

**CITY OF DELTONA, FLORIDA
CITY COMMISSION WORKSHOP MEETING
MONDAY, FEBRUARY 24, 2014**

A Workshop Meeting of the Deltona City Commission was held on Monday, February 24, 2014 in the City of Deltona's 2nd Floor Conference Room at 2345 Providence Blvd., Deltona, Florida.

1. CALL TO ORDER:

The meeting was called to order at 5:30 p.m. by Mayor John Masiarczyk.

2. ROLL CALL:

Mayor	John Masiarczyk	Present
Vice Mayor	Heidi Herzberg	Present
Commissioner	Zenaida Denizac	Present
Commissioner	Webster Barnaby	Present
Commissioner	Nancy Schleicher	Present
Commissioner	Fred Lowry	Absent (Excused)
Commissioner	Chris Nabicht	Present
City Manager	William "Dave" Denny	Present
City Attorney	Becky Vose	Present
Deputy City Clerk	Mitch Honaker	Present

Also Present: Parks and Recreation Director Steve Moore, and Deputy City Manager Dale Baker.

3. PLEDGE TO THE FLAG:

The City Commission and staff said the pledge to the flag.

Commissioner Nabicht asked for a moment of silent prayer for the Orange City Fire Department, who lost a lieutenant that suffered a fatal heart attack.

4. BUSINESS:

Mayor Masiarczyk opened the floor to the public.

Curt Latham, 2132 Hainlin Court, stated that people are afraid to come to City Hall to fill out an affidavit of witness form because of the continuous harassment by the violator, and that he has been harassed for weeks by a business owner that he filed an affidavit of witness against. He asked the Commission to draw up a law or Ordinance that would protect citizens that come to City Hall and fill out an affidavit of witness.

Commissioner Barnaby asked Mr. Latham to repeat the incident, Mr. Latham read the affidavit of witness to the Commission, and he discussed the repercussions of doing so.

Commissioner Denizac asked that the issue be reviewed by the legal department to see what the City can do to protect residents who come to City Hall and fill out an affidavit of witness.

City Manager Dave Denny stated that code enforcement has been out to the address in violation several times, the problem is that code enforcement officers have to catch the violator in the act of breaking a code, even though there are active cases on the property owner.

Commissioner Barnaby asked for a report from Captain Brannon on what the Volusia County Sheriff's Office (VCSO) involvement is with the case.

The Commission discussed when a code violation becomes a criminal issue, acts of retaliation, the incident becoming a neighborhood dispute, when someone files an affidavit of witness it becomes a public record, at what point the City can get involved, if the threats constitute witness tampering, and when harassment becomes a VCSO issue.

A. Review of all Deltona Facility Use Agreements (Policy #CC99-004, Guidelines for use of City Facilities & CC004-001, Facility Use and Agreement Requirements).

City Manager Dave Denny stated that he passed out a list of questions that staff would like answers to in order to move forward with the desires of the Commission, that staff reviewed the fee schedules from other cities in Volusia County which were provided, staff's recommendation of fees for Deltona facilities being an average of other City's fees and a starting point to discuss what Deltona's facility fee schedule should be, and the current fee schedule which was provided shows the Commission what the City currently charges.

The Commission and staff discussed each question on Mr. Denny's handout.

➤ Does the City want to start charging fees for the use of Deltona's facilities and sports fields?

After discussion, the Commission concurred to start charging fees for use of City facilities and sports fields.

➤ Does the City want to require Level II background checks for facility use agreements?

The Commission and staff discussed the difference between a level I and level II background check, the City's existing Resolution No. 2011-02 which requires finger prints, is only applicable to organizations that deal with "vulnerable" people, leagues already requiring some level of background check, leagues and organizations providing the City with a letter stating their staff have had a background check, whether or not the City wants a copy of each individuals background check the Resolution's requirements not being followed, who would administer the background checks, possible background check processing procedures, the organization paying for the background checks, proving that the background check letters on file with the City actually belong to the individuals that are currently working for the organizations, policing every entity using the City's facilities and the organizations vetting its own people. Also, that in the City Charter, Page 8, under "Powers and Duties of Commission" it states "Except as otherwise prescribed herein or provided by law, legislative and police powers of the City shall be vested in the Commission."

After discussion, the Commission agreeing that it wanted to have level II background checks, the league entity paying for the background checks, and the need to develop a City background check “policing” policy.

Vice Mayor Herzberg asked Panther football league Coach Mike Hilton what other cities require for facility use agreements and he replied the league’s procedures but, no background check requirements, and that each one of his volunteers have to have a background check.

