



City of Deltona

The Center at Deltona
1640 Dr. Martin Luther King Blvd., Deltona, FL 32725

Minutes

City Commission

Monday, October 19, 2020

6:30 PM

The Center

- A. **In an effort to reduce the possibility of exposure of residents to the COVID-19 (Coronavirus) we are allowing limited public access into the Commission Chambers and practicing social distancing with the City Commission, staff and residents.**

1. **CALL TO ORDER:**

The meeting was called to order at 6:30 p.m.

2. **ROLL CALL – CITY CLERK:**

Present: 8 - Mayor Herzberg
Vice Mayor Ramos
Commissioner Avila-Vazquez
Commissioner King
Commissioner McCool
Commissioner Nabicht
Interim City Manager Cooper
City Attorney

Absent: 1 - Commissioner Bradford

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

- A. **Invocation Presented by District #2 Commissioner.**

Mayor Herzberg led everyone in the invocation and the pledge to the flag.

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

Mayor Herzberg explained that there is no request to speak button, but there is a tent card that can be displayed when a Commissioner wants to speak. Also, the votes will be verbal roll call votes.

- A. **Approval of minutes of the Regular Commission Meeting of October 5, 2020, as presented. - Joyce Raftery, City Clerk (386) 878-8502.**

Motion by Vice Mayor Ramos, seconded by Commissioner Avila-Vazquez, to approve the minutes of the Regular Commission Meeting of October 5, 2020, as presented. The motion carried by the following vote:

For: 6 - Mayor Herzberg, Vice Mayor Ramos, Commissioner Avila-Vazquez, Commissioner King, Commissioner McCool, and Commissioner Nabicht

5. PRESENTATIONS/AWARDS/REPORTS:

A. Presentation - Central Florida Legends Skunk Ape Marathon, Mermaid Half-Marathon and Fountain of Youth 5K - Don Stoner with Runners High, West Volusia Runners & Jerry Mayes, Economic Development (386) 878-8619.

Don Stoner with Runners High, West Volusia Runners, gave a presentation on the Central Florida Legends Skunk Ape Marathon, Mermaid Half-Marathon and Fountain of Youth 5K to take place on November 22, 2020.

B. Video Presentation - Halifax/UF Health Hospital Facility and request for approval of Halifax Deltona Entry Feature Use Agreement - Mr. Rafael Ramirez, Marketing and Communications for Halifax Health.

Strategic Goal: Internal and external communication

Rafael Ramirez, Marketing and Communications for Halifax Health gave a video presentation on Halifax/UF Health Hospital Facility and a request for approval of the Halifax Deltona Entry Feature Use Agreement. He then provided a brief explanation of the agreement between the Medical Center of Deltona, Inc. and the City of Deltona granting a license to use City property/right-of-way for installation and maintenance of entry features.

Motion by Commissioner Avila-Vazquez, seconded by Commissioner Nabicht, to approve the Agreement between the Medical Center of Deltona, Inc., d/b/a Halifax Health, and the City of Deltona granting license to use city property/right of way for installation and maintenance of entry features. Upon approval of this item authorizes any and all necessary actions, documents or budget transfers to facilitate Commission approval and further authorized the Interim City Manager to sign any documents necessary to further Commission approval of this item. The motion carried by the following vote:

For: 6 - Mayor Herzberg, Vice Mayor Ramos, Commissioner Avila-Vazquez, Commissioner King, Commissioner McCool, and Commissioner Nabicht

C. Proclamation - Halifax Health Fights Against Breast Cancer Day.

Commissioner McCool on behalf of the Mayor and Commission presented a Proclamation to Rafael Ramirez, Marketing and Communications for Halifax Health, and members of his team proclaiming October 19, 2020 as Halifax Health Fights Against Breast Cancer Day.

6. ORDINANCES AND PUBLIC HEARINGS:

A. Public Hearing - Resolution No. 2020-53, Conditional Use Application for a Community Residential Home at 1202 Sherbrook Drive - Ron A. Paradise, Director, Planning and Development Services (386) 878-8610.

Strategic Goal: Economic Development - Create more diversified and high-quality housing opportunities.

Planning & Development Services Director Ron Paradise gave a brief explanation of the item.

