

**CITY OF DELTONA, FLORIDA
REGULAR CITY COMMISSION MEETING
MONDAY, NOVEMBER 3, 2014**

1 A Regular Meeting of the Deltona City Commission was held on Monday, November 3, 2014 at the
2 City 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	Anthony Bellizio	Present
14	Commissioner	Zenaida Denizac	Present
15	Commissioner	Chris Nabicht	Present
16	Commissioner	Nancy Schleicher	Present
17	Acting City Manager	Dale Baker	Present
18	City Attorney	Becky Vose	Present
19	Assistant City Attorney	Wade Vose	Present
20	City Clerk	Joyce Raftery	Present

21
22 Also present: Planning and Development Services Director Chris Bowley; and Acting Deputy City
23 Manager Gerald Chancellor.

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

26
27 Invocation Presented by Commissioner Schleicher – Rev. Dr. Mark Winkler, Emmaus Lutheran
28 Church, Orange City.

29
30 The National Anthem was sung by Timbercrest Elementary Tiger Choir under the direction of Linda
31 Zaudtke.

32
33 **4. APPROVAL OF MINUTES & AGENDA:**

34
35 **A. Minutes:**

36
37 **1. Approval of Minutes – Regular City Commission Meeting of October 20, 2014.**

38
39 Commissioner Barnaby stated that the minutes show there was a “silent” invocation at the last City
40 Commission meeting, however, he commended Ms. Jionna M. Green for the prayer she gave. He asked
41 the City Manager if the minutes were supposed to be verbatim and Mr. Baker replied “no sir.”
42 Commissioner Barnaby stated he felt staff had interjected its own opinion as to what happened in the
43 meeting under Item 8-A, Line 25 of the minutes.

44
45 **Motion by Vice Mayor Herzberg, seconded by Commissioner Schleicher to approve the minutes**
46 **of the Regular City Commission Meeting of October 20, 2014, as amended.**

47
48 **Motion carried unanimously with members voting as follows: Commissioner Barnaby, For;**
49 **Commissioner Bellizio, For; Commissioner Denizac, For; Commissioner Nabicht, For;**

1 **Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.**

2
3 **B. Additions or Deletions to Agenda:** None.

4
5 **5. PRESENTATIONS/AWARDS/REPORTS:**

6
7 **A. Presentation – Super Star Student of the Month Certificates for October, 2014.**

8
9 The Commission presented Super Star Students of the Month certificates for October, 2014.

10
11 Mayor Masiarczyk presented a certificate of appreciation to Cambria Striby for assisting her grandfather
12 with gathering signatures.

13
14 Mayor Masiarczyk introduced the newly elected Mayor of DeBary, Clint Johnson.

15
16 **B. Presentation – Quarterly Reports of City Advisory Boards/Committees.**

17
18 Written quarterly reports were submitted by the Planning and Zoning (P&Z) Board, the Deltona
19 Economic Development Advisory Board and Firefighters' Pension (FFP) Board covering the fourth
20 quarter of 2014.

21
22 **6. PUBLIC FORUM – Citizen comments for items not on the agenda.**

23
24 a) Michael Putkowski, 2736 Courtland Blvd., asked after the yearlong TNR Program is over and if
25 it is successful what would be the cost to continue the program and how much is the cost differential
26 between things now and the current program.

27
28 Mayor Masiarczyk replied that nobody knows, the idea is to have a pilot program and at the end of the
29 year there will be a better understanding.

30
31 Michael Putkowski asked that as soon as the homeless study is done it be released to the public.

32
33 Mayor Masiarczyk replied the study has been completed and it is online and he has a printed copy in his
34 office if Mr. Putkowski would like to see it.

35
36 b) Michael Williams, 2889 Cottageville Street, spoke about bringing his own time keeper,
37 speaking as the President of the National Association for the Advancement of Colored People
38 (NAACP) West Volusia Branch, a recent article regarding the Human Resources (HR) Director and
39 being appalled at the results of the City Manager's investigation, his hope that the Commission would
40 direct the City Manager to place something in the HR Director's personnel file and the incident possibly
41 being "swept under the rug" if the e-mail had not gone public. He stated he has requested as the
42 President of the NAACP every application submitted by an African American who applied for the
43 City's water department for the last three (3) years, there being no African Americans in field
44 operations with the water department, and representing all the people of Deltona should be reflected in
45 the hiring, promoting and placing people in positions. He stated once he receives the information he
46 will provide it to the City Commission and management to review as he does not believe that all of the
47 African Americans that applied were unqualified for the positions.

48
49 c) Harry Wilkins, 2177 Gretna Drive, asked the status of the Jablonski Trust regarding the money

1 left for a Senior Center.