The Commission and staff discussed the legal department reviewing the issue and providing legal guidance to the Commission, what the City’s insurance company is comfortable with, Florida Statutes not specifying levels of background checks, the City is not required to have level II background checks, how staff would administer the background checks, the City having a copy of each individual background check on file but not a letter from the organization, the costs being paid by the organizations, to have a facility use agreement with the City the organization must have level II background checks conducted, and staff should write a plan that can be fairly administered.

Mr. Denny stated that staff would make sure the language is correctly stated in the City’s facility use agreement.

After discussion, the Commission concurred that all organizations entering into a facility use agreement with the City who deal with vulnerable participants will be required to have level II background checks conducted on all of its organization’s staff and volunteers.

➤ Does the City want to stop waiving fees?

The Commission and staff discussed reasons the current Commission policy allows the Commission to waive fees, the Commission not waiving any fees, fees being established to help offset the City’s operating costs to cover an event which is a cost savings to the taxpayers, fees being set to reasonably cover the City’s expenses no matter if the entity is not-for-profit or for-profit, the need to stop waiving fees, having an outside entity conduct a fee implementation study, setting a reasonably fair and rational fee schedule, not favoring one group over another, and in-kind donations at events. The Commission and staff discussed if any organizations in Deltona have a “grandfather clause” and the perception by some that they do, that the Deltona Little League has a contract with the City which states the City will provide them with a place to play because the organization turned its land over to the City, annual facility use agreements, and following Roberts Rules of Order at workshops.

The Commission and staff discussed different types of events where fees would be applicable, different types of fees charged for various events and organizations, waiving staff fees but not the VCSO fees, currently not charging fees for organizations with a facility use agreement, separating in-kind fees for a one-time event and fees that go with a facility use agreement, the total costs incurred with City events, overtime projections in the annual budget covering staff emergency operations time and not event coverage by staff, establishing fees that are applicable to all entities across the board to cover the City’s actual real costs of services provided, organizations needing to figure event costs into its budget and possible admission costs to cover fees, establishing a fee rate that would take the burden off paying for event services from over 86,000 Deltona residents, the

VCSO no longer providing free coverage for events, not making a profit from an event, the City needing to provide events for residents but not at a cost to tax-payers, notifying organizations of fee schedule changes, doing a fee study, not making a “one shoe fits all” policy, and the fee schedule needing to be a give and take situation between the City and entity.

After discussion, the Commission concurred to establish a fair and equitable fee schedule for facility use agreements, and to stop waiving fees after the new schedule is adopted.

➤ Does the City want to take over concession stands or allow contractors to run them?

The Commission and staff discussed options for operating City facility concession stands, vendors not being allowed in Deltona parks without a permit, the City’s percentage of the proceeds if contractors operate concession stands, the City no longer covering the costs of concession stand operations, reasons the City should or should not take over its concession stands, other City’s bringing in revenue from vendor permit fees at its events to help defray operating costs, revenue sources like Orange City’s African American festival, Deltona needing to host similar events, balancing the concession stand operations and the entity providing concessions to offset its organization’s operating costs, auditing concession stand operations, not allowing outside vendors, when the budget year starts for organizations, setting a future time for fees to take effect so entities can plan for the fees in its budget, concession stand revenue offsetting City costs which can help keep the fee schedule low, not spending money that is not identified in the City’s budget, finding ways of adding revenue to the City’s budget, food trucks and outside vendors setting up at events, all vendors and food trucks needing a permit to provide services on City property, facility use agreements providing exclusiveness to the entity, and making money off conducting events similar to the Manatee Festival.

The Commission and staff discussed the Commission sticking to decisions once agreed upon, the day to day concession stand accounting procedures, who would set standard prices for items being sold at concession stands, the City running the concession stands or leaving the operations of concession stands to contractors, the unstable condition of the food service industry, setting a fee schedule for using City concession stands, having a concession stand cost analysis study completed by an outside entity to determine average costs and whether it would be more beneficial for the City to run concession stands or contracting it out, an overview of what occurred with the concession stand at DuPont Lakes, the need to determine what the current costs would be to operate concession stands, and staff being capable of determining concession stand operation costs.

Mr. Denny stated that staff currently operates the concession stand at the Lake Butler Recreation Complex Skate Park with no issues, DuPont Lakes has had three (3) different vendors but the organization’s use is not consistent enough for the vendor to make any money, the fees listed in the agenda packet under “proposed” is what it costs the City to maintain the sports fields in Deltona, and that staff can provide the same data for the concession stands.