Vice Mayor Ramos asked if the three additional occupants were taking care of the other two residents and Mr. Paradise replied Ms. Moye, but she may have help who will not be living there.

Commissioner Avila-Vazquez asked if there were three bedrooms and Mr. Paradise replied yes, they are allowed to double up on bedrooms which is regulated by AHCA (Agency for Health Care Administration).

Mayor Herzberg questioned the living area expansion and Mr. Paradise replied it involves a porch and he does not remember the exact square footage. Mayor Herzberg asked if the garage is to remain a garage and Mr. Paradise replied yes, to store vehicles.

Commissioner Avila-Vazquez asked who follows up on the home and Mr. Paradise replied AHCA and they also do a fire inspection.

Mayor Herzberg stated that the existing septic is okay, but if the porch is expanded it would then need to be looked at and Mr. Paradise replied yes. Mayor Herzberg stated she has an issue with homesteading this and Mr. Paradise replied the statute does not speak specifically to homestead, but the home could still maintain as a homestead with it as another type of home activity.

Commissioner King asked if the family has any medical background or training and Applicant Chastity Moye replied she is a certified CNA (Certified Nursing Assistant), she is

certified in CPR (Cardiopulmonary Resuscitation) and she would be the primary care giver.

Motion by Commissioner Nabicht, seconded by Commissioner King, to approve Resolution No. 2020-53, a Conditional Use request for a Community Residential Home at 1202 Sherbrook Drive, subject to the following conditions:

- a. The applicant shall provide an approval letter from Volusia County Health Department for the existing septic system prior to the issuance of the BTR to ensure the existing septic system is adequate in light of living area expansion at the house. If the existing septic is not adequate the applicant will be required to upgrade the existing septic system prior to the BTR issuance;**
- b. The dwelling shall serve no more than two (2) non-related elderly residents within the dwelling;**
- c. All residents and related service shall be directly associated with and regulated by the Florida Agency for Health Care Administration (AHCA);**
- d. The CRH shall remain under management and ownership of Chastity Moye, the property owner of 1202 Sherbrook Drive;**
- e. The applicant shall continue to utilize the dwelling as a primary residence, including maintaining the residence as a homesteaded dwelling;**
- f. No signage shall be allowed besides what is allowed for a home occupation; and**
- g. The proposed CRH service is for an AFCH; if the applicant desires to provide any other services, a new conditional use application shall be submitted to the City for review and action.**

Upon approval of this item authorizes any and all necessary actions, documents or budget transfers to facilitate Commission approval and further authorized the Interim City Manager to sign any documents necessary to further Commission approval of this item.

Mayor Herzberg opened the public hearing.

Richard Bellach, 1665 South Acadian Drive, Deltona, spoke about what happens to the people if something happens to the home and who else is there to care for the people.

Mayor Herzberg closed the public hearing.

Mayor Herzberg asked who monitors the outside of the house and the parking? The State allows up to six residents, but what if there is medication, who monitors the garbage and is it the City's job to make sure the home is maintained. Commissioner Nabicht replied yes, the statute creates the facilities to meet a need, the applicant may be assisting with providing medication, but not actually administering it.

The City Attorney read the title of Resolution No. 2020-53 for the record.

A RESOLUTION OF THE CITY OF DELTONA, FLORIDA; GRANTING A CONDITIONAL USE TO PERMIT A COMMUNITY RESIDENTIAL HOME WITHIN AN R-1A, SINGLE FAMILY DISTRICT FOR THE PROPERTY LOCATED AT 1202 SHERBROOK DRIVE, WITHIN THE CITY OF DELTONA; PROVIDING CONDITIONS, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

The motion carried by the following vote:

For: 6 - Mayor Herzberg, Vice Mayor Ramos, Commissioner Avila-Vazquez, Commissioner King, Commissioner McCool, and Commissioner Nabicht

Resolution No. 2020-53 was approved at 7:21 p.m.

7. OLD BUSINESS:

None.

8. NEW BUSINESS:

- A. Consideration of the appointment of one (1) Deltona City Commissioner to the Affordable Housing Advisory Committee for a term to expire October 5, 2021, per House Bill 1339 - Joyce Raftery, City Clerk (386) 878-8502.**

Strategic Goal: Internal and external communication.