2
3 Mayor Masiarczyk replied staff received a copy of what was accepted, but has not received a final
4 ruling and staff is not sure if there are any caveats.

5
6 Mr. Wilkins spoke about his social networking through the Deltona Lesbian, Gay, Bisexual,
7 Transgender, Hederosexual (LGBTH) Pride which is an exclusive group, youth being thrown out of
8 their homes due to sexual orientation, the LGBTH Facebook page which has helpful information on a
9 variety of topics, collecting nonperishable food for people and animals for the Community Life Center
10 who is having a fund raiser on November 8th at 6:00 p.m. and the importance of collecting toys for Toys
11 for Tots through the Volusia County Sheriff's Office (VCSO).

12
13 d) Deborah Suitt-Green, 1531 Toluca Court, stated she too brought her own time keeper and she
14 thanked Commissioner Barnaby for correcting the minutes and she too brought her own time keeper,
15 the minutes being a literal interpretation of what happened at the meetings, she thanked the Commission
16 for the promise of displaying photos of the board members at City Hall and she asked for speed bumps
17 on Fason Circle. She stated she would like to see key people in positions that make decisions, with a
18 vested interest in the City and represent someone like her with reference to race, gender and age. She
19 spoke about uplifting the City, nice signs, presenting the City in the best light possible and putting extra
20 effort into making the City nice. She stated if it is said that Deltona represents all the people then it
21 should be shown across all the departments including the Fire Department and the Sheriff's
22 Department.

23
24 Commissioner Nabicht replied that the last two (2) firefighters hired were woman and one (1) was
25 African American so staff is address some of the concerns. There are woman, Latinos and African
26 Americans on the Fire Department. He asked Mr. Baker to request through the VCSO that a speed
27 trailer be placed on Fason Circle.

28
29 e) Daniel Dudley, 1089 Pearl Tree Road, spoke about predicting that homes would be placed on
30 the market in the Saxon Sterling Silver Subdivision due to the proposed Wal-mart grocery center, the
31 homes being bought by investors, and the impact to the school system. He stated there is a bear in his
32 neighborhood, the last time it was seen was on Saturday closer to East Cooper.

33
34 Mayor Masiarczyk asked that Mr. Dudley keep staff informed of the bear sightings and that the Florida
35 Fish and Wildlife Conservation Commission (FFWCC) will need to be contacted.

36
37 Mr. Dudley also stated that Jack Hoyt's health has taken a turn for the worst and is in the hospital.

38
39 Commissioner Denizac stated it is important that Mr. Dudley is provided accurate information.
40 Residents have contacted staff in the past about bear sightings and were told that there was nothing staff
41 could do so it is important that the right information on who contact is provided to the residents and that
42 nobody is given the wrong impression.

43
44 Mayor Masiarczyk stated residents can notify staff who will notify the FFWCC or staff can provide the
45 contact information, however, normally unless there is a continuous sighting, they have not responded.

46
47 f) Smiley Thurston, 608 Saxon Blvd., spoke about the homeless study, transitional housing, the
48 Volusia/Flagler County Coalition for the Homeless presentation, where to best curb the homeless

1 situation which is worse than people thought, he spoke out about Deltona's homeless issues, there being
2 no limitations as to where the homeless people come from that end up being housed, the homeless
3 program being a continuous, the main goal was to answer the TV media coverage, and one (1) of the
4 board members spoke with him and offered to cover one (1) of the meetings where the plight is
5 discussed to help divide it up and work it out.

6
7 **7. CONSENT AGENDA:** None.

8
9 **8. ORDINANCES AND PUBLIC HEARINGS:**

10
11 **A. Public Hearing - Saxon Sterling Silver BPUD Final Plat Application (FP 14-003).**

12
13 Planning and Development Services Director Chris Bowley stated this is the replat of Lots 2 and 4 to
14 the new Lots 1 and 2 of Saxon Sterling Silver BPUD.

15
16 Mayor Masiarczyk asked if the final plat followed all the action the Commission took at a previous
17 meeting and Mr. Bowley replied "yes sir".

18
19 Mayor Masiarczyk opened and closed the public hearing as there were no public comments.

20
21 **Motion by Commissioner Barnaby, seconded by Commissioner Schleicher to approve the**
22 **Saxon Sterling Silver BPUD Final Plat (FP 14-003).**

23
24 **Motion carried unanimously with members voting as follows: Commissioner Barnaby, For;**
25 **Commissioner Bellizio, For; Commissioner Denizac, For; Commissioner Nabicht, For;**
26 **Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.**

27
28 **B. Ordinance No. 28-2014; Repealing Chapter 36, "Deltona Rental Regulatory License**
29 **Ordinance," for first reading.**

30
31 Mayor Masiarczyk opened and closed the public hearing as there were no public comments.

