

**CITY OF DELTONA, FLORIDA  
REGULAR CITY COMMISSION MEETING  
MONDAY, NOVEMBER 18, 2013**

A Regular Meeting of the Deltona City Commission was held on Monday, November 18, 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: Public Works/Deltona Water Director Gerald Chancellor; Parks and Recreation Director Steve Moore; Planning and Development Services Director Chris Bowley; Building and Enforcement Services Director/Acting Deputy City Manager Dale Baker; Deputy Chief Robert Rogers; and VCSO Captain Dave Brannon.

**3. INVOCATION AND PLEDGE TO THE FLAG:**

Invocation Presented by Commissioner Herzberg – Nick Pizza, from Nick Pizza Incorporated.

The National Anthem was sung by the Deltona High School Choir.

**4. APPROVAL OF MINUTES & AGENDA:**

**A. Minutes:**

**1. Approval of Minutes – Regular City Commission Meeting of November 4, 2013.**

**Motion by Commissioner Schleicher, seconded by Commissioner Nabicht to approve the minutes of the Regular City Commission Meeting of November 4, 2013.**

**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. Certificate of Recognition – City of Deltona StormReady Community Recognition.**

Mayor Masiarczyk and Scott Sprat from the National Weather Service, New Smyrna Division, presented the Certificate of Recognition to Deputy Fire Chief Rogers.

**B. Proclamation - National Hospice/Palliative Care Month, November 2013.**

Mayor Masiarczyk presented the proclamation to Chris Van Singel from Haven Hospice.

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

a) Doug Mac Donald, 1179 Balfour Drive, discussed the City's sign ordinance, an issue with a local business' "Toys for Tots" sign, the Toys for Tots program which works all over the country, the decision not to allow businesses to display Toys for Tots signs sending a negative and harmful message about Deltona, and -being for amending the sign ordinance or allowing an exemption to businesses who display a Toys for Tots sign.

b) Vincenzo A. Scorpio (Vinny), 494 Eldron Avenue, stated -he has been conducting business in Deltona for 12 years, he has received a total of eight (8) ordinance violations over the 12 years, six (6) for sign violations, the sign ordinance versus public safety, Deltona's ordinances needing to be revisited, the sign ordinance being worded to be more business friendly and he is for amending the sign ordinance.

Commissioner Barnaby stated he has previously mentioned his concerns about the negative publicity that some of the City ordinances are projecting about Deltona and he suggested that ordinance revisions be added to a future Workshop agenda.

c) Jody Storozuk, 1811 Pennington Avenue, stated that his fiancée's business Happy Tails was cited for having an unauthorized Toys for Tots sign in front of their business, that Toys for Tots is a recognized charity that provides gifts to the children of struggling families, that the Toy for Tots sign falls under the "Exemption" portion of the ordinance due to its Holiday message and because Toys for Tots is a non-profit organization, that the Code Enforcement officer needs refresher training on the sign ordinance, that the Code Enforcement officer falsified information in his report, Critters Pub was turned down by the City when they applied for a permit to display a Toys for Tots sign, that he does not feel the City is making efforts to correct the ordinance, that small businesses make everything in the City possible, and that Toys for Tots is a worthy cause; he is for amending the sign ordinance.

d) Jude Charles, 1372 Valhalla Street, read a letter from Pastor Benjamin Stillwell-Hernandez, Lead Pastor at Pine Ridge Fellowship concerning the history of Community Life Center Outreach Service, services offered to neighbors in need, partnering with multiple service providers and businesses, researching a grants program for those in need, and ask the City of Deltona to assist in any way they can to revitalize the efforts of Community Life Center. Mayor Masiarczyk stated that the Commission will have staff look into the situation and get back to Pastor Stillwell-Hernandez.

e) Susan Armon, 3140 Cabot Court, stated she was speaking in support of Happy Tails pet grooming in regards to the sign ordinance and the violation issued to Happy Tails, both of which reflect a negative image on Deltona, more serious ordinance violations occurring in the City that Code Enforcement officers could be taking care, Toys for Tots being a Nationally recognized organization that helps children, and she feels the Code Enforcement department is selective in their enforcement of ordinances; she is for amending the sign ordinance or allowing an exemption to businesses who display a Toys for Tots sign.

f) Michael Williams, 2889 Cottage Grove Street, stated he had previously spoke to the Commission concerning the 2014 Martin Luther King (MLK) celebration breakfast, during the breakfast individuals are awarded the "Gus James Dowel" humanitarian award, and if anyone wants to nominate a group or individual for the award who are doing things to make a positive difference in the community to please contact the MLK committee.