Mayor Herzberg asked if this is something that needed to be done tonight and the City Clerk replied yes, so that the board could meet if necessary to start their process.

Mayor Herzberg opened and closed the public comments as there were none.

Motion by Commissioner Nabicht, seconded by Commissioner McCool, to confirm the appointment Commissioner Avila-Vazquez to the Affordable Housing Advisory Committee for a term to expire on October 5, 2021, per House Bill 1339. Approval of this item authorizes the necessary budget transfers to facilitate Commission approval and further authorizes the interim City Manager to sign any documents necessary to implement Commission approval of this item. The motion carried by the following vote:

For: 6 - Mayor Herzberg, Vice Mayor Ramos, Commissioner Avila-Vazquez, Commissioner King, Commissioner McCool, and Commissioner Nabicht

B. Request for approval of proposed repayment plans for delinquent utility bills and implementation of water disconnects - John Peters, III, P.E., Public Works/Deltona Water (386) 878-8973.

Strategic Goal: Provision of utility services

Public Works/Deltona Water Director John Peters gave a brief explanation of the item.

Commissioner Nabicht stated his concern is regarding rental property and the bill being in the tenants name. With regards to evictions there should be something in this where the landlord becomes responsible for the billable water that has not been paid. Otherwise, how does the City recoup that cost. Mr. Peters replied that is already severe problems and staff will be bringing an ordinance change to the Commission for approval. Right now the City cannot put a lien on the property for the value of the bill and the City has a large unpaid balance which would be written off. He recommends that the tenant and landlord sign the agreement, both parties would then get a copy of the water bill and there would be an additional cost for the second bill. A similar program exists in Palm Beach County which he will model the ordinance after.

Mayor Herzberg suggested bringing the ordinance forward sooner rather than later.

Commissioner McCool asked how much outstanding balance there is pre-COVID (Coronavirus) and during COVID and Mr. Peters replied from the time the program was implemented there are 3,500 customers who are late which is about \$500,000.

Commissioner McCool asked to educate residents regarding third party payments. If the third party does not pay the bill on the due date the homeowner is still responsible for any additional fees. She asked if the 120 day late payment plan is an option and Mr. Peters replied if the resident signs the agreement it would be 120 days. Staff wanted to put a cap on what could be negotiated which is 8 months of delinquency.

Commissioner McCool asked if when a resident is negotiating a repayment plan the disconnect and late fees are then waived. Mr. Peters replied yes they are suspended so when the resident is negotiating the repayment plan they have the choice of Option A: pay in full, Option B: payment schedule and Option C: disconnect and responsible for all the fees.

Commissioner King asked if the CARES Act funding help to pay anyone's bill and Mr. Paradise replied to date the City has granted over \$150,000 and although he does not have a breakdown the majority went toward mortgage and rental assistance followed by utilities. Staff receives 500 inquires per week about the program, but it is a means based program and if the person is not income qualified the City cannot help them.

Mayor Herzberg passed the gavel to make Vice Mayor Ramos.

Motion by Mayor Herzberg, seconded by Commissioner Avila-Vazquez, to approve the proposed repayment plan for delinquent utility bills and

implementation of water disconnects. Upon approval of this item authorizes any and all necessary actions, documents or budget transfers to facilitate Commission approval and further authorizes the Interim City Manager to sign any documents necessary to further Commission approval of this item.

Mayor Herzberg opened the public comments.

Elbert Bryan, 1625 Joyner Drive, Deltona, spoke about the program, delinquencies, pre and post COVID, fliers, shut offs, City Attorney, the process, homeowners & tenants, and sewer.

Terri Ellis, 1620 West Akron Drive, Deltona, spoke about communication.

Mayor Herzberg closed the public comments.

The motion carried by the following vote:

For: 6 - Mayor Herzberg, Vice Mayor Ramos, Commissioner Avila-Vazquez, Commissioner King, Commissioner McCool, and Commissioner Nabicht

Vice Mayor Ramos passed the gavel back to Mayor Herzberg.