32
33 **Motion by Vice Mayor Herzberg, seconded by Commissioner Bellizio that the City**
34 **Commission adopt Ordinance No. 28-2014 at first reading, and to schedule second and final**
35 **reading for November 17, 2014.**

36
37 Assistant City Attorney Wade Vose read the title of Ordinance No. 28-2014.

38
39 **AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, REPEALING CHAPTER 36,**
40 **"DELTONA RENTAL REGULATORY LICENSE ORDINANCE"; AND PROVIDING FOR**
41 **CONFLICTS, SEVERABILITY AND FOR AN EFFECTIVE DATE.**

42
43 **Motion carried unanimously with members voting as follows: Commissioner Barnaby, For;**
44 **Commissioner Bellizio, For; Commissioner Denizac, For; Commissioner Nabicht, For;**
45 **Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.**

46
47 Ordinance No. 28-2014 was adopted at 7:25 p.m.

1 **C. Public Hearing - Ordinance No. 31-2014, Adding Article VII, "Trap, Neuter, Release**
2 **Program, of Chapter 14, "Animals", of the City's Code of Ordinances, relating to a one-year**
3 **pilot program for trap, neuter and release of feral cats, at second and final reading.**
4

5 Mayor Masiarczyk opened the public hearing.
6

7 Diana Coppola, 1311 Hartley Avenue, spoke in favor of the ordinance, her neighbor moving and
8 leaving a feral cat colony behind and the cost and time she puts toward caring for feral cats.
9

10 Harry Wilkins, 2177 Gretna Drive spoke in favor of the ordinance and the issues caused by feral cats.
11

12 Michelle Marrone, 1743 Mayhill Street, spoke in favor of the ordinance and she suggested requiring
13 residents when getting animal tags through the City to show proof of spay or neutering.
14

15 Carol Canfield, Debarry, spoke in favor of the ordinance and the many people who take time and money
16 to assist with the care of feral cats.
17

18 Cindy Gonzalez, 3147 Pigeon Cove Street, spoke in favor of the ordinance and the cost and time she
19 puts toward caring for feral cats.
20

21 Natalie Crawford, 130 West Pennsylvania Avenue, DeLand, spoke in favor of the ordinance, the cost
22 and time she puts toward caring for feral cats; she has lots of ideas on how to help the feral cat issue and
23 needing to make everyone aware of the feral cat issue.
24

25 Mayor Masiarczyk closed the public hearing.
26

27 Vice Mayor Herzberg thanked everyone for attending the meeting, the only way the program will
28 work is if everyone works together as volunteers. She suggested everyone gathering for a meeting,
29 possibly having an animal board like the county has and other issues can also be addressed such as
30 wildlife, pit bulls, and working together on grants. There is grant money available, but everyone has
31 to work together and this could be a way to make this a model for the rest of the county. On
32 Thursday, November 6th the County Council will be discussing the TNR program at 10:00 a.m., the
33 City of Daytona has agreed to place the program on its agenda and Orange City and Debarry have
34 address it. Together everyone can be a force to decriminalize the people that are helping and she
35 thanked all of those residents who help with money from their own pocket and the time out of their
36 own lives that a lot of people do not have.
37

38 **Motion by Vice Mayor Herzberg, seconded by Commissioner Barnaby to adopt Ordinance No.**
39 **31-2014, at second and final reading.**
40

41 Mayor Masiarczyk read the ordinance "The City Manager of the City of Deltona is hereby
42 authorized to institute a pilot trap, neuter and release program to address concerns about feral cats in
43 Deltona. The City Manager is directed to report the results of such pilot program to the City
44 Commission after the program has been fully operational for a one year term. Any provision of
45 Chapter 14 that is found by the City Manager to be contrary to the specific requirements of such
46 pilot program shall be deemed not enforce able during such pilot program and any extension thereof
47 authorized by the City Commission." He stated what the ordinance is meant to do and the public
48 needing to know that this will allow them to continue to feed feral cats without being fined.

1
2 Assistant City Attorney Wade Vose read the title of Ordinance No. 31-2014.

3
4 **AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, ADDING ARTICLE VII,**
5 **“TRAP, NEUTER, RELEASE PROGRAM, OF CHAPTER 14, “ANIMALS”, PROVIDING**
6 **FOR A ONE YEAR PILOT PROGRAM FOR TRAP, NEUTER AND RELEASE OF FERAL**
7 **CATS, PROVIDING FOR CONFLICTS, SEVERABILITY AND FOR AN EFFECTIVE**
8 **DATE.**

9
10 **Motion carried unanimously with members voting as follows: Commissioner Barnaby, For;**
11 **Commissioner Bellizio, For; Commissioner Denizac, For; Commissioner Nabicht, For;**
12 **Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.**

13
14 Ordinance No. 31-2014 was adopted at 7:39 p.m.

