

**CITY OF DELTONA, FLORIDA
REGULAR CITY COMMISSION MEETING
MONDAY, SEPTEMBER 16, 2013**

A Regular Meeting of the Deltona City Commission was held on Monday, September 16, 2013 at the City Hall Commission Chambers, 2345 Providence Boulevard, Deltona, Florida.

1. CALL TO ORDER:

The meeting was called to order at 6:30 p.m. by Mayor Masiarczyk.

2. ROLL CALL:

| | | |
|---------------------|------------------|---------|
| Mayor | John Masiarczyk | Present |
| Vice Mayor | Zenaida Denizac | Present |
| Commissioner | Webster Barnaby | Present |
| Commissioner | Heidi Herzberg | Present |
| Commissioner | Fred Lowry | Present |
| Commissioner | Chris Nabicht | Present |
| Commissioner | Nancy Schleicher | Present |
| Acting City Manager | Dave Denny | Present |
| City Attorney | Becky Vose | Present |
| City Clerk | Joyce Raftery | Present |

Also present: Finance Director Robert Clinger; Parks and Recreation Director Steve Moore; Public Works/Deltona Water Director Gerald Chancellor; Planning and Development Services Director Chris Bowley; Building and Enforcement Services Director/Acting Deputy City Manager Dale Baker; and VCSO Captain David Brannon.

3. INVOCATION AND PLEDGE TO THE FLAG:

Invocation Presented by Commissioner Nabicht – Father Frank Cerio, Our Lady of Lakes Catholic Church in Deltona.

The National Anthem was sung by Isaiah Galarza from Deltona High School.

4. APPROVAL OF MINUTES & AGENDA:

A. Minutes:

1. Approval of Minutes – Regular City Commission Meeting of September 3, 2013.

Commissioner Schleicher stated that page 15, under Commission comments, line 44 of the September 3, 2013 minutes should read “that after four (4) years Deltona has a firefighter contract”.

Motion by Commissioner Nabicht, seconded by Commissioner Vice Mayor Denizac to approve the minutes of the Regular City Commission Meeting of September 3, 2013 as amended.

Motion carried unanimously with members voting as follows: Commissioner Barnaby, For; Commissioner Herzberg, For; Commissioner Nabicht, For; Commissioner Schleicher, For; Commissioner Lowry, For; Vice Mayor Denizac, For; and Mayor Masiarczyk, For.

B. Additions or Deletions to Agenda:

5. PRESENTATIONS/AWARDS/REPORTS:

A. Proclamation – Florida Local Government Coalition – Local Works Day.

Deputy City Clerk Mitch Honaker read the Local Works Day proclamation.

6. PUBLIC FORUM – Citizen comments for items not on the agenda.

a) Mike Hylton, 2514 Omaha Drive, Commissioner for the Deltona Panther Pop Warner Youth Football and Cheerleading League, stated the league promotes strong school work, good grades, good citizenship, teamwork, sportsmanship and discipline, they are a 501C non-profit organization consisting of 25 volunteers and he asked the Commission to allow the league to continue to sell concessions and team merchandise at their games. The proceeds go toward scholarship costs, referees, insurance costs, and to offset registration costs. He asked the Commission to consider changing Ordinance No. 31-2006 to allow 501C non-profit organizations to have concessions and sell team merchandise four (4) to six (6) times per year at Dewey O. Boster Sports Complex.

b) Robert Lindemann, 173 Rosedale Drive, Operations Manager for the Deltona Panthers discussed the leagues 254 scholar athletes, of which 153 are football players and 111 are cheerleaders, out of those they currently have 34 football scholarships which amounts to \$4,456 dollars and six (6) cheerleader scholarships which amounts to \$800 dollars that the league gives away every year to needy families. He discussed league costs and he is in favor of changing the Ordinance to allow non-profit organizations to have concessions and sell team merchandise.

Commissioner Barnaby stated that he gives his support to the Deltona Panthers and sees no reason why the City should take away their ability to have concession and sell team merchandise.

c) Jessica Aivazis, 2769 Bluestone Drive, Scholastic Director for the Deltona Panthers, discussed the Pop Warner guidelines both players and cheerleaders must adhere to in order to participate, players who receive a 96% or above are considered an All-American Scholar and last year the Deltona Panthers had 34 members who qualified. She discussed the Pop Warner organization being recognized worldwide, having over 425,000 participants, that the City's support both past and present has always been greatly appreciated, and that she is in favor of changing the Ordinance to allow non-profit organizations to have concessions and sell team merchandise.

d) Cindy Lettau, 2330 Dumas Drive, stated that she has a problem with the City Ordinance No. 06-2012as it pertains to parking her vehicle on her own property. She provided photos of her vehicles parked at her home and of other Deltona resident's vehicle parking for Commission review. She stated that she has talked to the Building and Enforcement Services Director/Acting Deputy City Manager Dale Baker, and that next Wednesday she has a meeting with Mr. Baker and the Code Enforcement Officer handling her case.

