

## AFTER ACTION AGENDA

**REGULAR CITY COMMISSION MEETING**  
**MONDAY, SEPTEMBER 17, 2012**  
**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. INVOCATION AND PLEDGE TO THE FLAG:
  - A. Silent Invocation Presented by Vice Mayor Treusch.
4. APPROVAL OF MINUTES & AGENDA:
  - A. Approval of Minutes - Regular City Commission of September 4, 2012 and Special City Commission Meeting of September 6, 2012.

The Commission voted unanimously to approve the minutes of the Regular City Commission Meeting of September 4, 2012 and Special City Commission Meeting of September 6, 2012 as presented.
  - B. Additions or Deletions to Agenda.
5. PRESENTATIONS/AWARDS/REPORTS:
  - A. Proclamation - Hispanic Heritage Month - September 15, 2012 to October 15, 2012.
6. PUBLIC FORUM – Citizen comments for any items.  
(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.

**7. CONSENT AGENDA:**

**\* A. Request for approval of Award of Bid #13001, Solid Waste Abatements.**

*Purchasing solicited bids for Solid Waste Abatement Services to provide abatement work needed to clear properties of trash, debris and removal of dead, diseased or fallen trees for Enforcement Services, Solid Waste Division, on an as needed basis, as an annual contract for a period of two years with the option to renew for two additional one year periods. These services shall be performed at specific vacant, abandoned or occupied properties, as designated by the City Code of Ordinances. City Code states that if the property owner does not remove the condition(s), the City shall have the conditions(s) corrected at the owner's expense. Trash, debris and trees must be separated and transported to an authorized disposal facility. Disposal charges are paid separately, based on actual charges incurred per an invoice from the disposal facility.*

*The bid was posted on demandstar and notification went out to 602 companies. Four companies downloaded the bid and there were three bidders. Bids were received from Alpha Environmental, J&B Home Preservation and Waste Pro of Florida, Inc. The bid tab is attached.*

**Approved by Consent Agenda – to approve Bid #13001 for Solid Waste Abatements to both Alpha Environmental and Waste-Pro of Florida Inc. for a period of two years with the option to renew for two additional one year periods upon appropriation of funds for each year.**

**\* B. Request for Selection of Code Enforcement Special Master.**

*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.*

**Approved by Consent Agenda - to appoint Charles Cino as the Special Master at an hourly rate of \$175.00 for a one-year appointment.**

**C. Request for consideration of a budget transfer for the Legal and Parks and Recreation Departments.**

*As the City continues to tighten its belt during the budget process, two General Fund departments, Legal and Parks & Recreation, are trending to spend more than their approved budget in FY 11/12. However, the General Fund as a whole is trending well under budget and will be able to easily absorb this adjustment. Therefore, staff is recommending a budget transfer from the FY 11/12 General Government budget to cover these operational shortfalls, as opposed to a budget amendment taking funding from the City's fund balance (reserves).*

*The Legal Department is trending \$32,000 over budget. Expenses of the Manji litigation in FY 11/12 totaled over \$70,000, which was the reason for the overage. It is anticipated that an amount significantly in excess of the overage will be recovered by the City in FY 12/13 from the plaintiffs in the Manji case once there is a resolution of claims by the City for reimbursement of certain fees and costs involved in the litigation.*

*At the time of setting the FY 11/12 budget for the Legal Department, it was not anticipated that the Manji case, which had been pending since 2006, would go to trial in FY 11/12. Because it had been expected that the case would settle at mediation, there were only limited funds for the case included in the FY 11/12 budget. Due to the huge sums demanded by the Plaintiff at mediation (in excess of \$800,000), the case did not settle but instead went to trial in FY 11/12. The City ultimately won the case. Expert witness fees paid to TetraTech, court reporter expenses, and exhibit costs for the litigation were all unexpected expenses paid out of the Legal Department budget, resulting in the overage.*

*The Parks and Recreation Department is trending \$ 15,000 over budget. The seasonal weather has presented significant challenges; whereby, Intermittent Employees were called upon to assist and augment the full time staff normal job responsibilities. The full time staff has had to dedicate more of its time and resources to mowing the parks and facilities, more than on a normal basis, as years in the past. Intermittent Employees have been utilized to accomplish the level of service required, causing an overage in Personnel Services.*