15
16 **9. OLD BUSINESS:** None.

17
18 **10. NEW BUSINESS:** None.

19
20 **11. CITY ATTORNEY COMMENTS:** None.

21
22 **12. CITY MANAGER COMMENTS:**

23
24 Mr. Baker stated he has received from the Firefighters’ Pension Plan the report from the actuary, the
25 underlined and strikethrough version of the ordinance and he believes that all the questions the
26 Commission had asked have been answered. He stated unless otherwise directed he will schedule this
27 for the next available workshop and the Commission concurred.

28
29 Commissioner Nabicht asked if the Commission wanted any representatives from the board’s staff at
30 the workshop to answer questions and Mayor Masiarczyk replied yes. Mr. Baker confirmed that the
31 Plan Administrator Lisa Spriggs and the actuaries would be in attendance at the meeting.

32
33 **A. Lobbyist Update:**

34
35 Mr. Baker stated he spoke to the Lobbyist last week and he will schedule another workshop before a
36 regular Commission meeting sometime in November.

37
38 Mayor Masiarczyk asked if the League of Cities had formalized their plan regarding updates with
39 the Legislature and Vice Mayor Herzberg replied that would be next Thursday.

40
41 Commissioner Nabicht stated regarding the lobbyist, if the medical marijuana passes tomorrow,
42 Representative Santiago is on the rules committee and it would behoove the Commission to meet
43 with him, provide direction and discuss what some of the rules should be. Currently there is a
44 possibility that the rules will be written that there will only be six (6) dispensaries in the entire State.
45 He stated the Commission needs to also give direction to the lobbyist as to what it would like to see
46 happen with those rules.

47
48 **13. CITY COMMISSION COMMENTS:**

1
2 a) Commissioner Barnaby stated he was pleased to receive an e-mail that went out to the Acting
3 City Manager and all the Commissioners from one (1) of the well-known stakeholders in the City Mr.
4 Larry Kent. He spoke to Mr. Kent and explained to him if he was not in attendance tonight that he
5 would be speaking to his e-mail because he commended him for acknowledging that in order to move
6 the City forward he identified systemic problems in the City and how to get out of the “fog we have
7 been in as a City” and he continued to read from the e-mail. He stated in order to move the City
8 forward the Commission has to clearly identify what the Commission’s needs are in terms of the
9 directive the Commission gives the executive search firm and Mr. Kent is urging the Commission to go
10 carefully and slowly so it will make the right decision.

11
12 Commissioner Barnaby asked Mr. Baker where the City stands in the executive search firm process and
13 Mr. Baker replied the RFP was put out today. Commissioner Barnaby stated at the workshop last week,
14 he specifically asked that regarding the process that new direction was given to staff in terms of how the
15 City puts out what it requires in an executive search firm and identifying some of the things the City
16 needs, specifically as it relates to where the City advertises. He asked if the new RFP was going out to
17 more outlets and Mr. Baker replied “yes sir”, he instructed the Purchasing Agent to put it out on
18 Demandstar per City’s policy, e-mailed to all the organizations who do this type of work that staff is
19 aware of and to place an advertisement in the newspaper, but it will probably be about a week or so
20 before the advertisement will be published due to timing.

21
22 Commissioner Barnaby asked if Mr. Baker could identify the types of organizations the City advertised
23 with and Mr. Baker replied staff can go in the system and see who has applied with other cities and then
24 e-mail all those firms.

25
26 Commissioner Barnaby stated in the workshop he specifically asked that staff also advertise for the
27 executive search firm with the Florida League of Cities (FLOC) and Mr. Baker replied staff is also
28 looking at that, but it had not been done as of today.

29
30 b) Commissioner Denizac stated Commissioner Barnaby’s comments are right on target in the
31 sense that it is so important that the direction given be followed, the City cannot afford any mistakes in
32 the process, making sure that the RFP goes where it needs to go and it reaches the targets the
33 Commission wants to reach, comments from the public which are well taken and need to be taken into
34 consideration and the process needing to be dealt with, with the seriousness it deserves. The most
35 important decision that the Commission can make is making sure that it hires a competent City
36 Manager who is highly professional, with a strong backbone and with the ability to move the City
37 forward in terms of economic development and other issues that the City has to deal with immediately.
38 She asked staff and her fellow Commissioners to make sure her comments are well received as this is
39 very important.