Mayor Masiarczyk stated that the Commission would review the photos, provide their input to the Acting City Manager to discuss with Mr. Baker, and that the original photos would be given to Mr. Baker to return to her next Wednesday at their meeting.

e) Jennifer Luke, 1250 Indian Rock Court, asked the Commission to put aside money to correct the flood zone area designations in Deltona for those homes that have been wrongfully designated as being in a flood zone by the Federal Emergency Management Agency (FEMA), that it is costing Deltona residents thousands of dollars per year in flood zone insurance premiums, and that the changes in taxes and the millage rate would not be so significant if residents were not already having to redirect money to pay large flood insurance premiums. She asked the Commission to consider doing an addendum to correct the Flood Insurance Rate Map (FIRM).

Commissioner Barnaby stated that he is in support of Mrs. Luke's position and that in previous City Commission meetings he has spoken about the need for the City to assist those residents who FEMA has designated as being in a flood zone without doing any on-site surveys. He stated that during his conversations with Mr. Denny on the subject that Mr. Denny has stated that it will take over \$200,000 dollars for the City to pay for surveys that are needed to get FEMA to change its position on the designated flood zone areas in Deltona. He asked for Commission support to do an addendum to the budget for \$200,000 dollars to assist and help Deltona residents.

f) Buddy Shacklette, 875 Elkcarn Boulevard, Athletic Director for Trinity Christian Academy, stated that the by Parks and Recreation Director Steve Moore and informed him that Trinity Christian Academy along with Pop Warner were in violation of Ordinance No. 31-2006 for having concessions and selling merchandise during their games. He stated that the Florida Athletic Association requires organizations that host events to have concessions, to provide water and refreshments, and that Trinity Christian Academy has done so with no issues for over ten (10) years at Dewey O. Boster Sports Complex. He asked what could be done to work with the City to see about getting within the Code to where organizations are not in violation and can still provide concessions. He discussed Trinity Christian Academy being a 501C non-profit organization, the cost to dress one player, not looking to make money, and wanting to sustain what they have. He requested that the Commission amend the Code to allow each 501C non-profit organizations if the to hold their events and support the costs of their football program or to allow each non-profit to apply for a concessions permit seven (7) times per year.

The Commission discussed adding the issue to "New Business" or to a future Workshop agenda.

After discussion, the Commission concurred to add the issue to a future Commission Workshop agenda, and to discuss the date of the Workshop under Commission Comments.

f) Doug MacDonald, 1179 Balfour Drive, stated that he was speaking on behalf of the users of the Keyville Dog Park, that he submitted a petition with 110 signatures from residents who are in support of repairing Keyville Dog Park, and he requested a supplemental appropriation of \$50,000 dollars to the City budget to cover badly needed repairs at the park. He discussed the breakdown of repairs and cost which was sent to the Commission, volunteers willing to assist with improvements to the park, no funds designated for needed repairs at the park, and no repairs made to the park since it was constructed over seven (7) years since ago.

Mayor Masiarczyk stated he and the Parks and Recreation Director had visited Keyville Dog Park, that he had discussed the issue with the Acting City Manager, , there are issues at the park to be discussed, and that he would not support adding \$50,000 dollars to the budget because repairs can be made for much less.

Vice Mayor Denizac stated that she also has concerns with Keysville Dog Park, that if the park cannot be maintained then how can the Commission discuss expanding parks and building a stadium if the City cannot maintain what parks they already have, that the park is very heavily used, and that she would like to see the Keysville Dog Park fixed.

Commissioner Herzberg thanked Mr. MacDonald for taking the time to gather the petition signatures, for being proactive, and for engaging volunteers to assist with repairs, and she commended Mr. MacDonald for his volunteerism.

7. CONSENT AGENDA:

Mayor Masiarczyk read the title of each item on the Consent Agenda.

Motion by Commissioner Herzberg, seconded by Commissioner Schleicher to approve Consent Agenda Items 7-A through 7-B.

Commissioner Barnaby asked if the Special Magistrates pay was being raised from \$125.00 dollars per hour to \$175.00 dollars per hour. Mr. Baker replied “no” that the Special Magistrate’s pay has been at \$175.00 dollars per hour for at least the last two (2) to three (3) years.

Vice Mayor Denizac stated that what she believed to be Commissioner Barnaby’s concern was the discrepancy from what the Commission would be voting on and what is stipulated in Section 1, of Resolution No. 2009-37.

The Commission and staff discussed the verbiage of the original Resolution, the Resolution having to come back before the Commission every year for approval, and the Special Magistrate pay remaining the same as last year.

