

**CITY OF DELTONA, FLORIDA
REGULAR CITY COMMISSION MEETING
MONDAY, OCTOBER 21, 2013**

A Regular Meeting of the Deltona City Commission was held on Monday, October 21, 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
Assistant City Attorney	Wade Vose	Present
City Clerk	Joyce Raftery	Present

Also present: Parks and Recreation Director Steve Moore; Public Works/Deltona Water Director Gerald Chancellor; Planning and Development Services Director Chris Bowley; Economic Development Manager Jerry Mayes; Building and Enforcement Services Director/Acting Deputy City Manager Dale Baker; Deputy Fire Chief Robert Rogers; and VCSO Captain Dave Brannon.

3. INVOCATION AND PLEDGE TO THE FLAG:

Invocation Presented by Vice Mayor Denizac.

The National Anthem was sung by the singing group Harmony from Deltona.

4. APPROVAL OF MINUTES & AGENDA:

A. Minutes:

1. Approval of Minutes – Regular City Commission Meeting of October 7, 2013.

Motion by Commissioner Nabicht, seconded by Commissioner Schleicher to approve the minutes of the Regular City Commission Meeting of October 7, 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. Presentation of Certificates of Recognition and Thanks, to the student artists who created the “Think Before You Throw” posters, to help spread the awareness of keeping Deltona clean.

The Commission presented Certificates of Recognition and thanked students who created the “Think Before You Throw” posters to help spread the awareness of keeping Deltona clean.

B. Presentation - Quarterly Reports of City Advisory Boards/Committees.

Written Third Quarter Reports were submitted from the Parks and Recreation Advisory Board and the Fire Fighter’s Pension Plan, Board of Trustees.

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

a) Olga Flores, 3430 Monument Drive, stated that when her and her husband returned after being gone for a month their August, 2013 water bill was \$499.63 which represented a water use of 62,607 gallons, that they do not have an irrigation system or any other appliances that consume large amounts of water, the meter was tested and found to be acceptable, and she had filed a police report for water theft. She asked that the new water meter which was installed while her meter was being tested be left in place. She stated it is very difficult to deal with Deltona Water, that she wants her current payment plan agreement to stay in effect, she is on a fixed income, and the Acting City Manager told Vice Mayor Denizac that she could have a year to pay her bill.

Mr. Denny stated that he has an appointment to meet Mrs. Flores in her home tomorrow at 2:00 p.m. to discuss the issue.

Vice Mayor Denizac stated she had a brief conversation with Mr. Denny about Mrs. Flores’s water bill and payment plan, she had conveyed to Mrs. Flores that she would be given a year to pay her August water bill and that the situation can be fixed if the City allows her a year to pay her August water bill.

7. CONSENT AGENDA:

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

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

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 approval of renewal of Physio-Control, Inc. Technical Service Support Agreement.**

Approved by Consent Agenda – to approve entering into an agreement with Physio-Control for a period from October 1, 2013 through October 30, 2016, if funds are appropriated for each subsequent fiscal year, for a technical services support agreement for the Life Pak Cardiac Monitors.

***B. Request for approval to piggyback State of Florida Contract #760-000-10-1 for a Toro Reelmaster 5510 Mower.**

Approved by Consent Agenda – to approve the purchase of a Toro Reelmaster 5510 from Wesco Turf Inc. piggybacking Florida State Contract # 760-000-10-1.

***C. Request for approval to award Bid # PQ 13-18, Magdalena Water Treatment Plant Odor Control System.**

Approved by Consent Agenda – to award Bid #PW-13-18 for the Magdalena Water Treatment Plant Odor Control System Project to Waterline Industries Corp. at a total cost of \$137,677.00.

***D. Request for approval to purchase playground equipment for Manny Rodriguez Park piggybacking the US Communities Contract #110171.**

Approved by Consent Agenda – to approve the purchase of playground equipment through Kompan Inc. piggybacking US Communities Contract #110171 at a total cost of \$54,493.95.

***E. Request for approval to purchase a Clam Body Truck piggybacking NJPA Contract number 070313-PH.**

Approved by Consent Agenda – to approve the purchase of a Clam Body Truck from Petersen Industries, Inc. piggybacking NJPA Contract #070313-PH at a total cost of \$128,992.58.