9. PUBLIC FORUM: Citizen comments are limited to issues and concerns not on the agenda and comments on items listed on the agenda will take place after discussion of each item. Please be courteous and respectful of the views of others. Personal attacks on Commission members, City staff or members of the public are not allowed, and will be ruled out of order by the Mayor.

Elbert Bryan, 1625 Joyner Drive, Deltona, spoke about Dr. Cooper, the change in venue and communication.

Richard Bellach, 1665 South Acadian Drive, Deltona, spoke about the City Attorney, M.L.K. Jr. monument, the former City Manager, dignity and honor, ethics and group homes and liability.

CONSENT AGENDA: The consent agenda contains items that have been determined to be routine and non-controversial. If anyone in the audience wishes to address a particular item on the consent agenda, now is the opportunity for you to do so. Additionally, if staff or members of the City Commission wish to speak on a consent item, they have the same opportunity.

10. CONSENT AGENDA:

Mayor Herzberg requested to pull Consent Agenda Items 10- B, C and D for discussion.

Motion by Vice Mayor Ramos, seconded by Commissioner Avila-Vazquez, to approve Consent Agenda Items 10-A and 10-D. The

motion carried by the following vote:

For: 6 - Mayor Herzberg, Vice Mayor Ramos, Commissioner Avila-Vazquez, Commissioner King, Commissioner McCool, and Commissioner Nabicht

A. Request for approval of the 2021 holiday meeting schedule - Joyce Rafferty, City Clerk's Department (386) 878-8502.

Strategic Goal: External and Internal Communication

Approved by Consent - to approve the meeting and invocation calendars for 2021, as presented and upon approval of this item authorizes the necessary budget transfers to facilitate Commission approval and further authorizes the City Manager to sign any documents necessary to implement Commission approval of this item.

B. Request for approval of Resolution No. 2020-59 revising the City's Investment Policy - Camille Hooper, Finance Director - (386) 878-8552.

Strategic Goal: Fiscal Issues

Mayor Herzberg stated her concern is the language "Upon approval of this item authorizes any and all necessary actions, documents or budget transfers to facilitate Commission approval and further authorized the Interim City Manager to sign any documents necessary to further Commission approval of this item." and she questioned if there were to be any changes would this come back to the Commission for approval. Finance Director Camille Hooper replied yes, if there are any change it will come back to the Commission. Interim City Manager Dr. Cooper stated the decision is made by the professional firm that was hired by the City and by the Commission.

Commissioner Nabicht stated the Commission should have no desire to be involved in doing the actual investing and the decision is made by an investment manager who does that for a living.

Interim City Manager Dr. Cooper stated that for Item 10-C there is one correction on Page 2, Section 3, of the Resolution the word "decisions" should be changed to "recommendations".

Motion by Commissioner Nabicht, seconded by Vice Mayor Ramos, to approve Items 10-B and 10-C.

Mayor Herzberg opened and closed the public comments as there were none.

The motion carried by the following vote:

For: 6 - Mayor Herzberg, Vice Mayor Ramos, Commissioner Avila-Vazquez, Commissioner King, Commissioner McCool, and Commissioner Nabicht

Resolution No. 2020-59 was approved at 7:34 p.m.

- C. Request for approval of Resolution No. 2020-60 creating a Deferred Compensation Working Group - Camille Hooper, Finance Director - (386) 878-8552.**

Strategic Goal: Fiscal Issues

This item was approved under the previous item.

- D. Request for approval of Resolution No. 2020-61, Budget Amendment for Replacement Equipment Fund for FY 2020-2021 - Camille Hooper, Finance Director, (386) 878-8552; and John Peters III, Public Works Director, (386) 878-8973.**

Strategic Goal: Fiscal Issues - Maintain a Balanced Budget

Approved by Consent – to approve Resolution No. 2020-61, Budget Amendment for the Replacement Equipment Fund for FY 2020-21. Upon approval of this item authorizes any and all necessary actions, documents or budget transfers to facilitate Commission approval and further authorized the Interim City Manager to sign any documents necessary to further Commission approval of this item.