Motion carried unanimously with members voting as follows: Commissioner Barnaby, For; Commissioner Herzberg, For; Commissioner Nabicht, For; Commissioner Schleicher, For; Commissioner Lowry, For; Vice Mayor Denizac, For; and Mayor Masiarczyk, For.

***A. Request for selection of Code Enforcement Special Magistrate.**

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

***B. Request for ratification of purchase of Business Tax Module from Tyler Technologies.**

Approved by Consent Agenda – to approve the purchase of Tyler Technologies Business Tax module to include the change order of \$3,337 for the Central Property File, support and training bringing the total PO to \$27,393.95.

Mayor Masiarczyk called a five (5) minute recess at 7:15 p.m. and reconvened at 7:21 p.m.

8. ORDINANCES AND PUBLIC HEARINGS:

A. Public Hearing - Resolution No. 2013-30, Adopting the Final Millage Rate for FY 2013/2014.

Mayor Masiarczyk stated this is a public hearing to hear and consider comments and questions regarding the City's millage rate and proposed annual budget for the coming fiscal year 2013/2014. The City of Deltona hereby proposes a millage rate of 7.99. The millage rate reflects a 4.8% increase from the rolled-back rate of 7.6243 mills. The millage rate is higher than the rolled-back rate of 7.6243 in order to fund increased operating costs particularly in pension, police and fire.

Mayor Masiarczyk opened the public hearing:

Jennifer Luke, 1250 Indian Rock Court, stated that she understands that things need to be accomplished, that the millage rate needs to be increased, as well as the utility rates, but that there are other things that residents have to pay like flood insurance premiums, and she requested that the millage rate stay at the current roll-back rate of 7.6243% and that if the new millage rate is adopted that the Commission consider an addendum to the budget to add funds to assist homeowners whose homes have been wrongfully placed in a flood zone.

Mayor Masiarczyk closed the public hearing as there were no more public comments.

Commissioner Barnaby stated that he supports the roll-back millage rate of 7.6243% as opposed to the recommended 7.99%, that he does not see why the City needs to raise people's property taxes by 4.8% just to cover municipality employee raises, that the tax payers deserve people to fight for them, and that he would not vote for a 7.99% tax increase, and he asked the Commission to support the roll-back rate of 7.6243%.

Commissioner Schleicher stated that it is difficult to ask for money, but that the community does have needs such as infrastructure, additional sidewalks, and she does not feel the City can afford to stay at the roll-back rate. She discussed doing some research on the millage rate, being fiscally responsible, people's perceptions, other City's millage rate increases, the fact that Deltona did not raise the millage rate last year, property taxes compared to a decrease in property value, and she suggested that as a show of good faith to residents that the Commission raise the millage rate to 7.95%. She suggested each year the Commission could lower the millage rate by a little bit and still maintain enough money to put in some much needed sidewalks and infrastructure.

Commissioner Herzberg stated that after doing research that it seems that almost every City has raised their tax rate, that most of those cities have a higher land value than Deltona does, that Deltona is 80% residential and about 20% commercial so it is more difficult to maintain money to keep the City flush. She discussed the Commission hearing from residents wanting to make changes to Ordinances, allowing 501C organizations to have concessions at Dewey O. Boster Sports Complex, providing money for a FEMA study, and residents getting tickets and having issues with Code Enforcement. She discussed the number of Code Enforcement Officers in Deltona, the City not being able to afford additional deputies, and the City just finalizing the firefighter contract which almost took care of the entire surplus that the City had. She stated that the average tax bill in Deltona is \$275 dollars a year which provides each residence with all City services; the City needs to put in sidewalks but that the City does not even have enough revenue to pave all of the roads in Deltona. She stated that she has to support the 7.99% millage rate.

Commissioner Lowry asked Mr. Clinger what the loss of revenue would be if the millage rate were reduced from 7.99% to 7.95%. Mr. Clinger replied that it would be approximately \$59,000 dollars.

Motion by Commissioner Lowry, seconded by Commissioner Schleicher to reduce the millage rate to 7.9500 mills for the levy of ad valorem taxes for fiscal year 2013/2014.

Commissioner Herzberg stated that once you lower the millage rate that when the Commission sets next year's millage rate there will be other issues to deal with, she asked Mr. Clinger to elaborate on her statement concerning lowering the millage rate, and she asked how much of a savings that a millage rate of 7.95% would provide to each of the 32,000 homes in Deltona. Mr. Clinger replied that it would be a savings of approximately \$1.43 per year, per household and that lowering the millage rate this year would mean the Property Appraiser would use 7.95% as the roll-back rate next year. Commissioner Herzberg stated that she was not willing to make a token gesture to residents of not raising the millage rate to 7.99% for a mere savings of only \$1.43 per household, per year.

