

**CITY OF DELTONA, FLORIDA
REGULAR CITY COMMISSION MEETING
MONDAY, JUNE 2, 2014**

1 A Regular Meeting of the Deltona City Commission was held on Monday, June 2, 2014 at the City
2 Hall Commission Chambers, 2345 Providence Boulevard, Deltona, Florida.

3
4 **1. CALL TO ORDER:**

5
6 The meeting was called to order at 6:30 p.m. by Mayor Masiarczyk.

7
8 **2. ROLL CALL:**

9			
10	Mayor	John Masiarczyk	Present
11	Vice Mayor	Heidi Herzberg	Present
12	Commissioner	Webster Barnaby	Present
13	Commissioner	Zenaida Denizac	Present
14	Commissioner	Fred Lowry	Present
15	Commissioner	Chris Nabicht	Present
16	Commissioner	Nancy Schleicher	Present
17	City Manager	Dave Denny	Present
18	City Attorney	Becky Vose	Present
19	City Clerk	Joyce Raftery	Present

20
21 Also present: Planning and Development Services Director Chris Bowley; Deputy City Manager
22 Dale Baker; and VCSO Captain Dave Brannon.

23
24 **3. INVOCATION AND PLEDGE TO THE FLAG:**

25
26 Invocation Presented by Commission Denizac.

27
28 The National Anthem was sung by Ryan Aceituno, a senior from Stetson University.

29
30 **4. APPROVAL OF MINUTES & AGENDA:**

31
32 **A. Minutes:**

33
34 **1. Approval of Minutes – Regular City Commission Meeting of May 19, 2014.**

35
36 **Motion by Vice Mayor Herzberg, seconded by Commissioner Schleicher to approve the minutes**
37 **of the Regular City Commission Meeting of May 19, 2014.**

38
39 **Motion carried unanimously with members voting as follows: Commissioner Barnaby, For;**
40 **Commissioner Denizac, For; Commissioner Lowry, For; Commissioner Nabicht, For;**
41 **Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.**

42
43 **B. Additions or Deletions to Agenda:** None.

44
45 **5. PRESENTATIONS/AWARDS/REPORTS:**

46
47 **A. Presentation to students who are 2014 Medallion of Excellence winners, Salutatorians, and**
48 **Valedictorians.**

49

1 The Commission presented certificates of recognition to Deltona's high school students for being
2 selected as The Daytona Beach News Journal's Medallion of Excellence winners and students who
3 were selected as Salutatorians and Valedictorians for Deltona's high schools.

4
5 **A. Presentation – Super Star Student of the Month Certificates for May, 2014.**

6
7 The Commission presented Super Star Students of the Month certificates for May, 2014.

8
9 **6. PUBLIC FORUM – Citizen comments for items not on the agenda.**

10
11 a) Jim Pesclia, 1120 North Old Mill Drive, representing Backyard Chickens for Deltona (BCD)
12 stated that BCD is in favor of residents with single family residential property being allowed to have up
13 to five (5) chickens, and he asked the Commission to hold a workshop to discuss allowing backyard
14 chickens.

15
16 Commissioner Barnaby commended Mr. Pesclia for his professionalism, information and factual
17 presentation.

18
19 **Motion by Commissioner Barnaby to allow up to four (4) chickens, with no rooster to be allowed
20 in the City of Deltona.**

21
22 **Motion failed for lack of a second.**

23
24 **After discussion, the Commission concurred to discuss backyard chickens at an upcoming
25 workshop.**

26
27 Mayor Masiarczyk introduced and thanked Orange City Commissioner Ron Saylor for attending the
28 Commission Meeting.

29
30 **7. CONSENT AGENDA:** None.

31
32 **8. ORDINANCES AND PUBLIC HEARINGS:**

33
34 **A. Ordinance No. 09-2014, Saxon Plaza Business Unit Development (BPUD), RZ14-004, at
35 first reading.**

36
37 Planning and Development Services, Planner II, Scott McGrath stated that he and Ms. Kim Booker,
38 Booker & Associates, PA, representing Albertson Plaza were available to answer questions.

39
40 Commissioner Denizac asked what kind of special needs would be attended to at the daycare, and
41 Ms. Booker replied that the application was to add daycare as a permitted use to the Saxon Plaza
42 BPUD, and that the special needs group to be cared for were severely handicapped children.

43
44 Mayor Masiarczyk opened and closed the public hearing as there were no public comments.

