City's representative the Volusia TPO. Mayor Masiarczyk currently serves as the alternate representative to the TPO.*

*The Volusia TPO is an independent organization responsible for the planning and*

*programming of all Federal and State transportation funds for all of Volusia County and the Cities of Flagler Beach and Beverly Beach in Flagler County. This organization is the primary forum within which member local governments and citizens voice concerns, identify priorities, and plan for transportation improvements for all modes of transportation – roadway, public transportation, and bicycle and pedestrian facilities.*

*The Volusia TPO Board membership consists of elected officials representing all of the local governments, including municipal and county entities. As outlined in Florida Statutes, the Volusia TPO Board is comprised of 19 voting members who review local, regional, and statewide transportation issues and work cooperatively to determine appropriate policy to address transportation needs. In addition, there are five non-voting members on the Volusia TPO Board who are appointed primarily to provide information and recommendations to the Volusia TPO Board.*

*The Volusia TPO Board meets on the fourth Tuesday of every month and all meetings are properly noticed and open to the public. Board meetings are held at the Volusia TPO office, 2570 W. International Speedway Blvd., Suite 100, Daytona Beach, Florida and begin promptly at 8:00 AM.*

**After discussion, the Commission voted unanimously to confirm the appointment of Mayor John Masiarczyk as the City's representative to the Volusia Transportation Planning Organization.**

**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.