Commissioner Nabicht stated that to make a token gesture to save \$59,000 dollars was playing politics, not providing the level of service that Deltona residents deserve, that it would cost staff more than that to adjust all of the budget documents which means it would wind up costing residents to lower the millage rate to 7.95%, and that he was against lowering the millage rate of 7.99%. He stated that he concurred with Commissioner Barnaby on the infrastructure needs in Deltona, that everyone seemed fine with a millage rate of 7.99% during all of the budget Workshops, that the Commission made decisions on other issues based off of the 7.99% millage rate, that the collective amount of \$59,000 dollars can be used to provide needed services to residents, and that it would cost the City more to reduce the millage rate to 7.95 than it would ever recoup.

Vice Mayor Denizac asked how many residents in Deltona do not pay taxes at all. Mr. Clinger stated that he did not have that information on hand. Commissioner Herzberg stated that the number mentioned last year was around 4,000 homes in Deltona where residents do not pay taxes.

Vice Mayor Denizac stated that in relation to improvements to infrastructure; if anyone thinks that by approving the 7.99% millage rate the City will start laying roads and sidewalks that it is just not the way it works. She stated that in order to realign the roads along State Roads 472 and 415, and put in infrastructure so economic development will come to Deltona, that it will take a lot more than a 7.99% millage rate, and that she has always had, and still has concerns with the budget.

Mayor Masiarczyk stated that the Commission has met repeatedly at previous Workshops, Special meetings, and budget meetings and discussed the millage rate, that just the number of copies made of the budget documents over the last few meetings probably costs more than \$60,000 dollars, that the offer was a token gesture at best which would not benefit the residents at all, that he concurs with Vice Mayor Denizac's comments on infrastructure changes, and that staff did an excellent job at coming in with a millage rate of 7.99% with the aggressive plan the City has for next year and with the recent approval of the firefighter's contract.

City Attorney Becky Vose read the title of Resolution No. 2013-30.

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA;
ADOPTING AN AD VALOREM MILLAGE RATE FOR THE 2013-2014 FISCAL YEAR;
PROVIDING FOR AN EFFECTIVE DATE.**

Motion failed with members voting as follows:

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| Commissioner Barnaby | Against |
| Commissioner Herzberg | Against |
| Commissioner Lowry | For |
| Commissioner Nabicht | Against |
| Commissioner Schleicher | For |
| Vice Mayor Denizac | Against |
| Mayor Masiarczyk | Against |

Motion by Commissioner Herzberg, seconded by Commissioner Nabicht to approve Resolution No. 2013-30, adopting the final millage rate of 7.9900 mills for the levy of ad valorem taxes for fiscal year 2013/2014.

Motion carried with members voting as follows:

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|--------------------------------|----------------|
| Commissioner Barnaby | Against |
| Commissioner Herzberg | For |
| Commissioner Lowry | For |
| Commissioner Nabicht | For |
| Commissioner Schleicher | For |
| Vice Mayor Denizac | For |
| Mayor Masiarczyk | For |

Resolution No. 2013-30 was adopted at 7:38 p.m.

Mayor Masiarczyk stated the City of Deltona has adopted a final ad-valorem millage rate of 7.99 mills for fiscal year 2013/2014. The final ad-valorem millage rate reflects a 4.8% increase from the rolled-back rate of 7.6243 mills.

B. Public Hearing - Resolution No. 2013-31, Adopting the Final Annual Budget for FY 2013/2014.

Mayor Masiarczyk stated the proposed annual budget is summarized as follows: General Fund - \$50,153,691; Special Revenue Funds - \$23,864,298; Enterprise Fund - \$51,012,351; Capital Project Funds - \$5,153,068; and Total City-wide Budget - \$130,183,408.

Mayor Masiarczyk opened and closed the public hearing as there were no public comments.

Vice Mayor Denizac stated that she would be voting against Resolution No. 2013-31 because she disagrees with the City Attorney's Office portion of the budget in that she feels that the City already pays the City Attorney's Office approximately \$1,500 dollars a day, that she has come to accept the fact that the City pays \$360,000 dollars per year to Mrs. Vose however, what she cannot accept is the City is also paying to maintain a legal office and all the budget costs that come with maintaining it. Vice Mayor Denizac also stated that Mrs. Vose is a fine attorney, she appreciates Mrs. Vose's son helping the City out with managing the Charter Review Committee proceedings, but that she cannot accept both paying Mrs. Vose for her services and funding the operations of the a City Attorney's Office being in the budget.

Motion by Commissioner Herzberg, seconded by Commissioner Nabicht to approve Resolution No. 2013-31, adopting the final budget for fiscal year 2013/2014.