Mr. Denny suggested that staff develop and set the concession costs and reviewed by the Commission, staff would administer the policy, waiver of fees never coming before the Commission but, being done at the discretion of the City Manager. The Commission sets the policy; staff follows the policy, anyone that disagrees with staff’s decision still having a right to

come before the Commission to issue a complaint, request a waiver or an exception to policy, and there being no difference between Deltona's concession stand policy and any other City policy.

Mr. Denny stated that the City currently has 22 existing facility use agreements, nine (9) of which have to be renewed in 2014 and 10 having to be renewed in 2015. Having fee schedule changes placed in the renewal agreements but not taking effect until the following year which would allow entities time to put the new fees into its budget.

The Commission and staff discussed what parents can afford to pay, notifying organizations early so parents can be informed and plan for the increase in membership costs, and which for-profit and not-for-profit organizations the City does not currently charge facility use fees.

Mr. Denny stated that staff could rewrite the resolution for Commission approval and follow the policy set out in the resolution, and then these types of issues should not come before the Commission again.

The Commission and staff discussed the difference between the revenue of for-profit and non-profit organizations, looking at the aspect of establishing a fee schedule for non-profit and for-profit entities, some organizations not having the money to pay a facility fee, what is better for the greater good of the community, not micromanaging staff, the current facility fee categories, the City providing certain services to residents and the expense to do so, if the City cannot provide the activities then the Commission has to weigh the benefit of allowing outside organizations to provide the activities, current organizations feeling "grandfathered" in to their current agreement because it cannot afford the fees, fee changes causing turmoil, the City's responsibility to provide and maintain the appropriate facilities for organizations to use, the organizations rights to use the facility coming in the form of the facility use agreement which includes the fees to be charged, facility fees should cover the minimum costs for the City to provide services, organizations paying for a minimum standard playing field and should pay more if using a field that is maintained above the standard, lighting for a playing field being an additional charge, the City not having enough lighted playing fields, facility fees providing possible revenue to install more lighted fields, making a distinction between social services and other entities using Deltona facilities.

Commissioner Denizac discussed families wanting to use the Splash Pad and not being able to because there is already an organization renting it. She stated the City is paying for the Splash Pad for residents, but it seems to be used by certain organizations on an "exclusive" basis, almost to the point where there is no space for individual families, and to where safety becomes an issue. She stated for a family to go into a park and use a facility is one thing, but she is against an organization having "exclusive" rights to a facility like the Splash Pad.

The Commission discussed budgeting the support of certain organizations, non-profit organization applications being submitted before June each year, the City providing facilities for certain organizations that provide a public service, putting organization support costs in the annual budget, and listing organizations that provide a public service.

Mayor Masiarczyk opened the floor to the public.

Dawn White, 1072 Santa Clara Drive, asked where organizations stand in Deltona with facility use agreements, fees, and background checks.

Emily Lilly, 118 Florence Lane, Orange City, asked what the Commission considers to constitute a public service.

Mayor Masiarczyk replied that their questions are exactly what the Commission is attempting to ascertain, the answers are indeed very hard, and that the Commission is trying to find a way to supplement the skyrocketing costs of providing facilities at the level that everybody loves, and to somehow accomplish it without destroying the organizations.

Panther Football Commissioner Mike Hilton, 2514 Omaha Drive, stated he is very concerned because the Panthers are a non-profit organization who provided 52 scholarships last year, the talk of having to provide level II background checks at a cost of approximately \$65 dollars per application as compared to the \$2 to \$3 dollars it pays now is very disturbing, changing the way concession stands are operated which will take revenue away from entities, charging for field and light use, and if an organization's costs go up then scholarships will go away and kids will stop playing sports. He stated the message he hears from the Commission is very concerning to him, the clubs are willing to work with the City, it is not unusual to pay fees, but the fees have to be within reason. He cautioned the Commission about establishing fees that the low to middle income families in Deltona cannot afford to pay, kids deserving to play sports, and kids who play sports doing better in school. He asked the Commission to keep the benefits of children playing in sports in mind, the Panthers being willing to work with the City, and he is available 24/7.

After discussion, the Commission concurred not to allow street vendors at City facilities without a permit, to rewrite the current facility use resolution, to have staff distribute a letter stating the City is going to establish a facility fee schedule starting January 1, 2015, and for staff to provide an analysis of what it costs to operate a City concession stand.