Commissioner Herzberg stated during the sign ordinance review and revision process the Commission concurred not to allow any exception to the "snipe" signs, every City having unique or special occasions or events, and the ordinance needing to be revisited to allow some type of permitting with a designated time frame and reason for businesses and charities to display certain types of signs. She encouraged business owners and residents to attend Commission meetings and provide their input.

Commissioner Nabicht stated a local business wanting to display a sign needs to get with City staff and follow the process to apply for a sign permit, and before the Commission discusses the sign ordinance at a Workshop that staff needs to contact representatives of the business community to obtain their input, the ordinance needs to be completely rewritten, and that it is very cumbersome and hard to understand even for staff that are administering it.

Vice Mayor Denizac stated the Commission has been talking about the sign ordinance since 2005, there have been numerous debates and Workshops trying to change and improve the sign ordinance, but without public input the Commission has to rely solely on staff's input. She stated the Commission has tried providing various Workshop dates and times to make it possible for residents to come and speak about the sign ordinance, residents needing to attend Commission meetings and voice their concerns, staff having to enforce the City's ordinances as written, and if people are not happy with an ordinance they should exercise their freedom of speech by attending a Commission meeting.

Commissioner Barnaby stated the City has a public relations issue with the Code Enforcement Department and that the Acting City Manager, Code Enforcement Director and Code Enforcement staff should have a meeting to discuss communication techniques and the way the Code Officers treat and address residents, and the City needing to fix the sign ordinance to make a better Deltona.

Commissioner Schleicher concurred that Toys for Tots is a good organization, rules and regulations needing to be followed, her recommendation to establish a board made up of community members to review City ordinances, and she asked for comments from the Acting City Manager. Mr. Denny replied that whether staff agrees or disagrees with an ordinance it enforces the policies that the Commission sets, staff enforces the sign ordinance to the best of its ability, if anyone has a problem with a code to bring it forward to be reviewed and possible changes could be made, but that staff has to enforce ordinances as they are written or they can be terminated for not doing their job, and he suggested sitting down at a Workshop and changing the code.

Vice Mayor Denizac stated she always likes to hear both sides of an issue, staff is assigned the task of enforcing ordinances that are passed by the Commission, the Commission sets policy in the City, and that too often Code Enforcement gets blamed for the policy that was set, but if the Commission wants to make improvements and changes to the code the time to talk about it is during the budget process.

Commissioner Lowry asked Mr. Baker if this type of situation is one that a lot of businesses in the City are having a problem with, and if there was a way to give relief to the businesses that have already been cited. Mr. Baker replied the citations for the previously mentioned businesses had been sent to the

Volusia County Clerk of the Court and the only relief that can be given is by the judge. He stated the issue is about illegal “snipe” signs, not the Toys for Tots organization, at previous Workshops it was mentioned that one of the concerns from businesses is limiting their ability to advertise, but the Commission concurred not to allow “snipe” signs, and that Code Enforcement is just enforcing the ordinance.

Mayor Masiarczyk stated many times individuals perceive and interpret ordinances differently, he has been involved with Toys for Tots for years and would not intentionally do anything to negatively reflect on the Toys for Tots program or the United States Marine Corps. He stated as a combined group the Commission can make changes to the ordinance, and that there has been enough interest voiced concerning the ordinance to warrant the Commission to move forward with scheduling the topic for a Workshop agenda.

**7. CONSENT AGENDA:**

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

Commissioner Nabicht requested to pull Consent Agenda Item 7-D.