City Attorney Becky Vose read the title of Resolution No. 2013-31.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA; ADOPTING THE FINAL ANNUAL GENERAL FUND, SPECIAL REVENUE FUNDS, ENTERPRISE FUND, AND CAPITAL PROJECT FUNDS BUDGETS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2013, AND ENDING SEPTEMBER 30, 2014; PROVIDING FOR AN EFFECTIVE DATE.

Motion carried with members voting as follows:

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|--------------------------------|----------------|
| Commissioner Barnaby | Against |
| Commissioner Herzberg | For |
| Commissioner Lowry | For |
| Commissioner Nabicht | For |
| Commissioner Schleicher | For |
| Vice Mayor Denizac | Against |
| Mayor Masiarczyk | For |

Resolution No. 2013-31 was adopted at 7:46 p.m.

C. Public Hearing - Ordinance No. 12-2013, Amending Subpart A, Chapter 38, "Environment", by adding new Article VII "Stormwater Discharge Pollutant Control" and new Article VIII "Florida-Friendly Fertilizer use on Urban Landscapes", at first reading and to schedule second and final reading.

Mayor Masiarczyk discussed a potential House Bill that may affect pollutant control.

Vice Mayor Denizac asked if the Ordinance was something the City must adopt so Deltona is in compliance with new regulations, and Mr. Denny replied yes that adopting the regulation would make sure that Deltona was in compliance with Environmental Protection Agency (EPA) standards when the new rules come out concerning Discharge Pollutants, in particular as it pertains to fertilizers used in residential areas.

Vice Mayor Denizac stated that she was very concerned with upcoming changes and rules being considered in Tallahassee, how those changes would affect Deltona residents and businesses, and how the City would enforce the Ordinance.

Mayor Masiarczyk stated that he met with State Representative Santiago earlier in the day to discuss that very issue and other considerations that are being discussed in Tallahassee, such as restrictions on when residents with lake front homes can use fertilizer, when home owners can fertilize their property, and how many feet to keep fertilizer away from the water's edge. He stated adopting the Ordinance was a requirement and not an arbitrary issue placed on the Agenda.

Vice Mayor Denizac stated that in some respects that she disagrees with some of the requirements that are in the Ordinance and that this is one of many reasons that Deltona needs to have a lobbyist in Tallahassee.

Mayor Masiarczyk read a portion of the Ordinance where it states that “it shall be unlawful to wash any public or private street, building, sidewalk or parking areas unless all visible debris and sediment has been removed prior to washing” and stated that it was just one example of politicians overreaching.

Commissioner Barnaby asked staff why the Commission was being asked to approve Ordinance No. 12-2013. Public Works/Deltona Water Director Gerald Chancellor replied that the fertilizer Ordinance was originated from the Federal EPA and that Florida’s EPA which administers the program as it pertains to MS4 (Municipal Separate Storm Sewer System) permit holders, which Deltona is one of, regulations in Tallahassee which states that Florida will require all MS4 permit holders to adopt the model fertilizer Ordinance by the end of year 2013 in order to remain in compliance with the Federal permit.

Vice Mayor Denizac asked if there were any entities excluded from the requirement, such as Disney World, and Mr. Chancellor replied “no”, that Disney World is also subject to the MS4 permit requirement.

Commissioner Barnaby asked if the requirements would affect the appearance of the fields at Dewey O, Boster Sports Complex, and Mr. Chancellor replied “no” that it will only affect parks that are lakefront parks.

Motion by Commissioner Nabicht, seconded by Commissioner Schleicher to approve Ordinance No. 12-2013 at first reading and to schedule second and final reading for October 7, 2013.

Mayor Masiarczyk opened the public hearing:

Barry Troutman, 900 South Palmetto Avenue, Sanford, stated that he represents the turf grass industry, is on the board of directors of the State of Florida Turf Grass Association, and is also the Vice President and Chief Horticulturalist for a very large commercial landscaping business, and that he has been intimately involved in the development process for the model ordinance over the last 10 years. He supports Deltona adopting the Ordinance which has language and science created by the State’s model ordinance which reflects the wisdom of a panel of experts that were appointed by the Governor. That the plan is extremely well thought out and planned, that the Ordinance will promote the healthy growth of Florida’s landscape and will eliminate 98% of nitrates that come with rainfall. He asked the Commission to resist any efforts made to change the Ordinance and that he feels that the Commission would be doing the right thing by supporting the Ordinance.

Pete Snyder, Executive Director of the Florida Turf Grass Association, stated that he represents healthy turf grass which as Mr. Troutman said, is the best filter for pollutants, that healthy turf grass is needed to properly filter pollutants as they go through the root system, and he asked the Commission to pass the Ordinance.

Mayor closed the public hearing as there were no more public comments.