8. ORDINANCES AND PUBLIC HEARINGS: None.

9. OLD BUSINESS: None.

10. NEW BUSINESS:

A. Request for approval of budget amendment to cover the cost of the Emergency Generator for Fire Station 64.

Motion by Commissioner Nabicht, seconded by Commissioner Barnaby to approve a budget amendment to cover the cost to replace the Emergency Generator at Fire Station 64 at a cost not to exceed \$30,930.50.

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

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. Request for approval of budget amendment for Sidewalk Funds.

Vice Mayor Denizac suggested that the City hold a public meeting to explain the process for putting in sidewalks within a three (3) mile radius of elementary schools, and Mayor Masiarczyk suggested that the information also go in the City's quarterly newsletter to residents.

The Commission discussed the need to keep residents informed on current issues in the City, the possibility of having a public meeting, and that each Commissioner should bring one (1) topic for discussion.

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

Motion by Commissioner Schleicher, seconded by Vice Mayor Denizac to approve the budget amendment in the amount of \$112,319.00 to pay for the difference in the cost of the Acadian Sidewalk Construction project not covered by the FDOT LAP agreement (\$6,158.00) and the costs associated with the City wide sidewalks designated within the Sidewalk Prioritization Plan.

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.

C. Request to authorize the Acting City Manager to begin negotiations with Capitol Insight for Government Relations and Lobbying Services and approval of a budget amendment for \$50,000.

The Commission discussed that a representative from Capitol Insight, LLC was in attendance at the Commission meeting if anyone had any questions, and that the lobbyist firm selected was the third presenter from the October 15, 2013 Workshop.

Motion by Vice Mayor Denizac, seconded by Commissioner Barnaby to authorize a budget amendment from Fund Balance for \$50,000 and for the Acting City Manager to begin negotiations with Capitol Insight, LLC and enter into an agreement not to exceed \$50,000, to include all expenses, upon successful negotiations. If unable to come to an agreement, negotiations will be terminated and negotiations will take place with Capitol Alliance and continue until an agreement is reached and award is made.

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

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.

D. Update re: Scrub Jay Mitigation Project.

Acting City Manager Dave Denny stated that he would discuss the current status of the Scrub Jay Mitigation Project and a few issues that have occurred during the process. He stated that the current US Fish and Wildlife Service (USFWS) mitigation process requires for every acre a person wants to develop, they are required to purchase two (2) acres to be mitigated, the current property purchase cost through the USFWS is \$22,000 dollars per acre, the mitigation process survey timeframe is between March and October which hinders economic development, and after going through the entire process the USFWS can still deny the plan. The City was trying to speed up the process by developing a Memorandum of Understanding (MOU) between the City and the USFWS where the City would issue the permit and take the Federal process completely out of the equation, the normal

mitigation process takes at least two (2) years from submission of the application to plan approval, which is time and money to developers. He stated that both the USFWS and the Saint Johns River Water Management District (SJRWMD) were in agreement with the plan, the plan identified the sending area as Howland Boulevard between Providence Boulevard and Interstate 4 (I4), and the mitigation plan Scrub Jay receiving area would be the SJRWMD property located south of Lake Helen Osteen Road and State Road (S.R.) 415, which is already considered conservation land. He stated part of what the consultant was supposed to do was a feasibility study and an economic impact study, that if the findings of the studies made sense both to developers and the City that the City would move forward with an MOU between the City and the USFWS for the City to issue a building permit and an agreement with the SJRWMD to use their property. The Commission had conducted two (2) Workshops to discuss the issue and at the Regular City Commission meeting on March 19, 2012 the Commission approved piggybacking the Volusia County Contract with Miller Legg to be the consultant to conduct the study and along with the agenda item was a proposal from Miller Legg which included a description of their scope of services dated September 28, 2011 for a cost of \$48,650 dollars. Two (2) months later on May 25, 2012 a purchase order (PO) was issued to Miller Legg with a revised scope of services dated May 22, 2012.

