

AFTER ACTION AGENDA

**REGULAR CITY COMMISSION MEETING
MONDAY, NOVEMBER 5, 2012
6:30 P.M.**

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

AGENDA

1. **CALL TO ORDER**
2. **ROLL CALL - CITY CLERK**
3. **INVOCATION AND PLEDGE TO THE FLAG:**
 - A. **Silent Invocation Presented by Mayor Masiarczyk, Sr.**
4. **APPROVAL OF MINUTES & AGENDA:**
 - A. **Approval of Minutes - Regular City Commission of October 15, 2012 and Special City Commission Meeting of October 23, 2012.**

The Commission voted unanimously to approve the minutes of the Regular City Commission Meeting of October 15, 2012 and the Special City Commission Meeting of October 23, 2012 as presented.
 - B. **Additions or Deletions to Agenda.**
5. **PRESENTATIONS/AWARDS/REPORTS:**
 - A. **Presentation – Super Star Student of the Month Certificates for October 2012.**
 - B. **Presentation – Brief update and introduction of new President and CEO of Team Volusia Economic Development Corporation Keith Norden.**

- C. **Presentation – Quarterly Board Reports of City Advisory Boards/Committees.**
 - D. **Proclamation – Deltona Community 50 Year Celebration Week – November 12 – 17, 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 Open Burning Multilateral Operating Agreement with the Florida Department of Agriculture and Consumer Services (FDACS) through the Florida Forest Service (FFS).**

In July of this year, Florida Statute 590.02 was revised to read as follows:

(10) (a) The Florida Forest Service has exclusive authority to require and issue authorizations for broadcast burning and agricultural and silvicultural pile burning. An agency, commission, department, county, municipality, or other political subdivision of the state may not adopt or enforce laws, regulations, rules, or policies pertaining to broadcast burning or agricultural and silvicultural pile burning unless an emergency order is declared in accordance with s. 252.38(3).

With this action the Florida Forest Service has contacted all counties and municipalities of the change. Section (10) (b) allows the FFS to delegate its authority to oversee and regulate the burning of yard trash and debris from land clearing operations.

As Deltona desires to continue to regulate and permit open burning for the purpose of burning yard waste and land clearing debris within the parameters outlined in the City of Deltona, Code of Ordinances, execution of the Multilateral Operating Agreement with the FDACS and FFS is necessary to continue local oversight and management of these fires.

Approved by Consent Agenda to approve the Open Burning Multilateral Operating Agreement with the Florida Department of Agriculture and Consumer Services (FDACS) through the Florida Forest Service (FFS) as presented.

- B. Resolution No. 2012-36, Encouraging the Legislature of the State of Florida to enact legislation prohibiting the operation of a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other text in a wireless communication device, or sending or reading data in the device, for the purpose of non-voice interpersonal communication.**

Senate Bill 416, prohibiting the operation of a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other text in a wireless communication device, or sending or reading data in the device, for the purpose of non-voice interpersonal communication died in the legislature.

The City Attorney has been asked to provide a resolution for consideration requesting the legislature to immediately enact legislation making it illegal to operate a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other text in a wireless communication device, or sending or reading data in the device, for the purpose of non-voice interpersonal communication.

After discussion, the Commission voted unanimously to adopt Resolution 2012-36, urging the Florida Legislature to pass, and Governor Rick Scott to sign into law the Florida Ban on Texting and Driving.

8. ORDINANCES AND -PUBLIC HEARINGS:

- A. Public Hearing – Ordinance No. 17-2002, Pertaining to the Comprehensive Plan by Repealing the Existing Thoroughfare Roadway System 2025 Map and replacing such map with a new Thoroughfare Roadway System 2025 Map, for first reading.**

What is being presented to the City Commission is a large-scale plan amendment to the City's Comprehensive Plan. The intent is to repeal the existing 2025 Thoroughfare Map and replace it with a new 2025 Thoroughfare Map that keeps the City current and compliant with the State of Florida.

