



City of Deltona

2345 Providence Blvd.
Deltona, FL 32725

Minutes

City Commission

Monday, July 1, 2024

6:30 PM

Deltona Commission Chambers

DECORUM POLICY: The City of Deltona has a significant interest in conducting orderly and efficient public meetings, which includes preventing disruption, promoting civility, and preserving decorum. To that end, behavior which disrupts or impedes the efficient and orderly conduct of any public meeting, as determined by the Mayor, or presiding officer, or a majority of the City Commission, is not permitted. The Mayor, or presiding officer, or a majority of the City Commission, may interrupt, warn, or terminate a speaker's statement when that statement is too lengthy, personally directed, abusive, obscene, irrelevant, or otherwise reasonably perceived to be a disruption to the fair and orderly progress of the discussion at hand. The Mayor, or presiding officer, or a majority of the City Commission, may also interrupt any part of the meeting to warn any individual that they are being disruptive or otherwise impeding the efficient and orderly conduct of the meeting. The Mayor, or presiding officer, or a majority of the City Commission, may require any individual to leave a public meeting for its duration if that individual is unable to observe this Policy after being warned. Should an individual be required to leave a meeting for violating this Policy, that person shall be escorted from Commission Chambers by a Volusia Sheriff's Deputy.

1. CALL TO ORDER:

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

2. ROLL CALL – CITY CLERK:

Present: 6 - Mayor Avila
Commissioner Avila-Vazquez
Commissioner Colwell
Commissioner Heriot
Commissioner McCool
Commissioner Shimkus

Absent: 1 - Vice Mayor JodyLee

3. INVOCATION AND PLEDGE TO THE FLAG:

A. Invocation Presented by District #5 Commissioner.

4. APPROVAL OF MINUTES & AGENDA:

A. Approval of minutes of the Regular Commission Meeting of June 17, 2024 and the Executive Session of June 24, 2024, as presented. - Joyce Raftery, City Clerk (386) 878-8502.

Motion by Commissioner Heriot, seconded by Commissioner Colwell, to approve the minutes of the Regular Commission Meeting of June 17, 2024, and the Executive Session of June 24, 2024, as presented. The motion carried by the following vote:

For: 6 - Mayor Avila, Commissioner Avila-Vazquez, Commissioner Colwell, Commissioner Heriot, Commissioner McCool, and Commissioner Shimkus

5. PRESENTATIONS/AWARDS/REPORTS:

6. PUBLIC FORUM: Public comments during Public Forum are limited to items of City business that are listed on the Agenda and/or items that are not listed on the Agenda. Comments regarding listed Agenda items will take place after discussion of each item. Please be courteous and respectful of the views of others. In order to address the Commission, citizens must fill out a public participation slip and give it to the Deputy City Clerk. All citizen comments are limited to 4 minutes and shall be addressed to the Mayor or the Commission as a whole. Members of the City Commission shall not enter into discussion or respond to a citizen's comments other than to give directions or to ask for clarification. However, individual Commissioners may choose to respond under the "City Commissioner Comments" portion of the meeting.

Mayor Avila opened the public comments and Mike Williams and Caroline Shine, Kathy Bryan, Brandy White, and Courtney Cross-Burgos addressed the City Commission.

7. ORDINANCES AND PUBLIC HEARINGS:

8. OLD BUSINESS:

9. NEW BUSINESS:

A. Request for approval of engagement with Purvis Gray, LLC to provide professional external audit services.- Julia Johnson, Deputy Finance Director (386) 878-8978

Strategic Goal: Fiscal Issues - Maintain a balanced budget

The Deputy Finance Director gave a brief introduction of the item. She stated that Purvis Gray will be at the next regularly scheduled meeting to present the 2023 Annual Comprehensive Financial Report and tonight is the request to move forward with next year's

audit.

The Commission discussed the last bid, surrounding cities' contracts, finding another solution, time sensitivity, going out for RFQ (Request For Quote), what the audit covers, not uncovering misrepresentation, some flaws year after year, looking at policies and processes, the engagement letter covering the scope, the increase in cost, the CRA (Community Redevelopment Agency) audit, meeting deadlines, the IRS (Internal Revenue Service) letter, wanting assurances, bench marks, the timing (i.e. July), the Fitch Ratings Report, grants, not pulling the trigger this year, understanding the auditor's scope of work, and this not being a forensic audit.

Motion by Commissioner Heriot, to direct the City Manager to put out a public RFP or RFQ procurement as he sees fit and he wants to make sure that this process is transparent and he would also like to see that the findings from this audit get posted to the City website so that all of the residents can see hopefully what is not there. Hopefully that they don't come back with any audit findings but, if they do he'd like, regardless he'd like to see all that posted to the website and then he'd also like to see this process include not only financial but, if we could include an operational audit as well that would be phenomenal. Motion dies for lack of a second.

Mayor Avila asked for a point of clarification, is the motion going to also include approving or declining the request.