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

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

**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 Final Budget Amendment/Transfer for FY 2012/2013.**

**Approved by Consent Agenda – to approve a budget transfer of \$100,000 from the Parks and Recreation FY 2012 / 2013 budget to the City Manager FY 2012 / 2013 budget and to transfer \$6,000 from the Parks and Recreation FY 2012 / 2013 budget to the City Commission FY 2012 / 2013 budget.**

**\*B. Request for approval to piggyback Volusia County's Price Agreement with Ferguson Waterworks for drainage materials and supplies - Stormwater Division.**

**Approved by Consent Agenda – to approve using Ferguson Waterworks piggybacking the Volusia County Price Agreement for drainage materials and supplies for an initial period through September 30, 2014 and renewing annually if funding is appropriated for each renewal period in accordance with the Volusia County Price Agreement.**

**\*C. Request for approval to piggyback the City of Cocoa's pricing agreement with Flowers Chemical Lab for Laboratory Services.**

**Approved by Consent Agenda – to approve using Flowers Chemical Laboratories piggybacking the City of Cocoa pricing agreement # B-11-11-COC for laboratory services for an initial period through September 30, 2014 and renewing annually if funding is appropriated for each renewal period in accordance with the City of Cocoa pricing agreement.**

**D. Request for approval of RFP#14002 for General Contractors for NSP 1 and 3 Programs.**

Commissioner Nabicht asked if all the general contractors were local and if every effort was made to hire local contractors, and Mr. Bowley replied that “no” not all the contractors are from the local area, but every effort was made to hire local contractors.

Commissioner Nabicht asked if the City requires or requests that general contractors hire from the trades that have an apprentice program, and Mr. Bowley replied the contractors are supposed to be conforming with HUD, Section III, Hiring and Vicinity Hiring, and the City has not required contractors to be affiliated with DSC construction program and get an apprenticeship process started in the past, but that the City could recommend it and he is sure the contractors would be open to the suggestion.

Commissioner Nabicht stated that he would like to see the City consider whenever hiring trades to look at contractors who utilize an apprenticeship program.

**Motion by Commissioner Nabicht, seconded by Commissioner Lowry to approve Consent Agenda Item 7-D.**

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.**

**8. ORDINANCES AND PUBLIC HEARINGS:**

**A. Public Hearing - Ordinance No. 15-2013, amendment to the Deltona Landings BPUD (RZ 13-006/Applicant: Goodwill Industries), at second and final reading.**

Mayor Masiarczyk opened the public hearing.

Shannon Hoagland, Attorney for Goodwill Industries of Central Florida, Inc., stated she believes she had previously answered all of the Commission’s questions but would be more than happy to address any other concerns.

Commissioner Barnaby voiced concerns over the unsightly area at the back of the Orange City Goodwill store and how items are left out in the back of the store. He asked if there were any guarantees that the Doyle Road Goodwill store location would not have the same issue and what Goodwill’s plans were for how long items that are dropped off would be left outside, if most of the drop-off boxes would be inside the building, and the drop off monitoring plan for the rear of the building. Ms. Hoagland replied after opening the Orange City store it was brought to the staff’s attention that the outside area was not being maintained to City standards, the Goodwill management immediately provided training to the employees, since that time there has been no further issue, drop-off points are monitored by management on a daily basis, there are “No Dropping Off” after hour signs posted, there being a new out front location policy for donation drop-off points, the stores being monitored with video cameras, and are open seven (7) days a week.

Commissioner Herzberg stated the Goodwill location is in her District, the building is a former bank with a drive through in the back, and that she has concerns about the dumping of large items in the secluded drive through area, and Ms. Hoagland replied the intent is to use the double doors out front, and in the future maybe installing sliding double doors at the drive through, and that at the first sign of any trouble staff immediately turns on the monitors that have audio to warn violators that they have been recorded illegally dumping.

Commissioner Herzberg stated Waste Pro does pick up large items from residents and that the City needs to make residents aware of this.

Commissioner Nabicht stated he drives by of the back Orange City Goodwill store at least five (5) times per week, the establishment is probably the cleanest business in the shopping center, and he commended Goodwill Industries for its high level of cleanliness.

**Motion by Commissioner Nabicht, seconded by Commissioner Schleicher to adopt Ordinance No. 15-2013, to include the Conditions of Approval listed in the staff report, at second and final reading.**

Mayor Masiarczyk closed the public hearing.

City Attorney Becky Vose read the title of Ordinance No. 15-2013.

**AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AMENDING THE DELTONA LANDINGS BUSINESS PLANNED UNIT DEVELOPMENT AGREEMENT FOR THE FOLLOWING PARCEL: LOT 2, DELTONA LANDINGS, MAP BOOK 46, PAGES 167-168, PER ORDINANCE BOOK 6647, PAGE 0646, PER ORDINANCE BOOK 6668, PAGES 2642-2644, LOCATED AT 901 DOYLE ROAD TOTALING APPROXIMATELY ±0.84 ACRES; PROVIDING FOR SEVERABILITY; PROVIDING FOR 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. 15-2013 was adopted at second and final reading at 7:39 p.m.

**B. Public Hearing - Ordinance No. 16-2013, amending Section 46-26, Definitions; amending Section 46-27, Participation – Conditions of Eligibility; amending Section 46-29, Finances and Fund Management; amending Section 46-34, Preretirement Death; and amending Section 46-43, Maximum Pension, at second and final reading.**

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

**Motion by Commissioner Nabicht, seconded by Commissioner Lowry to adopt Ordinance No. 16-2013 at second and final reading.**

City Attorney Becky Vose read the title of Ordinance No. 16-2013.

**AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AMENDING CHAPTER 46, ARTICLE II, FIREFIGHTERS' PENSION PLAN, OF THE CODE OF ORDINANCES OF THE CITY OF DELTONA BY AMENDING SECTION 46-26, DEFINITIONS; AMENDING SECTION 46-27, PARTICIPATION – CONDITIONS OF ELIGIBILITY; AMENDING SECTION 46-29, FINANCES AND FUND MANAGEMENT; AMENDING SECTION 46-34, PRE-RETIREMENT DEATH; PROVIDING FOR PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING 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. 16-2013 was adopted at second and final reading at 7:44 p.m.

**9. OLD BUSINESS:** None.

**10. NEW BUSINESS:**

**A. Request for approval to execute Cost Share Agreement with the St. Johns River Water Management District for the Reclaimed Water Pumping and Storage Expansion project.**

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

**Motion by Commissioner Schleicher, seconded by Commissioner Herzberg to approve and execute the Cost Share Agreement with the St. Johns River Water Management District for the Reclaimed Pumping and Storage Expansion project.**

**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. Selection of Vice Mayor.**

**Motion by Commissioner Schleicher, seconded by Commissioner Nabicht to select Commissioner Herzberg as Vice Mayor for the next year.**

Commissioner Lowry stated he would like to see the Commission continue the policy of the Vice Mayor serving two (2) years.

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

**Motion passed with members voting as follows:**

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

Mayor Masiarczyk asked Commissioner Lowry if he would like to reconsider his vote, and Commissioner Lowry replied “yes”, that he changes his vote in favor of Commissioner Heidi Herzberg as Vice Mayor making it a unanimous vote.

Mayor Masiarczyk congratulated and welcomed Commissioner Herzberg as the new Vice Mayor for Deltona, and he thanked Vice Mayor Denizac for all she has done for him and for the City of Deltona.

Vice Mayor Herzberg thanked former Vice Mayor Denizac for her tenure, for being awesome and wonderful, she appreciates the great job she has done, she thanked her for her service as Vice Mayor, and that it will be big shoes for her to follow.

**11. CITY ATTORNEY COMMENTS:**

Mrs. Vose stated that the City won the Lawhun verses City of Deltona case.

**12. ACTING CITY MANAGER COMMENTS:**

Acting City Manager Dave Denny stated he wanted to discuss the collection boxes that were springing up all over Deltona, and passed out photos of some of the boxes to the Commission.

Mayor Masiarczyk stated the boxes are springing up everywhere, they are in disrepair, are not being maintained, that everyone works with non-profits, Deltona becoming a donor City, he questioned if any of these charities pay anything back to Deltona in services, that there is not a code addressing the boxes, and the Commission needs to look at regulating the boxes.

Commissioner Nabicht stated his issue is with public safety and the boxes needing to be placed in a secure manner, and the building code possibly stating that the boxes need to be secured which would require a permit to be issued to the property owner.

Mr. Denny stated the City is starting to get complaints from residents, the situation is not covered by code, but he believes that through the building permit process the City can address where the boxes are placed on the property and how they are secured.