*Given the fact that the General Fund overall is trending to be under budget, staff is proposing a transfer from the General Government Department to these individual departments to cover any anticipated shortfalls. A budget amendment is not being requested.*

**After discussion, the Commission voted unanimously to transfer \$32,000 from the FY 11/12 General Government budget to the FY 11/12 Legal Department budget and to transfer \$15,000 from the FY 11/12 General Government budget to the FY 11/12 Parks and Recreation budget.**

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

### **A. Public Hearing - Resolution No. 2012-25, Adopting the Final Millage Rate for**

**FY 2012/2013.**

*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 a 4.42% decrease 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 (8.3591), the percentage decrease (-4.42%), and the millage rate to be levied (7.9900) must be publicly announced.*

**The Commission voted 6 to 1 (with Commissioner Zischkau voting against the motion) to approve Resolution No. 2012-25, adopting the final millage rate of 7.9900 mills for the levy of ad valorem taxes for fiscal year 2012/2013.**

**B. Public Hearing - Resolution No. 2012-26, Adopting the Final Annual Budget for FY 2012/2013.**

*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 a 4.42% decrease 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 (8.3591), the percentage decrease (-4.42%), and the millage rate to be levied (7.9900) must be publicly announced.*

**The Commission voted 5 to 2 (with Commissioner Zischkau and Commissioner Denizac voting against the motion) to approve Resolution No. 2012-26, adopting the final General Fund, Special Revenue Funds, Enterprise Fund, and Capital Project Funds budgets for fiscal year 2012/2013.**

**C. Ordinance No. 10-2012, Adding Article IX, "Soliciting/Peddling" to Chapter**

**22, “Businesses” of the Code of Ordinances of the City of Deltona (Requested by Commissioner Denizac).**

*The No Solicitation ordinance was referred back to staff for revisions and was rescheduled for a date certain on 9/17/2012. However, after conversations among Captain Brannon, Dale Baker and Becky Vose it became apparent that there are several issues regarding the enforcement of this Ordinance which should be discussed in detail with the City Commission prior to its first reading. For this reason, the Ordinance is being scheduled for discussion at the City Commission Workshop of October 25, 2012.*

**The Commission voted unanimously to schedule Ordinance No. 10-2012 for further discussion at the Commission Workshop on October 25, 2012.**

**D. Ordinance No. 20-2012, Adding Article VII, “Mandatory Spay and Neuter”, to Chapter 14, “Animals”, of the Code of Ordinances of the City of Deltona, for first reading (Requested by Commissioner Herzberg).**

*The mandatory spay and neuter ordinance was requested by Commissioner Herzberg to address the issue of unintended or uncontrolled breeding of dogs and cats which leads to many dogs, cats, puppies and kittens being unwanted, becoming strays, suffering privation and death, and being impounded and euthanized at great expense to the City. The ordinance was patterned after Volusia County’s Ordinance.*

*If approved as written the Ordinance has an effective date of January 1, 2013.*

**The Commission voted 5 to 2 (with Commissioner Zischkau and Vice Mayor Treusch voting against the motion) to approve Ordinance No. 20-2012 at first reading and to schedule second and final reading for October 15, 2012 with a workshop in between.**

**E. Public Hearing – Resolution No. 2012-28, designating certain real property within the City of Deltona as an Economic Enhancement District for purposes of environmental remediation, rehabilitation and economic development of the property under Florida’s Brownfields Redevelopment Act.**

*The City of Deltona is considering the establishment of a ±37.1-acre Brownfield Area (see the attached map exhibits) within the City that is similar to Brownfield Areas within other Florida municipalities. The Florida Department of Environmental Protection, in cooperation with Enterprise Florida, has developed a program that supports the synergistic application of environmental remediation, redevelopment, and economic development activities. The City's intent is to achieve these goals that will benefit our community and to responsibly protect the health, safety, and public welfare of our residents.*