B. Review of Commission Policy #CC99-005, In-kind Donations to Deltona-based Not-for-Profit entities.

The Commission and staff discussed an entity paying a facility use fee or providing a service to the community in lieu of paying the fees, a City employee having to oversee an entity's program, the current City policy not being followed, situations in which in-kind services would apply and the option not being equitable across the board for all groups, possible hazard and safety violations by entities, entities petitioning the VCSO to waive fees instead of the City, the importance of sports to the children in Deltona, budget constraints to providing services, the first fee schedule change being too much for organizations, possibly implementing the changes in stages to ease the financial burden on organizations, and past experience with team uniforms as compared to current team uniforms. The Commission also revisited the discussion concerning the requirement for entities to have level II background checks, the cost difference for a level I and a level II background check, the organization being responsible for background checks, the City doing its best to protect children, the governing entity such as Pop Warner being responsible for directing clubs what level background check is required, the City looking at what facility costs are, making sure costs are covered, staff doing a good job at researching fees, the Commission needing to look at what is

being done for the greater good of all residents, and the City not looking to make a profit, but merely to cover facility use costs.

Commissioner Barnaby stated that he felt the Mayor was not moderating the meeting fairly and he wanted the opportunity to speak. He discussed fees adversely affecting participation, solving the facility use costs problem by putting the fees on the outside vendors who want to provide food and drink to groups, and who are willing to pay the higher vendor permit fees, and that higher vendor fees could help cover the costs of background checks.

Mayor Masiarczyk stated the most important thing is protecting the children, organizations set its fees and know what its costs are, the Commission's job is to determine what the facility use fees are going to be, staff's job is to disseminate the fee information so groups can plan for the costs in its budgets and adjust registration fees if necessary, and as Commissioner Barnaby stated, finding ways to offset those costs to ease the financial burden off the organizations. He stated that background checks are his top concern.

Commissioner Denizac asked what the costs were to join the Panthers, and Mr. Hilton replied that Panther registration costs \$225 dollars for football and \$235 dollars for Cheerleading. Commissioner Denizac discussed families to look at what items are provided to the children, like expensive cellphones and jewelry, and to consider using that money to pay for the children to join an organization.

Vice Mayor Herzberg discussed the good that the after school entities do for children, the registration fees stated seem like a lot of money, the organizations provide a helpful service to the community, Deltona being a large city with a low business industry that has a lot of needy children, sports filling a void in a child's life, the Commission having to start charging some level of facility use fees, she concurred with perhaps implementing a tiered fee system, not over pricing the use of facilities, entities having to pay when at other cities, and keeping fees and concession charges at an affordable range.

The Commission discussed what issues had been accomplished during the workshop, giving direction to staff to provide a cost analysis, justification for the numbers, and then the Commission deciding how much of the City's facility use operational cost the fee schedule would be expected to cover, keeping rates the same for all facilities, set a target for how much the Commission wants to reduce the City's costs, the Commission's responsibility to fund parks and recreation for residents, the safety of the children, telling organizations it will follow the level II background checks or will not be allowed to use Deltona facilities, whether or not concession stands could cover facility use fees, low attendance of spectators at sporting events, and organizations needing to pay for lighted fields.

Vice Mayor Herzberg discussed the number of changes over the past five (5) years to the in-kind donations policy, the amount of money the City used to have when the economy was at a peak, the fee schedule needing to be fluid and adjusted over time, she disagrees with the Mayor's concept of the background checks being covered by concessions, not hitting groups with large fee schedule costs, looking at what Deltona's neighboring cities are charging organizations for facility fees and vendors for a permit to operate in Deltona, and perhaps not charging for background checks.

Commissioner Barnaby discussed not putting a financial burden on Deltona's families and groups, but to have vendor and contractor permit fees set high enough to cover some of the facility use expenses, and he suggested having more vendors and charging vendors more of a fee.

Commissioner Nabicht discussed vendors not making enough money at league events like it does at festivals due to low audience attendance at league events, and he suggested doing more to encourage vendors to come to the City's major events, like Spooktacular, and Music in the Park.

Commissioner Schleicher asked if the Veterans Memorial Park rents out its facility like the Fire Department rents out its fitness room, and Mayor Masiarczyk replied "no" it does not rent out the museum, and that the City does not charge for using the museum park area.

After discussion, the Commission concurred not to establish an in-kind service policy.

C. Review of Ordinance No. 31-2006, pertaining to street vendors.

After discussion, during Agenda Item 4-A, the Commission concurred not to allow vendors at City facilities without a City permit.

5. CITY MANAGER COMMENTS: None

6. ADJOURNMENT:

There being no further business the meeting adjourned at 7:47 p.m.

Mayor Masiarczyk reopened the meeting at 7:47 p.m.

Commissioner Denizac asked everyone to keep two (2) Pine Ridge High School teachers who have had medical emergencies in the past few weeks in their prayers, one lost his vision due to cancer and the other collapsed due to a brain aneurism.

There being no further business the meeting adjourned at 7:52 p.m.


Mitch Honaker, Deputy City Clerk