45
46 **Motion by Commissioner Schleicher, seconded by Commissioner Denizac to approve
47 Ordinance No. 09-2014, an amendment to the Saxon Plaza Business Planned Unit
48 Development (BPUD) that adds Daycare Center as a permitted use, at first reading and to
49 schedule second and final reading for June 16, 2014.**

1
2 Commissioner Nabicht asked if the Planning and Development Services staff have looked at any site
3 plan submittals, as the location did not look like the right location to him for a daycare to take care of
4 severely handicapped children, and Mr. McGrath replied “no”.

5
6 Commissioner Barnaby asked why the site was still called the Albertson Plaza, and Mayor Masiarczyk
7 replied that the recorded, legal name of the property has to be used, and that an official name change to
8 the property’s legal name would be very costly.

9
10 Vice Mayor Herzberg discussed the parcel of the plaza that the daycare would be situated in, and she
11 asked if there was a plan submitted for a playground area, and Mr. McGrath replied “no”.

12
13 City Attorney Becky Vose read the title of Ordinance No. 09-2014.

14
15 **AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AMENDING THE**
16 **ALBERTSON’S PLAZA BUSINESS PLANNED UNIT DEVELOPMENT AGREEMENT**
17 **PER ORDINANCE BOOK 3730 PAGES 3430-3444 FOR THE FOLLOWING PARCEL:**
18 **LOT 4 ALBERTSONS MAP BOOK 46 PAGES 46-47, LOCATED AT 2120 SAXON**
19 **BOULEVARD TOTALING APPROXIMATELY ±3.49 ACRES; PROVIDING FOR**
20 **SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

21
22 **Motion carried with members voting as follows:**

23		
24	Commissioner Barnaby	For
25	Commissioner Denizac	For
26	Commissioner Lowry	For
27	Commissioner Nabicht	Against
28	Commissioner Schleicher	For
29	Vice Mayor Herzberg	For
30	Mayor Masiarczyk	For
31		

32 Ordinance No. 09-2014 was approved at 7:06 p.m.

33
34 **B. Ordinance No. 16-2014, Creating a new Article IX, Chapter 2 of the Code of Ordinances,**
35 **Pertaining to Sanctions for Charter Violations.**

36
37 Mayor Masiarczyk opened and closed the public hearing as there were no public comments.

38
39 Commissioner Denizac suggested changing the last sentence of Sec. 2-280, where it says “a finding
40 of guilty” to take out the word “guilty” and replace it with “violation of charter”.

41
42 Commissioner Barnaby discussed the comparison of the terms “violation of charter” and “guilty”,
43 with “guilty” as being a more final definition of a conclusion of an investigation and a charge, and
44 “violation of charter” as more of a description of evidence found in a charge. He asked why the
45 Commission would want to change the verbiage that deals with a vote of guilt, and Mrs. Vose
46 replied that from a legal standpoint either one is sufficient.

47

1 The Commission discussed defining the word “guilt” which has a broader reference than “violation
2 of charter”, guilt being a harsher word, and changing the wording to “a finding of guilt shall only be
3 upon the vote by a super majority of the entire City Commission”.

4
5 Commissioner Denizac discussed not forgetting the recommendations made by the Charter Review
6 Committee, absence of anything currently in the Charter that holds the Commission accountable for
7 their actions, the ordinance putting employees and charter officers in a difficult situation, charges for
8 violations of the charter possibly getting political and vindictive, the ordinance being very difficult
9 to enforce, and that she felt the ordinance did not have any teeth.

10
11 Commissioner Schleicher stated that she felt the ordinance did have teeth, and that every member of
12 the Charter Review Committee commented how necessary it was to have a way to hold the
13 Commission accountable.

14
15 Vice Mayor Herzberg concurred with Commissioner Schleicher, and she discussed DeLand having a
16 ballot question to revise their Charter covering Commission accountability, the ordinance being
17 meant more as a deterrent than anything else, the importance of initial and recurring training for
18 elected officials, her idea of the role of an elected official, and that she is in support of the ordinance.

19
20 City Attorney Becky Vose stated there was a need to add one more word to the changing of the last
21 sentence of Sec. 2-280, and that would be to add the word “affirmative” right before “vote of a super
22 majority of the entire City Commission”.