**After discussion, the Commission concurred to have staff look into the situation and “notice” the box owners that the issue is being looked into.**

Mr. Denny stated on Monday, November 25, 2013 there is a Workshop to discuss the direction the City wants to give the lobbyist, the Commission should come prepared with their input, and that a member of the selected lobbyist team will be at the meeting to assist and guide the Commission and staff through the process.

**After discussion, the Commission concurred that the lobbyist team would facilitate the November 25, 2013 Workshop.**

Mr. Denny stated that on Thursday, November 21, 2013, at 4:00 p.m. would be the Fire Department pinning ceremony in the Chambers, and followed by the VCSO event in Daytona Beach at 5:00 p.m.

**13. CITY COMMISSION COMMENTS:**

- a) Commissioner Lowry stated the Veterans Day celebration at the Deltona Veterans Museum was a great event.
- b) Commissioner Schleicher stated the Deltona Business Forum went well, she heard a lot of great comments about Deltona's first Arts and Crafts Festival, and she wished everyone a very wonderful Thanksgiving.
- c) Commissioner Nabicht stated the Commission should consider making it a policy that whenever possible, staff is to meet with individuals that are affected by an ordinance before putting the issue on a Workshop agenda.
- d) Vice Mayor Herzberg stated the business forum was really great, that one of the topics at the forum should have been the sign ordinance, the West Volusia Round Table on Saturday was a great and successful meeting where elected officials got to share ideas and discuss what other cities are doing. Last Thursday, November 14, 2013 she attended STEM (Science, Technology, Engineering and Math) Day at Deltona Middle School, the school had experts from areas like NASA and a female Drag car racer, and that it was a very great event for the children.
- e) Commissioner Barnaby stated the highlight of his week was attending the Central Florida Pregnancy Center's Annual Fundraising Banquet on November 15, 2013, that he was struck by the statistics given by the guest speaker, concerning rights that are given to all Americans, one being "life", and the right to life, that so many unborn children are slaughtered before they can enjoy life, that over 50% of all abortions are carried out in the African American community, and being disappointed that there were not more African American community leaders at the banquet. He stated it is sad to see that in a Nation where we are so very protective of our animals and pets, that we are so terribly negligent at protecting our unborn children, everyone being created equal and he would love to see Deltona do more to support the Central Florida Pregnancy Center and help expectant mothers to bring children to full term, for adoption purposes, and more importantly to save the life of an unborn child.
- f) Former Vice Mayor Denizac stated that for those individuals who would like to donate to the Yessenia Suarez and kids fund to stop by any Volusia County TD Bank to make a donation, that the Suarez family members take care of all the volunteers who help in the search process by providing food and drinks, and she reached out to the churches and residents to donate, and assist the family where possible. She also asked about the status of, and wanted to make sure that the City was moving forward with, the Waverly Media audit. Mrs. Vose replied that the attorney for Waverly Media has provided the name of the Certified Public Accountant (CPA) who would be working on the audit and the Finance Department would be conducting the review of the audit. Mr. Denny stated Finance Director, Robert Clinger informed him just before the Commission meeting that the audit should be finished in about two (2) weeks.
- g) Former Vice Mayor Denizac stated she had previously made a recommendation that Deltona establish a City management "For the Record" communication policy and she would like staff to move forward with initiating the policy.

h) Mayor Masiarczyk stated that Deltona's first Arts and Crafts Festival was an outstanding success, when the Commission reviews the sign ordinance the focus should be on making the ordinance simple with a user friendly permitting process, the Commission decided the organization displaying the sign is irrelevant that the Commission does not want any "snipe" signs in the City, staff has just been enforcing the Commission's decision, interpretations of ordinances vary even among staff, the Commission needing to be very clear in their verbiage and intent when deciding on what goes in an ordinance, and the ordinance needing to be less wordy and more specific. He wished everyone a very happy Thanksgiving, that he also attended the Central Florida Pregnancy Center's Annual Fundraising Banquet, and he encouraged the Commission to support local agencies who are trying to make it on their own by attending fund raising events.

**14. ADJOURNMENT:**

There being no further business, the meeting adjourned at 8:10 p.m.

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**John Masiarczyk Sr., Mayor**

**ATTEST:**

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**Mitch Honaker, Deputy City Clerk**