Mr. Denny stated that after reviewing the two (2) proposals he found several differences between them, but the proposal attached to the PO had two (2) significant changes to the scope of services. In Section 1.1 of the first proposal that was approved by the Commission it stated that “the consultant shall assist the City in preparing a MOU with the USFWS to address Scrub Jays within the City limits”, and the second proposal which was approved with the PO stated that “the consultant shall assist the City by preparing a technical memo so the City can use that to work out a deal with the USFWS to address the Scrub Jays”, which is a significant difference. In the first proposal the consultant was going to do pretty much everything, but with the second proposal the consultant would provide a technical memorandum and the City would have to do the rest. The other difference was with the September 28, 2011 proposal which stated that “the proposal was based on a phased approach and included a full economic analysis”, and the proposal dated May 22, 2012 stated that “due to the lack of funds available the Economic Analysis will only be a minimal assessment”. Mr. Denny stated that he felt those were two (2) big changes, and that the second proposal that was revised was for a total of \$50,000 dollars, the study is being paid for with \$30,000 dollars from the City’s General Fund and a \$10,000 dollar payment each from two (2) land owners. He stated legal has been heavily involved and on Wednesday Mrs. Vose stated she had talked to Miller Legg who hopes to have an agreement to the City in about two (2) weeks.

Mayor Masiarczyk reminded the Commission that because there is litigation involved with the issue to please be careful when making comments. He stated that he owns some property in that area and he is aware of the impact that it has on property owners. The City owns 165 acres in that area which equates to an enormous amount of money and the original intent was to try and develop a program where the City could identify the number of acres affected and figure in the cost of economic development for the land owners. He asked Mr. Denny where the mitigation money would go. Mr. Denny replied that it would cost a property owner \$44,000 dollars for every acre to be developed so multiply the City’s cost of \$44,000 dollars per acre by 165, and the SJRWMD would get the money for the mitigation because it is their property, however the City was hoping to negotiate a much lower price per acre with the SJRWMD which would help the development community.

Commissioner Nabicht asked who was in charge of overseeing the Scrub Jay project when the Commission gave approval for the expenditure, who changed the scope of service after the

Commission had approved it, and who signed and approved the PO. Mr. Denny replied that the previous City Manager was in charge of overseeing the Scrub Jay project, he has not been able to determine who authorized the change to the scope of service, he was waiting on a response from Miller Legg on who authorized the change, and that the previous City Manager signed and approved the PO.

Vice Mayor Denizac asked who was responsible for revising the second proposal that came with a change to the scope of services, and Mr. Denny replied that he does not have that information, but he will pass it along to the Commission if and when he gets it. Vice Mayor Denizac again suggested that staff provide the Commission with a periodic written update on issues that the Commission has provided direction on.

Commissioner Herzberg stated she would wait to make any comments or place blame on anyone until after the City receives the report from Miller Legg, she concurs with the Vice Mayor that periodic updates do need to be brought forward to the Commission, and she commended Mr. Denny on the way he handled the entire situation.

Mr. Denny stated the study was expected to be finished about mid-2014, the study completion was not that far behind schedule, but that his concerns are the changes to what the Commission had approved and what was ultimately approved and sent to the consultant to follow.

Mayor Masiarczyk emphasized the fact that when the Commission approves a scope of service they expect it to be followed, and if it is changed the changes should be brought back to the Commission for approval before any POs are issued.

Vice Mayor Denizac stated every time direction is provided to staff that the Commission needs the names of the individuals responsible for carrying out the Commission's decisions, the Commission is responsible for the residents money that is being spent, the Commission needs to know who is to be held accountable, and the further into campaign year 2014 it gets that the more the Commission will hear the phrase "accountability".

11. CITY ATTORNEY COMMENTS:

Mr. Vose stated that the Charter Review Committee (CRC) met last Thursday, October 17th, the CRC has reviewed the Charter line by line, the CRC has been quite diligent in the review of the Charter taking into account suggestions provided to the CRC by the Commission, CRC members, and the public. The CRC has approved five (5) issues with corresponding ballot question language to be provided to the City Manager for Commission consideration which are as follows: clean up and remove some of the initial incorporation transitional provisions that have all come to occur; leave in some legal provisions that may conceivably affect bonds in the future and matters concerning the Fire Department and Fire District; delete the lengthy City and District boundaries descriptions which are not legally required to be in the Charter nor is it any longer valid, and that the for record descriptions would be kept with the City Clerk's Office; remove the residency requirement for an in-house City Attorney; modify the residency requirement for the City Manager from being required to reside in the City limits of Deltona to being required to reside in the Volusia County limits; and to eliminate term limits for the Mayor and Commission members.