23
24 **Motion by Commissioner Schleicher, seconded by Commissioner Nabicht to adopt Ordinance**
25 **No. 16-2014 with the following revision to the last sentence of Sec. 2-280 to read as follows:**
26 **“Finding of guilt shall only be upon an affirmative vote of a supermajority of the entire City**
27 **Commission.”, at first reading, and to schedule second and final reading for June 16, 2014.**

28
29 Mayor Masiarczyk read the title of Ordinance No. 16-2014.

30
31 **AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, CREATING A NEW**
32 **ARTICLE IX, CHAPTER 2 OF THE CODE OF ORDINANCES; PERTAINING TO**
33 **SANCTIONS FOR CHARTER VIOLATION; PROVIDING FOR CONFLICTS;**
34 **PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

35
36 **Motion carried unanimously with members voting as follows: Commissioner Barnaby, For;**
37 **Commissioner Denizac, For; Commissioner Lowry, For; Commissioner Nabicht, For;**
38 **Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.**

39
40 Ordinance No. 16-2014 was approved at 7:22 p.m.

41
42 The Commission thanked the Charter Review Committee for all of their hard work.

43
44 **9. OLD BUSINESS:** None.

45
46 **10. NEW BUSINESS:**

47
48
49 **A. Request to sunset the Charter Review Committee.**

1 **Motion by Commissioner Barnaby, seconded by Commissioner Denizac to approve the sunseting**
2 **of the Charter Review Committee effective this date.**

3
4 Mayor Masiarczyk opened and closed the public hearing as there were no public comments.

5
6 **Motion carried unanimously with members voting as follows: Commissioner Barnaby, For;**
7 **Commissioner Denizac, For; Commissioner Lowry, For; Commissioner Nabicht, For;**
8 **Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.**

9
10 **B. Request for approval of proposed extended City Manager employment agreement.**

11
12 **Motion by Commissioner Nabicht, seconded by Vice Mayor Herzberg to approve the City**
13 **Manager extended employment agreement as presented.**

14
15 Mayor Masiarczyk opened and closed the public hearing as there were no public comments.

16
17 Commissioner Barnaby asked what the total monetary severance would be that the City Commission
18 approved for the City Manager and Mr. Denny replied he did not have an exact number but, it
19 included 5 month's pay, sick leave and accrued vacation which is approximately 1600 hours.

20
21 **Motion carried unanimously with members voting as follows: Commissioner Barnaby, For;**
22 **Commissioner Denizac, For; Commissioner Lowry, For; Commissioner Nabicht, For;**
23 **Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.**

24
25 **11. CITY ATTORNEY COMMENTS:**

26
27 Mrs. Vose stated that she handed out a mandate from the Florida Supreme Court stating Deltona had
28 won the Herrin case, which was a challenge against the Commission for not allowing an individual to
29 speak during a workshop.

30
31 **12. ACTING CITY MANAGER COMMENTS:**

32
33 **A. Lobbyist Update:**

34
35 Mr. Denny stated that the Governor did not veto the bill providing Deltona \$550,000 dollars for the
36 brackish water wells. He stated he handed out two (2) pieces of paper from Congressman Mica, one
37 being an invitation to attend Congressional Day in Washington D.C. on June 25, 2014, and the other
38 being a preliminary increase of property values of 7.87% that was provided by the Volusia County
39 Property Appraiser's office. Also, that he is working on scheduling a date to have the Lobbyist firm
40 meet with the Commission to provide an update sometime in July, 2014.

41
42 Commissioner Nabicht asked that the Lobbyist firm come prepared to discuss the importance of, and
43 the advantages to, having shovel ready projects to submit to the Lobbyist firm for each department,
44 and mentioned each department having at least two (2) to three (3) shovel ready projects.

45
46 Mayor Masiarczyk discussed the many Deltona board and committee openings, and possibly
47 establishing a facilities senior advisory board.
48

1 Vice Mayor Herzberg discussed current board vacancies, encouraged residents to apply to be on a
2 board, and she is in favor of establishing a facility senior advisory board to look at providing facilities
3 for seniors, but only if there is an interest.
4

5 **13. CITY COMMISSION COMMENTS:**
6

7 a) Commissioner Lowry congratulated Vice Mayor Herzberg for receiving the Volusia League of
8 Cities (VLOC) Elected Official of the Year.
9