40
41 c) Commissioner Nabicht commended the Fire Chief and all his staff that worked so hard to put on
42 the Open House, he has been involved with the Open House since the first one in 1980 and he felt this
43 was by far the best Open House the City has ever had for the Fire Department. Fire Chief Rhame
44 brought together the public, private sector and many agencies through his staff, City staff, Sheriff’s
45 Office and hospitals. It was great to see how well attended the event was and that people stayed to learn
46 about cancer awareness, fire safety, law enforcement and public safety in general. He stated a “big hats
47 off” to everyone that participated in the event and there were many, many people that helped make the
48 event a success and it was appreciated.

49

1 Commissioner Nabicht stated he sent an email to the Acting City Manager which he will address, but it
2 really bothers him so he is going to bring it up to the rest of the Commission. When the Commission is
3 asked by staff to provide dates on a ceremony or a project that staff wants the Commission to attend,
4 those dates should be taken into account specifically for those Commissioners who are either directly
5 involved with the project or if the project is in that Commissioner's district. Consideration needs to be
6 given to both the hours and schedules of the Commissioners who may have direct involvement with the
7 event. He explained there is a groundbreaking scheduled for Thursday in his district, he is involved
8 with the project and he specifically stated the only day he had available this week was Wednesday and
9 now the ground breaking is Thursday and he already has a commitment at University High School. He
10 requested that staff make every effort to work around the Commissioner's schedules and to take into
11 consideration when it is a project in a Commissioner's district and that curtesy should be given to that
12 Commissioner and the Mayor first.

13
14 Commissioner Nabicht stated another issue the Commission needs to discuss is the healthcare issue for
15 the City. He stated he assumes that this year's healthcare was negotiated by the HR Department and the
16 City Manager, it was a significant increase, he does not believe it has gone out to bid in quite some time
17 and he thinks next time the City should look at putting it out to competitive bid. The union contract
18 with the firefighters' states if there is more than a 10% increase it has to be negotiated and there was a
19 10% increase in the base plan and a 17% increase in the buy up plan. Now he believes the firefighter's
20 union is at odds with staff and the HR Department about whether or not that needs to be negotiated.
21 That is a significant increase to the employees, but the City is also paying a significant increase. He
22 requested to take a good look at the contract, it is a long process, the City Manager and staff need to get
23 together to find out the timeline to address it as this is not going to be a sustainable cost for the City in
24 up and coming budgets.

25
26 d) Commissioner Schleicher thanked Mayor Masiarczyk for the opportunity to fill in for him by
27 presenting two (2) proclamations, one (1) to the Duval Home where the best thing she saw was a
28 mentally handicapped woman who received her award, her face lit up like she had just received a
29 "golden ticket" and it was so heartwarming to the residents of the Duval Home to receive recognition
30 and for her to be a part of. That same evening she had the opportunity to present another proclamation
31 to Dr. Zavala who was awarded the Hispanic Physician of the Year award at the Debary Golf and
32 Country Club, it was the first award of its kind and she congratulated Dr. Zavala again.

33
34 Commissioner Schleicher thanked the Fire Department for the Open House on Sunday and the
35 opportunity to ride on the pink fire truck.

36
37 Commissioner Schleicher thanked Mr. Baker for his in depth investigation and while she agrees with
38 exactly what was done with regards to the reprimand, she also agrees with Mr. Williams that something
39 should go into the director's personnel file which she believes is going to be corrected. She stated when
40 there is an issue like this it should also be reflected on an evaluation.

41
42 Commissioner Schleicher stated a question came up about ethnicity in the hiring practices, she was not
43 sure if there is a breakdown of the percentages that could be provided to the Commission regarding
44 African Americans and Hispanics or the actual numbers of employees by ethnicity employed with the
45 City so the Commission has an idea of what Mr. Williams is talking about. Mayor Masiarczyk stated
46 he had that information and he asked Mr. Baker to provide a copy to all the Commissioners.

47
48 Commissioner Schleicher stated tomorrow is election day, she encouraged everyone to go out and vote

1 and she wished the best of luck to all the candidates who will all be glad when tomorrow is over.

2
3 e) Vice Mayor Herzberg wish all the candidates good luck. She was very fortunate to be elected
4 without opposition and she thanked the residents of District #3 because she is so grateful and blessed for
5 that opportunity.

6
7 Vice Mayor Herzberg thanked all the citizen advocates who came out in every way, shape and form
8 talking about homelessness, rights, and animals. Citizen advocates are what keeps this City going, what
9 brings a community together, gives a sense of community and she encouraged everyone to always be
10 involved even when it gets time consuming. She encouraged citizens to always try to keep involved
11 and continue to have their voices heard as everyone has different experiences and time frames in life.