Vice Mayor Denizac asked Mr. Vose where the CRC received their recommendations on what to

review in the City's Charter, and Mr. Vose replied the CRC received initial recommendations from some of the Commission members, the CRC members also came with their own thoughts on needed changes, and input from the public.

12. ACTING CITY MANAGER COMMENTS:

Mr. Denny reminded the Commission about tomorrow night's Town Hall meeting at 5:30 p.m. on the Eastern Waste Water Treatment Facility and of the Spooktacular event occurring this Friday and Saturday night at Dewey O. Boster Sports Complex. He stated that he passed out a letter he received from the County wanting to know if Deltona was going to participate in the County wide food drive and he asked for Commission guidance.

Commissioner Herzberg stated Deltona did not participate last year, that the food drive competition is just a way to collect and measure the amount of food collected which can go to residents of Deltona, and she strongly encourages, and would like to see Deltona be a part of the County's unified collective food drive effort.

Commissioner Schleicher stated as long as the food stays here for Deltona residents she has no problem with being a part of the County's efforts, but the food having to leave Deltona to be weighed concerned her.

Mayor Masiarczyk stated he would do it in a heartbeat, but he has concerns with the paragraph in the letter that states the food will be delivered to Second Harvest Food Bank and would charitable organizations in Deltona receive the donations if they are not associated with the Second Harvest Food Bank.

Commissioner Herzberg replied that paragraph three (3) of the County's letter states that the food can be distributed to the families in that City and to the social service agency of your choosing. She stated it seems to her, and others, that Deltona, the largest City in Volusia County does not participate in County events.

Mayor Masiarczyk asked the Acting City Manager to call Volusia County Manager Jim Dinneen and inquire about who the donations are distributed to and if the food can be donated to Deltona organizations of the City's choosing.

Commissioner Lowry stated his concern is the food going somewhere else other than Deltona churches and charities just so the City can be in a contest and if he was assured that the food would go to Deltona charities he would have no problem participating in the County's food drive.

Commissioner Herzberg stated she was saddened by the lack of social services in Deltona and she would meet with any organization that wanted to start a community food bank.

Vice Mayor Denizac stated her only concern is that not all of the entities in Deltona receive food from Second Harvest Food Bank.

Commissioner Nabicht stated there are numerous food pantries in Deltona, but there is not a central point of contact for people to call for assistance, most of the food pantries are faith based, and someone from the faith based community needs to take the lead and organize a central point of contact. He stated

for next year's food drive to think about advertising an admission cost of a free can of food for City events such as Spooktacular, Eggstravaganza and those at the Amphitheater, which would give the community an opportunity to give back.

13. CITY COMMISSION COMMENTS:

a) Commissioner Herzberg stated there is a free food distribution at Dewey O. Boster Park on Saturday, October 26, 2013, and Mayor Masiarczyk replied that the truck was supposed to arrive at 9:00 a.m. and those individuals coming in for free food would enter at the Saxon Blvd. gate and go down to the far end of Dewey O. Boster Park and depart through the Section Line Trail gate. Commissioner Lowry stated that the hours of operation for the free food distribution are from 9:00 a.m. until Noon.

b) Commissioner Herzberg stated that last Friday she was in Orlando attending the Florida League of Cities Legislative Conference and two (2) of the topics discussed during the policy making session and as a member of the Economic Growth and Development board were small city Community Development Block Grant (CDBG) and the State Housing Initiatives Partnership (SHIP) funding. She stated the small city CDBG does not affect Deltona because of the City's size, but that the SHIP Fund and the Sadowski Fund for Florida's affordable housing have been rated by the Florida Legislature over the last few years and there is a possibility that the City may not have SHIP Funds next year. She stated the legislature was considering designating a small portion of the Small Business Association Funds to be for small businesses with 12 or less employees which could benefit many of Deltona's small businesses.

c) Commissioner Barnaby thanked everyone for their attendance and the residents for contacting him concerning their rights. He discussed Deltona writing an ordinance to allow backyard chickens in Deltona similar to other cities, he praised residents for not being afraid to address the Commission with their concerns, that the Commissioners are the servants of the residents of Deltona, and not losing sight of the Commission's charge to defend the Constitution and the City Charter.