City Attorney Becky Vose read the title of Ordinance No. 12-2013.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, AMENDING CODE OF ORDINANCES SUBPART A, CHAPTER 38, “ENVIRONMENT”, BY ADDING NEW ARTICLE VII “STORMWATER DISCHARGE

POLLUTANT CONTROL” AND NEW ARTICLE VIII “FLORIDA-FRIENDLY FERTILIZER USE ON URBAN LANDSCAPES”; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

Motion carried with members voting as follows:

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|--------------------------------|----------------|
| Commissioner Barnaby | For |
| Commissioner Herzberg | For |
| Commissioner Lowry | For |
| Commissioner Nabicht | For |
| Commissioner Schleicher | For |
| Vice Mayor Denizac | Against |
| Mayor Masiarczyk | For |

Ordinance No. 12-2013 was approved at first reading at 7:56 p.m.

D. Public Hearing – Ordinance No. 13-2013, amendment to the Bella Vista Business Planned Unit Development (BPUD) Master Development Plan (MDP), for first reading (Project No. RZ 13-005).

Mayor Masiarczyk opened and closed the public hearing as there were no public comments.

Motion by Commissioner Herzberg, seconded by Commissioner Barnaby to approve Ordinance No. 13-2013, amending the Bella Vista Business Planned Unit Development (BPUD) Development Agreement by providing a revised Master Development Plan (MDP).

City Attorney Becky Vose read the title of Ordinance No. 13-2013.

AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AMENDING THE BELLA VISTA BUSINESS PLANNED UNIT DEVELOPMENT BY CHANGING THE MASTER DEVELOPMENT PLAN FOR THE FOLLOWING DESCRIBED PARCEL, PARCEL# 06-19-32-00-00-0120 THAT PART OF THE WESTERLY 995.4 FT. OF THE N. ½ OF SECTION 6, TOWNSHIP 19 S, RANGE 32 E, VOLUSIA COUNTY, FL, LYING NORTHERLY OF THE NORTHERLY ROW LINE OF HOWLAND BLVD. ALSO KNOWN AS S.R. 444, AS DESCRIBED IN OFFICIAL RECORDS BOOK 2011, PG. 895, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FL. LESS AND EXCEPT THEREFROM THE NORTHERLY 552.5 FT. OF THE WESTERLY 552.5 FT. ALSO LESS: THE E. 442.9 FT. OF THE W. 995.4 FT. OF THE N. 531.76 FT. OF THE NW ¼ OF THE NW ¼ OF SECTION 6, TOWNSHIP 19 S, RANGE 32 E, VOLUSIA COUNTY, FL (LESS THE N. 40.00 FOR THE ROAD). AND ALSO LESS: BEGINNING AT THE NW CORNER OF SECTION 6 TOWNSHIP 19 S, RANGE 32 E, RUN S. 28°42'20" E, 1435.98 FT. ALONG THE CENTER LINE OF OLD LAKE HELEN OSTEEN ROAD TO POINT OF BEGINNING: THENCE N. 89°38'40" E 314.89 FT. TO THE W. ROW OF HEATH ROAD; THENCE ALONG SAID ROW S. 00°21'20" E. 310.00 FT. TO THE N. ROW OF HOWLAND BLVD.; THENCE ALONG SAID ROW N. 64°38'20" W. 69.15 FT. TO THE P.C. OF A CURVE CONCAVE TO THE R. WITH A RADIUS OF 1561.19 FT. AND A CENTRAL ANGLE OF 05°58'34" RUN ON THE ARC OF SAID CURVE 164.35 FT.; THENCE OF N. 28°42'20" W. 228.50 FT. TO THE POINT OF BEGINNING. FINDING CONFORMITY WITH STATE STATUTES AND THE COMPREHENSIVE PLAN OF THE CITY OF DELTONA; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

Motion carried unanimously with members voting as follows: Commissioner Barnaby, For; Commissioner Herzberg, For; Commissioner Nabicht, For; Commissioner Schleicher, For; Commissioner Lowry, For; Vice Mayor Denizac, For; and Mayor Masiarczyk, For.

Ordinance No. 13-2013 was adopted at second and final reading at 8:01 p.m.

9. OLD BUSINESS:

10. NEW BUSINESS:

A. Request for Approval of Award of RFQ # PW 13-14. for Construction Engineering and Inspection (CEI) Services for the construction of the Eastern Water Reclamation Facility.

Mayor Masiarczyk opened and closed the public hearing as there were no public comments.

Motion by Commissioner Schleicher, seconded by Commissioner Herzberg to approve award of RFQ # PW 13-14 for Construction Engineering and Inspection (CEI) Services for the construction of the Eastern Water Reclamation Facility to Baskerville-Donovan, Inc. at a total cost not to exceed \$1,450,239.00.

Commissioner Nabicht asked that the Commission direct the Acting City Manager to arrange a public forum or town hall meeting to be held in the next 60 days, where Baskerville-Donovan, Inc. could educate the public as it pertains to the construction of the Eastern Water Reclamation Facility construction process, how the plant will operate, and the effects, if any, on the environment.