Following the 2010 City Evaluation and Appraisal Report Comprehensive Plan Amendment, staff continues to update the Comprehensive Plan within the long-range planning period to keep data and analysis current. The purpose of this amendment is to update the mapping of the City's thoroughfare roads that are either incomplete and/or inaccurate. The intent is to also update the City 2025 Thoroughfare Map to accurately reflect the status of the existing and future road network required to maintain an appropriate level of mobility within the City from a land use policy standpoint.

Finally, the proposed large-scale plan amendment is consistent with the City's Comprehensive Plan and Land Development Code.

After discussion, the Commission voted unanimously to approve Ordinance No. 17-2012 at first reading to amend the City of Deltona's 2025 Thoroughfare Map and to transmit Ordinance No. 17-2012 to the Florida Department of Economic Opportunity.

B. Ordinance No. 21-2012, Providing for a Small Scale Comprehensive Plan Amendment and Future Land Use Amendment for parcels located near the intersection of Providence and Elkcam Blvds., for first reading (CP12-003).

The City has made application for an administrative amendment to the City's Future Land Use Map by changing the future land use designation of ±9.5 acres of land located near the Providence Bv. and Elkcam Bv. intersection from Low Density Residential (LDR) to Office/Retail/Service (ORS). The City Commission previously recommended that staff identify areas to expand existing commercial and office nodes than can accommodate non-residential growth. The City is underserved by non-residential land uses, which manifests in the form of commercial and office uses being located farther from homes and, ultimately, the residents which they serve.

The proposed amendment will foster greater commercial and office opportunities within the City. This will help address the City's over-reliance upon a tax base dominated by low density residential land uses and will also provide for employment opportunities Citywide. The proposed amendment area can be served by existing public infrastructure to accommodate non-residential land uses. It is important to note that changing future land use designations on property would approve a range of densities and intensities that allows for rezoning of property to occur and does not assign development rights that are issued at the time of rezoning. No accompanying rezoning, land assemblage, or development is proposed by the City and any such effort would be the responsibility of the private real estate market and not the City.

Finally, providing for a more balanced land use program is a City economic development goal for long-term sustainability and the proposed amendment is consistent with the City's Comprehensive Plan. The ORS designation is recommended by staff, because it is more compatible with existing residential uses in the area and places an intensity limitation of up to 0.35 floor area ratios (FAR) that is less intensive than provided by a Commercial future land use designation.

After discussion, the Commission voted unanimously to table Agenda Items 8-B and 8-C for a more in depth discussion regarding the Small Scale Comprehensive Land Use Amendment.

C. Ordinance No. 22-2012, Providing for a Small Scale Comprehensive Plan Amendment and Future Land Use Amendment for parcels located near the intersection of Providence and Fort Smith Boulevards, for first reading.

The City has made application for an administrative amendment to the City's Future Land Use Map by changing the future land use designation of ±9.8 acres of land located near the Providence Bv. and Ft. Smith Bv. intersection from Low Density Residential (LDR) to Office/Retail/Service (ORS). The City Commission previously recommended that staff identify areas to expand existing commercial and office nodes than can accommodate non-residential growth. The City is underserved by non-residential land uses, which manifests in the form of commercial and office uses being located farther from homes and, ultimately, the residents which they serve.

The proposed amendment will foster greater commercial and office opportunities within the City. This will help address the City's over-reliance upon a tax base dominated by low density residential land uses and will also provide for employment opportunities Citywide. The proposed amendment area can be served by existing public infrastructure to accommodate non-residential land uses. It is important to note that changing future land use designations on property would approve a range of densities and intensities that allows for rezoning of property to occur and does not assign development rights that are issued at the time of rezoning. No accompanying rezoning, land assemblage, or development is proposed by the City and any such effort would be the responsibility of the private real estate market and not the City.