*The first goal of the program is to remediate any damage or potential threat to the natural environment by offering an incentive to property owners, business owners, etc. to take proactive measures with regard to the use and reuse of Brownfield sites. However, the establishment of a Brownfield Area does not necessarily mean that environmental contamination exists, but merely represents that the potential exists for sites to be contaminated or there is a perception of contamination. Most urban areas have land uses, either past or present that could be associated with contamination (i.e. gas stations with underground storage tanks and dry cleaners with cleaning solutions). The City of Deltona is no exception. Therefore, the City of Deltona Brownfield Area, having an urban past, is in need of remediation exploration; even if the contamination does not exist.*

*The second objective of the program is the redevelopment or reuse of urban lands. This element is also considered to be anti-urban sprawl, because it encourages cities to focus on development within an already impacted area, rather than to seek new or undisturbed sites outlying sites for development. This concept makes a city more sustainable, is considered responsible development and represents an efficient use of land and public infrastructure.*

*The third goal is enhanced economic development. The State Brownfield program facilitates an incentive, up to \$2,500 for each new full time job created, which is provided in the form of a tax credit through Enterprise Florida to a local business. This amount can be significant for large businesses, but also assists small businesses as well. In addition, participation within the Brownfield program also has a positive effect in that site selectors looking to relocate or locate a business often target locations with a Brownfield designation already assigned because of the built-in economic development incentives.*

*The benefits of environmental remediation, redevelopment, and economic development associated with the Brownfields program been well developed and implemented. There are many examples of success. Locally, the City of Ormond Beach recently established, in January 2012, a similar Brownfield Area to match the boundary of the Ormond Crossing Community Redevelopment Area (CRA) with the intent of creating an economic target zone within the CRA. The Ormond Beach Brownfield is now being considered for a range of uses including light manufacturing and commercial retail. Also, the City of Orlando utilized a Brownfield Area designation for a site near the Orlando International Airport to attract a regional Publix distribution center.*

*The intent of this Brownfield Area is to focus the City's economic development activities along Deltona Boulevard, retrofit an old part of Deltona, to revitalize the corridor into an attractive and vibrant area, and to ultimately further the goals of a proposed CRA for that section of the City. Finally, the City conducted the first public hearing within the proposed Brownfield Area on September 6, 2012, as required by Chapter 376.80, Florida Statute (F.S.) and is following that statute for the creation of the Brownfield Area. This public hearing is for the potential adoption of Resolution No. 2012-28, establishing the Brownfield Area,*

*which will be named the Deltona Boulevard Economic Development Zone, as approved by the City Commission.*

**The Commission voted unanimously to approve Resolution No. 2012-28 that establishes a ±37.1-acre Brownfield Area, centered on Deltona Plaza that meets the requirements of Chapter 376, F.S.**

## **9. OLD BUSINESS:**

### **A. Settlement recommendation for Biddle vs. Deltona Litigation.**

*Biddle and Associates filed a lawsuit against the City of Deltona alleging breach of contract, request for accounting and unjust enrichment. The subject matter of the case was a contract entered into between Biddle and Associates and the City to provide Supplier Cost Recovery Services dated September 8, 2008. The contract was terminated by the City on January 16, 2009. The case has been pending since August 2009, and litigation and discovery has been on-going.*

*Mediation was held on September 10, 2012, at City Hall in an attempt to resolve the long pending lawsuit. A tentative settlement was achieved at mediation, subject to City Commission approval, providing for a one-time payment to Biddle and Associates by the City of the sum of \$20,000.00. This amount is far less than the potential City liability, and also reflects a significant savings over potential fees and expenses that would be involved in continued litigation.*

**The Commission voted 6 to 1 (with Commissioner Denizac voting against the motion) to approve the Settlement Agreement of the Biddle and Associates vs. City of Deltona lawsuit reached at mediation on September 10, 2012.**

## **10. NEW BUSINESS:**

### **A. Request for consideration of request from Gloria Beaux for reduction of fine from \$5,000.00 assessed pursuant to Special Magistrate Case DEL-07-132.**