12
13 Vice Mayor Herzberg stated she has a problem which everyone seems to be “skirting around”, but was
14 spoken about very strongly by Commissioner Barnaby and Mr. Williams and also Mr. Vroman had
15 spoken of it. The Commission received a report from Mr. Baker regarding the HR Director’s e-mail
16 which was sent to the Labor Attorney and copied to a consultant with the Training Tree and she read the
17 e-mail for the public. The issue was dealt with under the previous City Manager, a verbal reprimand
18 was provided, nothing was placed in the director’s personnel file and after the issue the HR Director
19 received an outstanding evaluation. She has looked at the questions that have been raised, the
20 comments that have been made and that nothing has been done about it, however, Mr. Baker had done
21 what was asked of him and he is not responsible for what went on prior to him accepting the Acting
22 City Manager position. The HR Director in any City has a lot of power and a lot of control. The City
23 seems to only hire entry level positions, it seems the City does not advertise externally that many
24 positions, the City only receiving a handful of applicants for the Acting City Manager position while
25 other cities receive applicants in the multiple double digits and she has an extreme problem with this
26 that she will address because it is not fair across the board for what is going on here. She asked the Mrs.
27 Vose if she received a copy of the investigation done by the Acting City Manager and Mrs. Vose
28 nodded her head no. She stated in her opinion there is a lack of communication. The Commission
29 directed that all legal issues go through the Vose Law Firm and it appears that other legal advice is
30 sought when the City Attorney’s legal advice is not deemed to be right by the HR Director that justifies
31 the decisions wanting to be made which is unacceptable to her.

32
33 Vice Mayor Herzberg stated she knows that the Commission cannot direct staff, but is the Commission
34 allowed to direct the City Manager to act and Assistant City Attorney Wade Vose replied yes, the
35 noninterference provision in the Charter specifically prohibits any member of the Commission or the
36 Commission generally from interfering with employees that are under the City Manager or under the
37 City Attorney. He stated the City Manager and the City Attorney are both Charter officers that are
38 subject to the Commission’s direction.

39
40 **Motion by Vice Mayor Herzberg, seconded by Commissioner Nabicht to direct the Acting City**
41 **Manager to terminate the Human Resources Director.**

42
43 Mayor Masiarczyk cautioned the Commission this action being unchartered ground, the possibility of a
44 lawsuit if the motion passes, and there being several rumors and stories going around.

45
46 Commissioner Nabicht spoke about the HR Director’s blatant disregard for the Commission, the
47 NAACP having to defend African American employees that felt were persecuted by the HR Director,
48 the HR Director not following the Commission’s explicit direction that all legal issues go through the

1 Vose Law Firm and the Commission moving \$25,000 for a labor attorney out of the City Manager's
2 budget. Commissioner Nabicht asked Mrs. Vose, there was a conversation or meeting between the
3 union and the HR Director regarding the health insurance. Did Mr. Acquaro seek an opinion from
4 y10% on the base plan or the 17% on the buy up plan, which one of those was referred to in the contract
5 or did he give any question for interpretation of the contract to you regarding that matter and Mrs. Vose
6 replied "no." Commissioner Nabicht stated "so he made his own legal decision and told the firefighters
7 it's on the base plan, not on the buy up plan." This will create a legal challenge from the union and an
8 internal strife with the employees. The HR Director is supposed to aid and assist and help employees
9 navigate through healthcare matter. He stated in his opinion unreasonable mandates are being placed on
10 the employees at a whim and at the City's expense. The HR Director creates policies, interprets them
11 and executes them on the employees.

12
13 Commissioner Denizac asked in regards to the motion, is the Commission allowed to direct the Acting
14 City Manager to do what was asked and Mrs. Vose replied "yes." She asked for Mrs. Vose perception
15 of a possible lawsuit and Mrs. Vose replied she could defend it quite easily. Commissioner Denizac
16 stated from her view the comments made by the HR Director are just one of many incidences that may
17 not have been documented, there are employees who have had to remain silent, having to urge
18 employees to not continue conversations because she cannot intervene with employees, she has heard
19 stories of unfairness which she had shared with Mr. Denny, the "good ole boy system" needs to come
20 down, this is not just one (1) incident as it goes on every day and it is unfair because Vice Mayor
21 Herzberg is correct the HR Director has a lot of power, but the people have more power. It is not
22 acceptable period, to have someone act the way he has and to be provided an outstanding evaluation is
23 just wrong. It goes beyond that, for management to look the other way is absolutely wrong,
24 management needs to be held accountable and the City needs to be protected.