Motion by Commissioner Heriot, seconded by Commissioner Colwell, to decline the engagement letter and instruct the City Manager to go out for the appropriate procurement for an internal auditor this year.

The Commission discussed the audits being public and always posted online, disagreeing with declining the engagement letter, interrupting the process, not a good use of time, and separating the motions.

Amended motion by Commissioner Heriot, seconded by Commissioner Colwell, to instruct the City Manager to go out for the appropriate procurement for an internal auditor this year. The amended motion carried by the following vote:

For: 6 - Mayor Avila, Commissioner Avila-Vazquez, Commissioner Colwell, Commissioner Heriot, Commissioner McCool, and Commissioner Shimkus

The Mayor suggested tabling the item and having staff get some timelines.

The Commission, City Manager, and staff discussed prepping for the year end, testing processes, the IRS letter, asking questions at the next meeting, getting dates and timeline, missing deadlines, the impact to the process, and the audit being due March 31, 2025.

Motion by Commissioner Shimkus, seconded by Commissioner Heriot, to table this to a future meeting to be determined because we won't have a date for that until we have an RFQ so he doesn't want to put a date certain on this tonight as we don't know when we are gonna have an RFQ available.

Commissioner McCool suggested that it would be helpful for the Commission and the community to actually listen to the report and ask questions at that time.

The motion carried by the following vote:

For: 6 - Mayor Avila, Commissioner Avila-Vazquez, Commissioner Colwell, Commissioner Heriot, Commissioner McCool, and Commissioner Shimkus

B. Review and discussion of City Attorney process - Doc Dougherty, City Manager (386) 878-8858.

Strategic Goal: Internal and External Communications

The Mayor asked for consensus to have the City Attorney leave the room for the remainder of the meeting.

The City Manager stated there are several options for the Commission to discuss. Either an in-house City Attorney, an out-house City Attorney, or a combination of both. Traditionally, when there is outside legal representation needed, as what we have been going through in just the last year or two using an outside counsel, there were still needs that we had to go out for additional counsel maybe on labor issues or major trial issues. So whether we have an in-house attorney or an out-house firm, there is still the need to have other specialties so there is nobody you can hire directly that has all the specialties except maybe a large, large firm that has that ability. So, basically, staff is looking for direction from the Commission as to how to move forward with possibly looking for an individual attorney. Based on conversations with some of the Commission, there is a possibility for hiring a major attorney and a junior attorney, along with the current paralegal, to create an internal firm, which is not unusual in today's environment, especially with surrounding cities that have extensive law groups with them. Or the City can go out and find a firm that has all of that which is similar to what the City had before the current City Attorney.

The Commission discussed creating an internal firm, using a search firm like Colin Baenziger, coverage needed, specialty attorneys, cost, investing in one individual, hiring an outside firm, the pool of applicants, the prior pool of applicants and contacting them, understanding priorities, having good representation across the board, legal challenges, the City Attorney being a Charter Officer, current and future litigation, historical knowledge, the current paralegal, residents' input, an individual cannot do everything needed, filling this gap, placing an advertisement, time frame, this being a Commission decision, experience, surrounding cities' attorneys, Seminole County's in-house attorneys, investing in the current

paralegal, using the same attorneys for litigation, needing more than one attorney, having a committee of residents, the structure moving forward, and having all legal staff in one area.

Motion by Commissioner Heriot, seconded by Commissioner Colwell, to direct the City Manager to pursue a search firm to hire an in-house City Attorney for the City of Deltona.

The City Manager suggested the City piggyback off of its previous contract with Colin Baenziger & Associates, who does search for all positions and not just City Managers.

First amendment to the motion by Commissioner Heriot, seconded by Commissioner Colwell, to instruct the City Manager to use our contract with Colin Baenziger & Associates to hire a City Attorney.

The Commission and the City Manager discussed not using an attorney with political ties or aspirations, understanding what the City needs, slowing down, lawsuits being handled and decided by the insurance carrier, being pigeonholed, the discovery process, wanting options, the job description, amending the motion, and not setting the City back.

Commissioner Heriot stated what he does not want is to set us back a few steps. His intent is to use a contract we already have to find somebody as quickly as possible so that we don't have that gap. He is not interested in finding someone that is temporary. What he is interested in is finding somebody that is fully capable of covering the City for its needs now and growing with the City. We have a City of 100,000 residents and he thinks it is about time we invest in our City and the City Attorney's office and he thinks finding an individual is the right step. That being said if we want to leave it open then he would be okay with hearing presentations and such of information from Colin Baenziger so we can make that decision.

The Mayor asked if Commissioner Heriot is going to amend his motion.

Commissioner Heriot stated he will amend the motion.

Second amendment to the motion by Commissioner Heriot, what he does not want is to set us back a few steps. He wants, the intent is to use a contract we already have to find somebody as quick as possible so that we don't have that gap. I am not interested in finding someone that is temporary. What I am interested in is finding somebody that is fully capable of providing the City for its needs now and growing with the City. We have a City of 100,000 residents and he thinks it is about time we invest in our City and the City Attorney's office and he thinks finding an individual is the right step. That being said if we want to leave it open then he would be okay with hearing presentations and such of information from Colin Baenziger so we can make that decision. The amended motion dies for lack of a second.