*An order Imposing Fine/Lien was entered on November 28, 2007, by the City of Deltona Special Magistrate, ordering Gloria Beaux to pay to the City of Deltona a fine in the amount of one hundred dollars (\$100.00) per day beginning November 28, 2007, for each and every day the violations exist and continues to exist or until a maximum amount of \$5,000.00 is reached. The violation occurred when the respondent failed to repair holes, breaks, loose and rotting materials and properly surface the walls to prevent deterioration to the property located at 1113 Algoma Street. The respondent failed to come into compliance for 54 days. The total accumulated amount due is \$5,000.00. On February 27, 2008 the respondent's representative Mitchell Green appeared before the Special Magistrate to request a recommendation to reduce the fine.*

*On May 14, 2012 Gloria Beaux paid the \$5,000.00 lien in full, due to the lien preventing the sale of one of her other properties. Ms. Beaux is requesting some if not all of her money to be refunded.*

*On July 16, 2012 the request for a reduction went before the Mayor and City Commission and it was decided to return the request to the Special Magistrate for an up to date recommendation.*

*On August 22, 2012 Gloria Beaux appeared before the Special Magistrate who made a recommendation to reduce the fine to \$1,000.00.*

**The Commission voted 4 to 3 (with Commissioners Denizac, Herzberg and Lowry voting against the motion) to grant the request of Gloria Beaux for a reduction of the fine concerning Case No. DEL-07-132 for the property located at 1113 Algoma Street, Deltona, Florida, to the sum of \$1,000.00 and refund \$4,000.00 of her payment.**

- B. Consideration of an Interlocal Agreement with Volusia County, City of Deland, City of Deltona and the City of Orange City to utilize a consultant currently contracted by the City of Deland to conduct an engineering study, design and permitting of reclaimed water interconnects as well as have the Consultant continue monitoring the Environmental Monitoring Plan for an additional year as previously approved in Phase II of the Interlocal Agreement.**

*The St. Johns River Water Management District has projected that groundwater pumping by the Suppliers will, in the near future, exceed the capacity of the groundwater supply in West Volusia County, and that the Suppliers will therefore need to pursue one or more alternative sources of water supply.*

*Studies conducted by the Suppliers indicate that increased use of reclaimed water for irrigation and aquifer recharge has the potential to significantly reduce the amount of alternative water supply required.*

*The Suppliers desire to have an engineering firm analyze, design and permit reclaimed water interconnects, quantify costs associated with interconnect construction, reclaimed water augmentation and implementation of various retrofit and recharge efforts with the goal of reducing the quantity of alternative water supply ultimately needed.*

*Grant monies are available for a portion of this study, and design through the United States Environmental Protection Agency, State Tribal Assistance Grant (STAG) program.*

*Additionally, the Suppliers desire to have Phase III of the West Volusia Water Supply Plan prepared in order to continue the Environmental Monitoring Plan*

*and groundwater modeling. This agreement was initially approved by the Deltona City Commission on November 3, 2008 with Phase II being approved on May 5, 2010. Grant funding is not available for this portion of the project.*

**The Commission voted unanimously to authorize the City Manager to execute the Agreement between the Suppliers to contract with a consultant to analyze, design and permit reclaimed water interconnects, quantify costs associated with such project; as well as continue with the preparation of Phase III of the West Volusia Water Supply Plan.**

**C. Request for consideration of one (1) Commission representative as the City's appointment to Team Volusia's Board of Directors.**

*Team Volusia Economic Development Corporation is focused on economic development efforts to bring new businesses to Volusia County to benefit all Volusia residents. The Corporation is a public/private partnership venture to encourage economic development. From services to education, manufacturing and not-for-profit, all of its partners have pledged their commitment to the success of economic development in Volusia County. They are a powerful, united team with a strong belief in the future of our community.*

*Currently, former Vice Mayor Treusch is the City's appointment to the Team Volusia Board of Directors and City Manager Faith Miller is the alternate appointment. At this time, it would be appropriate to select an individual to replace Vice Mayor Treusch on the Board as he has asked that his replacement be in place for the October Team Volusia meeting.*

**The Commission voted unanimously to appoint Commissioner Lowry as the City's appointment to Team Volusia's Board of Directors to replace Vice Mayor Treusch.**

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