25
26 Vice Mayor Herzberg stated when an HR Director or an employee in charge of other employees put in
27 policies that they think are better and run concurrent FMLA, force people to go on FMLA and use up
28 employee's time, it is not illegal, but it certainly is not good practice. FMLA is there to hold an
29 employee's job when they are out for a serious health issue and to purposely have the employees run
30 that time down and force the employees to do that, this is not why FMLA was put into place. It comes
31 down to accountability for actions and if the City does not get a lawsuit from this action it will get one
32 (1) from the NAACP, employees or somebody else. She stated let's make some changes where the
33 problem seems to be.

34
35 Commissioner Barnaby stated there is a systemic problem. He asked Mr. Baker if during the time he
36 has been the Acting City Manager has he had the duty to dismiss any employees and Mr. Baker replied
37 "yes." Commissioner Barnaby stated what happened under Mr. Denny's management cannot be taken
38 back; he is no longer with the City. He stated someone needs to be held accountable for what has
39 transpired.

40
41 Commissioner Barnaby spoke about the executive search process and his instruction regarding the RFP
42 which was ignored and Mr. Baker replied it had not been ignored; he was waiting for the purchasing
43 agent to get back from vacation. Commissioner Barnaby asked if the process was going to be changed
44 and Mr. Baker replied as far as advertising the RFP, yes.

45
46 Commissioner Barnaby stated he talks to the business community every day and has worked with them
47 for over 20 years and the business community has identified some of the systemic problems. Some
48 serious decisions will need to be made and the voters are going to make decisions at the polls on

1 Election Day tomorrow. He spoke about not knowing how long he would be on the dais, but he has no
2 plans to leave the City, he will always be a voice in the City, he is a person who does not accept
3 mediocrity, and the City needing a mentality of excellence. He has asked on numerous occasions for
4 City Hall to look more like the “gem” that it is supposed to be from the grounds up and that Parks &
5 Recreation do a better job with the upkeep of the City. He has tried to be careful with his remarks to try
6 and maintain a spirit of unity on the dais. He agreed with Vice Mayor Herzberg these issues cannot
7 continue or keep being swept under the rug, there are employees hurting because of discrimination
8 which has been going on for a long time in the City and it is not and should not be acceptable. A lot of
9 things have to change and it all comes down to a process that needs to be fixed.

10
11 Commissioner Bellizio stated he was not around for the history of what has happened regarding the HR
12 Director, the history the Commission has witnessed and heard. The only evidence he has to go on is
13 based on this sole incidence, the email that was sent and the absolute lack of discretion the individual
14 took. The investigation was completed and it is clear the consensus is the penalty was not as severe as it
15 should have been. He stated people need to be hired who “get it”, who understand what they are doing
16 and he explained his perspective and his future plans. The most important part of working for a public
17 entity is representing the organization in both your public and private life. For this individual to send an
18 email “accidentally” from the City email which he meant to be a personal email, right there “judgment
19 out the window.” It seems as if this person who is in charge of a position that is very high and quite
20 literally in the department that deals with the public and he questioned how he could have been around
21 for so long. He stated if there have been incidences that have not been documented the individual
22 possibly could have a lawsuit with the City, but there where falls the individuals above him failed to do
23 that. He asked the Commission to ensure when it comes together to hire the next City Manager, that it
24 hire a person who understands what he/she is doing in that role.

25
26 Mayor Masiarczyk stated he does not have a problem with the motion or what he has heard, what he has
27 a problem with is many years of training in management that you do not accuse somebody in order to
28 take action against somebody without any proof. He has heard all the stories, but he believes for
29 nothing other than to mitigate the fact the Commission is just doing something without any facts. He
30 has been a steward, a union representative, it is the first step in the process, he does not agree with it, but
31 it was the City Manager who took the action. He stated the Commission needs to do this professionally
32 and responsibly. He stated because of all he has heard he suggested the City Attorney investigate the
33 rumors everyone has heard and if there is factual information she can provide it to the City Manager
34 who can make a decision to remove the HR Director. He cannot justify the action because he does not
35 have the facts.

36
37 Mrs. Vose stated an investigation has been done with regard to the email so the Commission is totally
38 on solid ground if it believes the email incident is sufficient for termination and she believes that she
39 could defend that very, very well.

40
41 Vice Mayor Herzberg called the question and Mayor Masiarczyk asked the City Clerk to read the
42 motion as he thought it was not tied to the report.

43
44 Ms. Raftery stated the motion was made by Vice Mayor Herzberg, seconded by Commissioner Nabicht
45 to terminate the Human Resources Director and Commissioner Nabicht stated it was incorrect.