10 b) Commissioner Schleicher also congratulated Vice Mayor Herzberg, she discussed the upcoming
11 meeting with Congressman Mica on Wednesday, June 4, 2014 starting at 8:00 a.m. to discuss economic
12 development; Saturday, June 7, 2014 is the City's Health Expo in the Commission Chambers from
13 10:00 a.m. to 1:00 p.m., the Deltona Budget Roundtable is Monday, June 9, 2014 in the Commission
14 Chambers starting at 6:30 p.m. and she encouraged residents to attend, that Friday is the last day of
15 school, and to keep an eye out for children playing in the street this summer.
16

17 c) Commissioner Nabicht stated the road project on Normandy Boulevard between Fort Smith and
18 Saxon Boulevards looks like it has finished and he asked if the project finished on time and within
19 budget, and Mr. Denny replied that the project was finished a little bit ahead of schedule, on budget, and
20 that the City still has a few little things to do, but the project is basically complete. Commissioner
21 Nabicht stated that former Fire Chief Frank Ennist lost his son over the weekend and he asks everyone
22 to keep him and his family in their prayers.
23

24 d) Commissioner Denizac concurred with Commissioner Nabicht's comment on having shovel
25 ready projects, and the need for Deltona to make that a priority before the next Legislative session so
26 that the City can obtain more money from the State.
27

28 e) Commissioner Barnaby stated in a recent speech given by the Governor of Texas, the Governor
29 discussed reasons why Texas is now the number one economic engine in the entire Country.
30 Commissioner Barnaby discussed reasons that site selectors pick certain locations, the importance of
31 having Deltona "site ready" for economic development, an esoteric issue that site selectors look at is
32 being an arts center, that Deltona needs to have an attractive classic arts center, being in favor of having
33 a much needed homeless shelter for women and children built in Deltona, he commended Vice Mayor
34 Herzberg for receiving the VLOC Elected Official of the Year award, the fifty (50) contiguous states as
35 being individual economic development incubators with Florida being number two (2) in the Country,
36 Deltona needing to look at the big picture, and to do whatever possible to have site ready areas for
37 economic development.
38

39 Commissioner Nabicht agreed with Commissioner Barnaby about providing a shelter for the homeless,
40 not to limit it just to women and children, but to have a shelter for "families", and that Deltona's
41 homelessness deals with a lot of families.
42

43 f) Vice Mayor Herzberg stated that she concurred with Commissioner Barnaby and Commissioner
44 Nabicht for the need to have a homeless shelter, she would like to revisit the Charter question for
45 Commissioner compensation on the next workshop agenda.
46

47 **After discussion, the Commission concurred to schedule a workshop to discuss the Commission's**
48 **compensation on Monday, May 9, 2014 at 5:30 p.m.**

1 Commissioner Nabicht asked if Vice Mayor Herzberg could also provide an update on the
2 reconfiguration of the Volusia League of Cities (VLC) and the Volusia Council of Governments
3 (VCOG), and Vice Mayor Herzberg replied “yes”.

4
5 Vice Mayor Herzberg stated that at the last Team Volusia meeting they discussed the positive outcome
6 of the Deltona site assessment, Team Volusia being the primary conduit for the film industry to come to
7 Volusia County, any entities wanting to film in the area would go through Team Volusia, the County’s
8 permit and policy for the film industry, the film permitting process, Daytona State College hosting a
9 meeting to discuss economic development on Wednesday, June 11, 2014 in the Commission Chambers
10 at 8:00 a.m., and she thanked everyone who supported her in receiving the Volusia League of Cities
11 Elected Official of the Year award.

12
13 g) Mayor Masiarczyk congratulated Vice Mayor Herzberg, he stated that the former Mayor of
14 Ormond Beach David Hood lost his son this past week, Vice Mayor Leigh Matusick in DeLand lost her
15 mother, and for everyone to remember them in their prayers. He defined and discussed the importance
16 of having shovel ready projects, and publicly thanked Code Enforcement Director Dale Baker for his
17 efforts in addressing an abandoned animal issue.

18
19 Vice Mayor Herzberg stated that the Halifax Humane Society is offering the spay and neuter of puppies
20 or kittens that are six (6) months old or younger for \$20.00 during the month of June at the Redinger
21 Clinic.

22
23 Mayor Masiarczyk asked if Vice Mayor Herzberg could provide a brief update on the new medical spay
24 and neuter injection procedure in lieu of the traditional spay and neuter surgery method.

25
26 **14. ADJOURNMENT:**

27
28 There being no further business, the meeting adjourned at 7:51 p.m.

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32
33

John Masiarczyk Sr., Mayor

34
35
36 **ATTEST:**

37
38

Mitch Honaker, Deputy City Clerk
39