d) Commissioner Schleicher stated she would like to recognize Eric Graveling, a Deltona resident for winning the Great Floridian Triathlon this past weekend, the paper stated a Deltona Triathlete wins first Ultra District Race, and she would like to invite him to a Commission meeting to be recognized. She also recognized and thanked Robert "Bob" Wilson who has been active in the community, for starting a group called Deltona Humanist which goes in line with Vice Mayor Denizac's "Think Before You Throw" campaign, everyone in his group is adopting a street or part of a street, and he is going to try and organize a competition with other groups to see which group can adopt more streets to try and increase the number of individuals adopting a street in Deltona. She stated Mr. Wilson has a son who attends Pine Ridge High School who is a member of the People to People Ambassador Program and she asked if Deltona had a scholarship that he could use, she informed Mr. Wilson that Deltona did not have a scholarship that supports the People to People Program but that she would mention the program at a Commission meeting. She provided a brief history of the People to People Program, what the program entails and she asked if there were any people or businesses who would like to support Mr. Wilson's son's participation in the program or to support any child's participation in the program to contact her or Ms. Eva Terado, a teacher at Pine Ridge High School who coordinates with the program. She stated some of the Deltona committees do not meet on a regular basis, she would like the Commission to review Deltona's committees and boards at a Workshop, and the Commission needs to start meeting with the committees. She stated she is concerned with weekend animal control issues.

e) Commissioner Lowry stated he attended the Osteen Elementary safety walk as part of the International Walk to School Day event, which was a huge success, he attended the West Volusia Delegation meeting last week, and he recommended that Deltona have someone there to speak at the event in the future. He stated he talked with many of Deltona's House and Senate Representatives and informed them of which lobbyist firm the Commission selected and it was stated that Deltona made a good choice, he attended the Old Enterprise Festival on Saturday, and he congratulated the members of the Enterprise Preservation Society for doing a great job with the whole event.

f) Vice Mayor Denizac stated the City has no idea how blessed it is, her son is working in a Missionary in Brazil where the people he is assisting literally live in filth, and even with its current challenges the City of Deltona is blessed. She stated she was very proud of all the young people who participated in the "Think Before You Throw" poster contest and she thanked all the children, administrators and teachers for being a part of the collective effort to clean up the City, and she asked why the City's Christmas Parade route had changed, and Mr. Denny replied that the route was changed for several reasons, one of which was traffic issues, the safety concerns of holding the parade on Providence Boulevard which is too narrow to have emergency response vehicles use when the parade is going on, and the City had a lot of complaints from residents about how dark it is along Providence Boulevard from Elkcam Boulevard to City Hall. He stated he worked with the VCSO and the Parade Committee and the City can use Deltona Boulevard which is a five (5) lane road, the parade can use the center lane which leaves plenty of room on each side of the parade, there are easy parallel detours in the area, the parade will end just past the shopping center where there is plenty of parking and there are businesses along the route for parking.

g) Mayor Masiarczyk stated there is never a time that a Commissioner cannot speak at an event; it is just that a Commission member cannot speak for the entire Commission. He stated the Commission has selected a lobbyist firm, that Mr. Pepper who is representing the firm is here if anyone has any questions, and the firm has stated they will have someone here to discuss what it is that the firm needs from the Commission when the time presents itself, and comments should be withheld during the contract negotiation process. He stated the Commission has previously discussed an ordinance regarding chickens in residential areas, there other neighboring cities that have adopted an ordinance allowing chickens in a residential area, he supports a discussion on the issue at a future Commission meeting, if a property owner wants to have chickens and can follow whatever guidelines the City has in the ordinance than the property owner should have that right. He asked not to be flooded with emails on the issue before the Commission even decides what to do, and he asked if there was a consensus to move forward on the issue with a fact finding study conducted by staff and then the Commission can make a choice of what it would like to do.

After discussion, the Commission concurred for staff to collect the information needed for the Commission to discuss whether or not to adopt an ordinance to allow chickens in residential neighborhoods.

Commissioner Herzberg stated she feels when the Commission comes together to discuss the issue that everyone should bring answers to the table addressing the issue of chickens in residential neighborhoods.

Mayor Masiarczyk replied that there is new legislature addressing groups having a spokesperson to speak for them at meetings.

14. ADJOURNMENT:

There being no further business, the meeting adjourned at 7:58 p.m.

John Masiarczyk Sr., Mayor

ATTEST:

Mitch Honaker, Deputy City Clerk