Finally, providing for a more balanced land use program is a City economic development goal for long-term sustainability and the proposed amendment is consistent with the City's Comprehensive Plan. The ORS designation is recommended by staff, because it is more compatible with existing residential uses in the area and places an intensity limitation of up to 0.35 floor area ratios (FAR) that is less intensive than provided by a Commercial future land use designation.

After discussion, the Commission voted unanimously to table Agenda Items 8-B and 8-C for a more in depth discussion regarding the Small Scale Comprehensive Land Use Amendment.

9. OLD BUSINESS:

A. Resolution No. 2012-37, Replacing Resolution No. 2012-35, but reaffirming the reduction in the base rate for residential sewage service by \$25 per customer of the City of Deltona Water and Sewer System.

On October 24, 2012, the City Commission adopted Resolution No. 2012-35 which lowered the residential sewer base charge by \$25 per month per customer. Several issues have been raised regarding the adoption and the interpretation of

that resolution. In particular, the adequacy of the notice for the meeting has been questioned, and it has been suggested that it could be interpreted to somehow reduce the sewage rates of City residents who receive sewer service from Volusia County, and not the City of Deltona water and sewer department. Although the City Attorney has opined that such issues would ultimately be found to be groundless; in an abundance of caution, this new resolution is proposed to resolve those issues before they become the subject of disruptive legal disputes.

This new resolution reduces the residential sewer base charge by \$25 for the sewer customers of the City of Deltona's water and sewer system, and it makes it abundantly clear that such reduction in rates only apply to sewer customers of the City of Deltona water and sewer department. It provides for the hiring of a rate consultant, and it directs City staff to bring to the City Commission a plan for a rate assistance fund to address the needs of citizens who cannot afford their water/sewer bills.

At the meeting on October 24th, the City Commission indicated a continuing interest in building the Eastern Wastewater Plant. City staff has since learned that no loan agreement would be required to be signed for the state low interest loan until February of 2013. The City should be in receipt of information from the rate consultant before that time. Therefore, this resolution also directs City staff to apply for a \$20 Million State of Florida Revolving Fund loan at 3% interest for the construction of the Eastern Wastewater Plant.

After discussion, the Commission voted 5 to 2 (with Commissioner Carmolingo and Commissioner Zischkau voting against the motion) to adopt Resolution No. 2012-37, replacing Resolution No. 2012-35 but reaffirming the reduction in the base rate for residential sewage service by \$25 per customer of the City of Deltona Water and Sewer System.

10. NEW BUSINESS:

A. Discussion Re: Chapter 102, Potential Sign Ordinance Amendment (Requested by Commissioner Denizac).

Commissioner Denizac asked that staff include this item on the agenda as this is related to Mr. Larry Kent's request for changes to the Sign Code relating to electronic changeable copy signs. As you will recall, Mr. Kent spoke before the Commission in recent months asking that the Sign Code be changed to allow more transitional movement of the images and text on the new sign at his Burger King location on Elkcam Blvd.

Staff has provided the following background information and suggestions with regard to this issue as follows. In June 2012, the City Commission adopted a new Sign Code through Ordinance No. 04-2012 as Chapter 102 of the Code of Ordinances. Chapter 102 is the City's Sign Code and Section 102-102 was created to include Changeable Copy Signs as permissible signs for non-

residential uses. Specifically, Section 102-102(3) addresses electronic changeable copy display criteria, which is being requested to be amended to alter the criteria in Sections 102-102(3) (c) and (d), as follows:

c. Copy change of the display screen shall not be more frequent than once per four seconds.

d. Any message or picture displayed shall be static in nature and shall not project continuous scroll, blink, flicker, flash, scintillate, or be otherwise animated. Transitions from one static image to the next shall appear to be instantaneous.