- E. Request approval of Resolution No. 2020-62 Providing for the approval of a Local Agency Program Agreement for widening shoulders of Elkcam Blvd. and approval of Local Agency Program (LAP) Agreement - Elkcam Boulevard from Sylvia to Fort Smith - John Peters, III, P.E., Public Works/Deltona Water (386) 878-8973.**

Strategic Goal: Transportation Improvements

Mayor Herzberg asked what the time frame is for this and Mr. Peters replied within the year and the City's share is roughly 30%.

Commissioner McCool asked who audits deliverables on projects and Mr. Peters replied in this case FDOT (Florida Department of Transportation) who does a robust review and audit.

Motion by Commissioner Nabicht, seconded by Vice Mayor Ramos, to

approve Resolution No. 2020-62 and the LAP Agreement with the Florida Department of Transportation for the widening of shoulders on Elkcam Boulevard from Sylvia Drive to Fort Smith Boulevard. Upon approval of this item authorizes any and all necessary actions, documents or budget transfers to facilitate Commission approval and further authorized the Interim City Manager to sign any documents necessary to further Commission approval of this item. The motion carried by the following vote:

For: 6 - Mayor Herzberg, Vice Mayor Ramos, Commissioner Avila-Vazquez, Commissioner King, Commissioner McCool, and Commissioner Nabicht

11. CITY COMMISSION SPECIAL REPORTS AND REQUESTS:

Commissioner Avila-Vazquez requested to have a CRA (Community Redevelopment Agency) meeting to go over CRA projects because residents and businesses in the CRA area, District #3, have been inquiring.

After discussion, the Commission concurred to have a CRA meeting to discuss projects in the CRA area.

Commissioner McCool requested adding an agenda item to discuss in fill areas, problem lots and construction sites. She also requested that she be provided copies of policies on street debris and clean up because she is having an issue with someone breaking glass or porcelain in the middle of a City road which is near a park and a bus stop. She questioned whose responsible for cleaning City roads.

Interim City Manager Dr. Cooper replied he had discussions about that particular house with the Commissioner. Every time the issue has been cleaned up the resident does it again, repeatedly, and both Code Enforcement and the VCSO (Volusia County Sheriff's Office) have given the resident warnings. However, to sent Public Works staff out there every time is a waste of City resources because staff knows the resident is going to continue to do it. The Parks & Recreation staff do clean up around that area, but this is an every other day occurrence.

Commissioner Nabicht stated the Public Works on call person should be called out there every time it happens to clean up the debris and he does not care how many times, what day or time of the day it is or even if it is a holiday, but they are to mitigate the hazard. It is the City's responsibility to keep the roads safe. Dealing with the person doing it is complicated. Public Works is trained on working in the road, with bio-hazard materials and has equipment to do that. The City needs to deal with the issue until VCSO can mitigate the problem or the person that is doing this.

Commissioner McCool stated she has gone to different construction sites within the City

and there are some builders who run a muck. The responsible builders have pristine sites, the debris mitigated from the right-of-way and there is a barrier to protect the surrounding lots. The issue is there does not seem to be a standard or maybe there is and not all builders are following it.

Commissioner Avila-Vazquez stated she had a discussion regarding builders with the Interim City Manager and Interim Deputy City Manager and an email was sent out that staff was reviewing these policies with the builders which she hopes is a part of this.

Interim City Manager Dr. Cooper replied there is a piece of the code that for whatever reason during the housing decline the City chose not to push forward so staff is implementing that. Some people will be upset because this will add an additional cost to their project, but it is the right thing to do to secure the individual lots so it does not affect the surrounding properties. The City is taking a hard stand on that as well as on dumpsters not being in the right-of-way. A number of builders have been open to it, but there have been some challenges and staff has seen some improvements.

Mayor Herzberg asked for an update on the trees because she gets asked when a lot gets cleared what is the requirement for tree replacement and how it is mitigated.

After discussion, the Commission concurred to workshop in fill, problem lots, construction sites and tree replacement.

12. CITY ATTORNEY COMMENTS:

None.

13. CITY MANAGER COMMENTS:

Interim City Manager Dr. Cooper stated come January 1st staff will be looking at revising and bringing forth recycling task force recommendations to the Commission. He noticed a someone has brought this up to several Commissioners, staff did not forget about it that and COVID did slow some things down.