46
47 **Motion by Vice Mayor Herzberg, seconded by Commissioner Nabicht to direct the Acting City**
48 **Manager to terminate the Human Resources Director effective immediately based on the report.**

1
2 **Motion carried unanimously with members voting as follows: Commissioner Barnaby, For;**
3 **Commissioner Bellizio, For; Commissioner Denizac, For; Commissioner Nabicht, For;**
4 **Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.**

5
6 f) Mayor Masiarczyk thanked the firefighters for a great job with the Open House. As he was
7 approaching the Open House event he thought how the event would be accomplished if the property
8 were ever sold because there would not be another location that could accommodate it. He stated the
9 Commission needs to look for a big field or a big open area for events like this.

10
11 Mayor Masiarczyk asked that Commissioner Bellizio step over to his position at the dais.

12
13 Commissioner Nabicht stated that many people remember the folks who have the hot dog stand that
14 helped work through the process to get the ordinance regarding food vendors changed. He stated Bill
15 Maxwell passed away this morning and he asked that everyone keep his wife Terry Maxwell in their
16 thoughts and prayers along with her extended family here through all of her customers. He stated it is a
17 big loss to the City, Mr. Maxwell was a real advocate, he was trying to get on some of the City's
18 committees and he will be greatly missed.

19
20 **Motion by Commissioner Nabicht, seconded by Vice Mayor Herzberg to direct the Acting City**
21 **Manager to do an external and internal advertisement to replace the Human Resources Director.**

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

26
27 Mayor Masiarczyk asked that Commissioner Bellizio step over to his position at the dais to make his
28 final comments and to gavel the meeting down. He thanked Commissioner Bellizio on behalf of the
29 Commission for his service.

30
31 g) Commissioner Bellizio stated for those who are asking why there is a Mr. Rogers double with his
32 bowtie and sweater, his name is Anthony Bellizio and the Commissioner title has not gotten to him. In
33 July, 2014 he was appointed to a four (4) month term to serve as Commissioner of District #5. He
34 stated this opportunity is rare so he would like to thank his mom, his family and friends who raised him
35 and are the driving force behind everything that he does. He was instilled with certain characteristics
36 that helped him excel in his four (4) months here. He thanked the City Commission, City staff and City
37 residents, when he started here four (4) months ago he was welcomed with absolute open arms, well
38 wishes and respect which is sometimes missed, but he can say wholeheartedly for himself the six (6)
39 Commissioners, City staff and residents have been absolutely wonderful with him since the very
40 beginning with not one iota of negativity sent his way and the confidence they instilled in him helped
41 him through the last four (4) months. The Commission appointed him "Joe Schmo", with no political
42 experience and is outside the political arena so the Commission should be lotted for making the decision
43 to appoint an individual from the outside and he relished that role. He stated when he was first
44 appointed he stated that he was a "stop gap", a transitional figure to go from prior Commissioner Lowry
45 to Commission elect Soukup or Ramos for District #5. He believes he has performed his duties as
46 Commissioner to the best of his ability and beyond. He feels that his input, suggestion, questions and
47 his criticisms were all well received. He likes to call himself an equal opportunity critic because he was
48 not here to criticize one (1) individual, one (1) group or one (1) ideology, but was here to lend a voice

1 of logic and of reason which sometimes gets lost in the political theater and remember, that criticism
2 was well received. He believes that everyone who has met him over the last four (4) months would say
3 that his honesty and sincerity is what separates him from others. He did not encounter one (1) bad
4 situation with anyone through phone calls or even emails and he does not know if it was because of his
5 approach. When he came here he did not want to stray to the extreme, he did not want to vote “no” on
6 everything and stunt growth and he also did not want to be a “puppet” where he voted “yes” on
7 everything just to appease people, he wanted to be in the middle. His approach is more methodical
8 which is evident in his comments and his votes. He told himself as District #5 Commissioner with four
9 (4) months in office, it was entirely impossible for him to encompass the wants, needs and concerns of
10 District #5. In reality the issues that affect one (1) district affect all the districts so he took it upon
11 himself to make any decision he voted on something that would represent all residents of Deltona which
12 he believes all the Commissioners do. Sometimes appointed officials have the reputation of political
13 “cog”, a mouth piece, and he did not want to be that guy. He came up with an acronym that
14 encompassed his approach for the past four (4) months because he did not want to change who he was:
15 NOPE - Non-partisan, Objective, Professional and Education. He stated he will miss Mayor
16 Masiarczyk’s “well back in my day” comments as well as Commissioner Denizac who have both been
17 serving the City diligently for a very long time. Ultimately, this experience has been phenomenal for
18 him, he will never forget it and in terms of future involvement with the City “we shall see” and he
19 thanked everyone.

20
21 **14. ADJOURNMENT:**

22
23 There being no further business, the meeting adjourned at 8:38 p.m.
24
25
26

27 _____
28 **John Masiarczyk Sr., Mayor**

29 **ATTEST:**

30
31 _____
32 **Joyce Raftery, CMC, City Clerk**