Mr. Denny stated that the plant is 100% permitted and designed, and that the meeting would have to occur within the next 60 days.

Vice Mayor Denizac asked what the costs would be to the City for Baskerville-Donovan, Inc. to participate in the meeting. Mr. Denny replied that it is in the contract with Baskerville-Donovan, Inc. that if requested, they will provide a public information meeting.

Motion carried unanimously with members voting as follows: Commissioner Barnaby, For; Commissioner Herzberg, For; Commissioner Nabicht, For; Commissioner Schleicher, For; Commissioner Lowry, For; Vice Mayor Denizac, For; and Mayor Masiarczyk, For.

11. CITY COMMISSION COMMENTS:

a) Mayor Masiarczyk reminded the Commission about the discussion at the previous Commission meeting regarding keeping Commission comments quick and to the point. He also mentioned an email that stated the Commission should dress more appropriately at Ribbon Cuttings.

b) Commissioner Lowry stated that the Deltona Panthers have two (2) football games over the next two (2) weekends and he asked if there was some way that Code Enforcement could tread lightly when it comes to enforcing the Ordinance for the next few weeks and that he appreciated all the people that came out to the meeting and encouraged public participation at all Commission meetings.

Mayor Masiarczyk replied that the City must uphold Ordinances, but that the Commission would select a Workshop date to discuss the Ordinance at the end of Commission Comments.

c) Commissioner Schleicher stated that she had a wonderful experience filling in at the Enterprise Elementary School where they opened up a new state of the art playground that was built by Nickelodeon because one of the school's students entered and won a contest. Nickelodeon also filmed a scene of its show at Enterprise Elementary to be shown at a later date. She reminded everyone that wonderful things do happen, that what children do makes a difference, and that the Kiwanis Club also opened up a "Reading Room" at Enterprise Elementary. She stated that she attended some of the events over the "Latin" weekend, the Caribbean Crew concert at the Amphitheater and the Latin Festival at Dewey O. Boster Sports Complex, she asked for more Commission participation at events and she thanked the Parks and Recreation Department for their services. She stated that there are a lot of issues to be placed on upcoming Workshop agendas, and she asked about the scheduling of a Deltona Fire station tour by the Commission. Mr. Denny replied that Administrative Assistant Pauline Shattuck would be contacting Commissioners to get some dates that all Commission members are available to take a tour Fire Department stations.

d) Commissioner Herzberg stated that she attended the Latin Fest event, that the Deltona Spay and Neuter Days so far has spayed and neutered 38 cats and 64 dogs for a total of 102, that another spay and neuter day was scheduled for this coming Thursday, and she encouraged residents to take advantage of the service. She stated that Team Volusia had site selector Del Boyette from Atlanta come out last Thursday, that she received a positive report from Mr. Boyette as he spoke very highly about the Activity Center and was very impressed with the whole area out on S.R. 472, that she concurred with Commissioner Lowry about the Commission needing to address the concession issue as soon as possible, that she agrees with the Ordinance covering pollutants and the methods addressed to keep a clean environment, and she asked when the City was going to host the West Volusia Summit.

Mayor Masiarczyk replied that the Mayors had a meeting and prepared a letter to Volusia County signed by all the Mayors requesting that the Volusia County Council get back to the Mayors with input on topics for the next West Volusia Summit. He asked Mr. Denny if Volusia County had responded, and Mr. Denny replied "no, not yet".

e) Commissioner Barnaby thanked the Commission for their prayers, that he was glad to be home and it is an honor to live in Deltona, he attended an economic development meeting hosted by the DeLand Chamber where there was discussion on ways to attract the film industry to Volusia County, the possibility of bringing a Full Sail University satellite campus to Deltona, that he was glad to see Bethune-Cookman University and the Wildcats come to Deltona, he recognized Professor Lutte from Embry Riddle University Winter Park extension who was in attendance at the Commission meeting, stated that he visited the Naval Academy and he presented a pennant to Mayor Masiarczyk for the Veterans Community Education Partnership (VCEP) museum from the US Naval Academy football team.

Mayor Masiarczyk thanked Commissioner Barnaby, his son, and the US Naval Academy football team and stated that it will be displayed at the VCEP museum.

f) Vice Mayor Denizac asked for an update from the staff with Daytona State College (DSC) concerning a possible partnership for a stadium. Mr. Denny replied that at the last meeting with DSC several topics were discussed and the stadium was one of the topics. DSC stated that it would like to see a drawing of the proposed stadium, that staff has not met with DSC since the last Commission meeting, and that there is a meeting scheduled for later in September.