14. CITY COMMISSION COMMENTS:

Commissioner Nabicht stated most people probably know, but for a teachable moment a Certificate of Occupancy (CO) is issued by the Building Official after the Fire Official signs off on a construction project. It is a local process dictated by the Building Code, therefore it is staff. He will ask this question because there was a comment made by Former Commissioner Barnaby that the Mayor asked him to intervene and expedite (paraphrasing) the CO for Halifax Hospital which would have been the Mayor interfering with staff which would be a violation of the City Charter. He is sure the Mayor would not do that, but he wants her to go on record. Commissioner Nabicht asked Mayor Herzberg "Did you ask Mr. Barnaby to facilitate the Certificate of Occupancy by the City's Building Official for Halifax Hospital?" Mayor Herzberg replied "I absolutely did not, absolutely not." Commissioner Nabicht stated so that was a false statement made publicly by Mr. Barnaby that was untrue, he did not act on the Mayor's behalf and try to influence a public official with regards to

approving Halifax Hospital's CO.

Commissioner King thanked the Commission for the City's donation to Wreaths Across America, the check was received. He also thanked the residents that have contact him, his wife or the American Legion to donate to Wreaths Across America. The event is struggling this year, more donations are needed and so far the organization has raised \$3,000 and needs another \$5,000 more. If anyone knows any corporate or individuals please get in touch with him or the American Legion. He asked who is responsible the tenant, land owner or Waste Pro for making sure that containers are kept in the corral and that the area inside the corral is clean? Interim City Manager Dr. Cooper replied the Mayor report this, there is an existing case on this and he will follow up to see if it can be expedited. Mayor Herzberg stated that there is language in the Waste Pro agreement that businesses have to have a corral that is well maintained and Interim City Manager Dr. Cooper stated they are contracted with Waste Pro as their provider and it is the landlord's responsibility to keep it maintained.

Vice Mayor Ramos gave a shout out to Parks & Recreation, the youth basketball games concluded about a week and a half ago. He also thanked the parents and kids that participated in the program and hopefully the champions at some point in time can be acknowledged during a Commission meeting. There is a lot going on at Wes Crile and staff has started the "Daily Mile" which is every Tuesday and Thursday starting at 6:00 p.m. There has been a department, City Clerk's Department, that has been participating in the Daily Mile. They have put out a challenge not just to the other departments, but to the Commissioners as well. He would like to see any of the Mayor, any of the Commissioners, the City Attorney or the Interim City Manager to come out and participate. This is a great opportunity to and there are from six to ten people walking at their own pace. The City signed something already for the ECHO Volusia Forever for the inclusive fitness stations, but is there any way a banner can be placed at Wes Crile with pictures of what will be installed. A lot of times the residents do not realize what is coming down the pike, that park is heavily used and it would be a way to get the residents excited about the things that are happening. He looks forward to seeing everyone tomorrow at 6:00 p.m. Mayor Herzberg asked if there is a representative from the City Clerk's Department or the whole department walking because she nominates the Vice Mayor as the Commission's representative. Vice Mayor Ramos stated the Clerk's Department has three staff members and the Community Information Specialist are participating.

Mayor Herzberg asked for an update on the Compensation Study at the next meeting and she asked if it was moving forward. Interim City Manager Dr. Cooper replied yes, it is in the process and the firm has been chosen.

Mayor Herzberg reminded everyone that the next Regular Commission Meeting on November 2nd will be back in the Commission Chambers.

Commissioner Nabicht thanked the IT (Information Technology) staff, camera staff, Public Information staff, and anyone else that helped make this meeting work tonight he knows it

was a lot of work.

Interim City Manager Dr. Cooper stated there will be no other meetings the rest for the rest of October.

Mayor Herzberg wished everyone a Happy Halloween and she thanked the City Clerk's Office.

Vice Mayor Ramos reminded everyone about the Trunk or Treat event at The Center starting at 6:30 p.m. on Thursday, October 29th. It is a drive through only event, no walk-ups, while supplies last.

15. ADJOURNMENT:

There being no further business, the meeting adjourned at 8:35 p.m.

Heidi K. Herzberg, MAYOR

ATTEST:

Joyce Raftery, CMC, MMC, CITY CLERK