Section 102-102 also lists compatibility and locational criteria to ensure that the signs are located along arterial roadways and do not impact residential land uses. The intent is to allow the signs, but do not allow them to distract drivers or create light pollution that becomes a nuisance for nearby residential uses. Finally, the Sign Code was written to address this type of signage on one (1) lot. However, there is the potential for numerous signs to be located along the same corridor, which would have a cumulative effect on drivers and adjacent land uses. Thus, the key elements to consider and address are to allow for the modernization of industry signage to convey messages to get attention and for information conveyance without negatively impacting driver safety and adjacent land uses.

Based on the above and additional research, staff recommends the following to the City Commission:

1. Allow for non-static frame effects and background animation within a sign copy area that does not include letters, words, text, or numbers.

2. The non-static frame effects and background animation include limitations to minimize light pollution and potential negative effects to adjacent land uses and drivers, by adding a definition to Section 70-30, Definitions, of the Code, as follows:

Changeable Copy Signs – means any sign that uses frame effects and background animation and letters, words, text, or numbers as displays to convey or enhance information within the copy area of a sign. These sign types may also include electronic messaging technology.

3. Amend Sections 102-102(3) (c) and (d), as follows in strike-through and underline format:

c. Copy change of the display screen for letters, words, text, or numbers shall not be more frequent than once per every four (4) seconds and for frame effects and background animation there shall be no static criteria.

d. Any message or picture displayed for letters, words, text, or numbers shall be static in nature and shall not project continuous scroll, blink, flicker, flash,

scintillate, or be otherwise animated. Transitions from one static image to the next shall appear to be instantaneous. Ambient light criteria emitting from the sign is subject to criteria listed within Chapter 102, as amended from time to time.

4. Delete Section 102-3(a) (6), Prohibited Signs, as follows:

~~(a)(6) Signs with visible moving, revolving, or rotating parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic, or mechanical means, except for traditional barber poles.~~

After discussion, the Commission voted unanimously to direct staff to amend the Sign Code, Chapter 102 and Chapter 70-30, Definitions, of the Code of Ordinances, to provide for amendments to Changeable Copy Signs and associated support definitions and to amend Section 102-102(3) (c) to read two seconds instead of four and to place a moratorium on (d) until the Commission has researched further.

B. Request for approval to piggyback the City of Plant City's RFP No. 12-9466-001 to prepare a Bond Feasibility Report / Rate Study Update with Burton & Associates and approve a transfer of funds to cover the cost of the study.

Resolution No. 2012-35 was approved by the City Commission on October 24, 2012 which in part directed Staff to hire a rate consultant for purposes of both fulfilling the need for a rate consultant for the upcoming Swaption refinance, as well as explore rate options that would bring relief to the current sewer customers.

The City of Plant City recently awarded a contract for a Water and Wastewater Rate Study to be completed by Burton & Associates through RFP 12-9466-001.

Burton & Associates conducted the original rate study for Deltona Water in 2008 and they have also worked with the City's current Financial Advisor, FirstSouthwest, on previous occasions. Burton & Associates has been contacted to determine if they can not only meet the needs required by FirstSouthwest, but also be flexible to try several alternative rate scenarios in an effort to provide relief to our sewer customers. Burton & Associates has submitted a proposal, tailored to the City of Deltona, stating that they feel that they could meet our requirements and have preliminary results back within 60 days of receiving a notice to proceed and a full report completed within 90 days.

Burton & Associates will create a model that will be able to provide "what if" scenarios that allow the City to explore different rate options and determine their results instantaneously. One on one meeting with City Staff and the City Commission can also take place along with a presentation of the rate study update at a City Commission Workshop.

A transfer of funds is required to cover the expense of this study.

After discussion, the Commission voted 5 to 2 (with Commissioner Zischkau and Vice Mayor Treusch voting against the motion) to approve piggybacking the City of Plant City's agreement with Burton & Associates for a Bond Feasibility Report – Rate Study Update as well as approve the necessary fund transfer.

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.