Vice Mayor Denizac asked for an update on Project Dial, and Mr. Denny replied that he, the Economic Development Manager Jerry Mayes, and members from Team Volusia have talked to the Project Dial company, that the Company is currently trying to work through some issues with the owners of the shopping center, that they appreciate the Commission accepting their offer, and as soon as they know something definite they will get back with staff.

g) Mayor Masiarczyk discussed keeping Commission comments quick and to the point, he suggested that a Commissioner could make a request to agenda a subject for discussion only, changes needed at the Keysville Dog Park, and not being able to change Ordinances without following procedures.

The Commission and staff discussed the Deltona Panthers team schedule, procedures for changing an Ordinance, emergency ordinance procedures, clarifying what the issues are with abiding by the Ordinance, the City previously allowing vendors to operate at various team games even though vendors were not supposed to be setting up at events, and concerns with unauthorized vendors setting up at Dewey O Boster Sports Complex.

The Commission also discussed the terms of the current concession contract, for profit vendors operating at Dewey O. Boster Sports Complex, organizations selling team specific items, the issues and needs of the non-profit organizations, safety concerns related to cooking, the leagues being able to afford scholarships for players, identifying the number of non-profits that would use the concession stand, the possibility of the City taking over all of the concession stands at all Deltona parks, when to schedule the issue for a Workshop, the City Attorney reviewing the Little League contract, Deltona Youth Soccer Club (DYSC) not paying any utilities when operating out of the concession stand, and if the concession stand is required to be open during events.

Vice Mayor Denizac stated that she concurred with Commissioner Nabicht's comment about the City running the concession stand at Dewey O. Boster Sports Complex, that the park is there for everyone to use, and she asked how much DYSC was paying for the contract. Parks and Recreation Director Steve Moore stated that the organization does not pay anything to use the concession stand.

Commissioner Barnaby concurred with the City having to take control of the facilities to make sure everybody is served and to make sure that City parks are open to everyone.

Commissioner Herzberg stated that she concurs with the City taking over the concession stands and that the Ordinance needs to be reviewed and updated.

Mayor Masiarczyk discussed some of the unique contracts with different organizations at parks in Deltona. He asked staff to email the entire Commission Ordinance No. 31-2006 and all concession contracts for Deltona parks. He stated that Dewey O. Boster Sports Complex is one of the more pristine parks in Central Florida and it needs to be treated that way.

City Attorney Becky Vose stated that enforcement of Ordinances is managed by the Code Enforcement Department and that if the City has set a precedent by not finding non-profit organizations in violation of the City Ordinance in the past, then a City Resolution would not solve the problem, and the Acting City Manager would be the one to provide direction to staff on what actions are appropriate until the Ordinance can be reviewed. Mayor Masiarczyk replied that although he concurs with the City Attorney's statement on directing staff, now that the issue has been brought to the Commission that it

would be unfair to the Acting City Manager and everyone concerned to place the decision on the Acting City Manager.

Vice Mayor Denizac concurred that she did not want a “band aid” fix, that the issue needs to wait until it can be properly addressed at a Workshop.

Mayor Masiarczyk thanked everyone for their attendance, and he asked Commissioner Barnaby to tell his son thank you for the donation of a US Navy football team pennant for the VCEP museum.

12. CITY ATTORNEY COMMENTS: None.

13. ACTING CITY MANAGER COMMENTS: None.

The Commission and staff continued the discussion regarding workshopping Ordinance No. 31-2006. Mr. Denny stated that there is a Workshop scheduled for Monday, September 23, 2013, and staff was to provide suggestions as to what a lobbyist would work on for Deltona in Tallahassee and items that staff would like to see on a Request for Proposal (RFP) for a lobbyist. He stated that staff was going to prepare a list of items to share with the Commission that the Commission could add to or take away from.

The Commission and staff discussed reviewing just Ordinance No. 31-2006, concession contracts and the Dewey O. Boster Sports Complex contract at the workshop, the Commission being provided with emailed copies of the Ordinance and all parks contracts by Thursday, September 18, 2013, that any changes to the Ordinance would apply to all Deltona parks, and where to place the park concession issue on the Agenda. Also discussed was public attendance at Workshops, the seating limitations of the second floor conference room, and perhaps having a limited amount of representative form each non-profit organization interested in the Workshop topic on Ordinance No. 31-2006 being in attendance due to limited seating.

After discussion, the Commission concurred to add the issue of updating Ordinance No. 31-2006, Chapter 22, Article VI. Street Vendors, Section 187. Prohibited Acts, and reviewing current Parks and Recreation contracts as the first Agenda topic on the Commission Workshop scheduled for Monday, September 23, 2013.

14. ADJOURNMENT:

There being no further business, the meeting adjourned at 8:52 p.m.

John Masiarczyk Sr., Mayor

ATTEST:

Mitch Honaker, Deputy City Clerk