The Commission and City Manager discussed public knowledge, not excluding Volusia County firms, Commission deciding what they see, living within a 25 mile radius, running up hours, providing a yearly rate, and budgeting consistently.

The Mayor opened the public comments and Courtney Cross-Burgos, Elbert Bryan, Brandy White, Matthew Shaw, and Kathy Bryan addressed the City Commission.

Commissioner Heriot reread his motion as follows "the motion was the City Manager to piggyback off of the previous contract with Colin Baenziger to identify whether the appropriate action would be to get an individual or a firm represented for City Attorney representation for the City, the City of Deltona."

The first amendment to the motion carried by the following vote:

For: 5 - Mayor Avila, Commissioner Avila-Vazquez, Commissioner Colwell, Commissioner Heriot, and Commissioner Shimkus

Against: 1 - Commissioner McCool

The Mayor asked how the City was going to address the shortfall in the City Attorney's budget.

The City Manager replied it is not necessarily a shortfall but a misunderstanding. There is \$480,000 budgeted in a line item for legal services. The understanding at 40 hours a week at \$150 an hour is about \$312,000. The discrepancy is what the City Attorney believed was to be paid to her, the proposal sent to the Commission and attachments that were put together for an email for the Commission included the City Attorney's proposal of \$150 an hour but, it does not say how many hours. So, he believes there is confusion of the Commission thinking it was \$312,000 which is 40 hours a week assuming that is the workload. The City Attorney budgeted \$480,000 so her assumption was about 70 hours a week, not 40, which would lead to about \$40,000 a month opposed to a \$24,000 a month. There is money budgeted, staff does not have to find money, its that the purchase order was done for about \$312,000 under that \$480,000 line item. It is not as if staff will need to move money from, say, special events to help pay the City Attorney, the money is there it just stops at \$312,000 while the remaining money sits there. There is an invoice for the past month that is approximately \$38,000 and over the next three months, even right now, there is no mechanism to pay unless the Commission would move forward establishing 40 hours at \$150 an hour and the assumption would be that was what was expected from the start.

The Commission and City Manager discussed the item not being on the agenda, not going over 40 hours a week, what the attorney is working on, bringing the item back, prioritizing the City's legal responsibilities, separating the direction, and the passed bill for last month.

10. COMMENTS ON CONSENT ITEMS: Citizen comments are limited to issues and concerns on the Consent Agenda item(s). Please complete a public participation slip and indicate in the subject line the issue you wish to address. Members of the City Commission shall not enter into discussion or respond to individuals' comments during the public forum other than to give directions or to ask for clarification. 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.

11. CONSENT AGENDA: The Consent Agenda contains items that have been determined to be routine and non-controversial. If discussion is desired by any member of the City Commission, that item must be removed from the Consent Agenda and considered separately. All other matters included under the Consent Agenda will be approved by one motion. Citizens with concerns should address those concerns by filling out a public participation slip and giving it to the Deputy City Clerk prior to Consent Agenda items being pulled.

The Mayor requested to pull Item 11-B for discussion.

Motion by Commissioner McCool, seconded by Commissioner Heriot, to approve Consent Agenda Items 11-A and 11-C. The motion carried by the following vote:

For: 6 - Mayor Avila, Commissioner Avila-Vazquez, Commissioner Colwell, Commissioner Heriot, Commissioner McCool, and Commissioner Shimkus

- A. Request to approve the Statewide Mutual Aid Agreement between the City of Deltona and the state of Florida - Fire Chief Bill Snyder, Fire Department (386) 575-6902**

Strategic Goal: Public Safety

Approved by Consent - to approve the Statewide Mutual Aid Agreement between the City of Deltona and the State of Florida.

- B. Request for recognitions for the month of July - Doc Dougherty City Manager (386) 878-8858.**

Strategic Goal: Internal and External Communication

The Mayor requested a consensus to add a Proclamation for July 4th to be read at the July 4th event and the Commission concurred.

Motion by Commissioner Avila-Vazquez, seconded by Commissioner Heriot, to approve the requested recognitions for the month of July and

to add a Proclamation for July 4th to be read at the upcoming event.

The motion carried by the following vote:

For: 6 - Mayor Avila, Commissioner Avila-Vazquez, Commissioner Colwell, Commissioner Heriot, Commissioner McCool, and Commissioner Shimkus

C. Quarterly Reports of City Advisory Boards/Committees - Joyce Raftery, City Clerk (386) 878-8502

Approved by Consent - to approve the Quarterly Reports as presented.

12. CITY COMMISSION SPECIAL REPORTS AND REQUESTS:

Commissioner Heriot requested a consensus to limit the City Attorney's hours to 40 hours a week until her resignation is realized and the Commission concurred.

Commissioner Avila-Vazquez requested an updated report on all vacant businesses on Deltona Blvd. to include any fines, and what has been collected. This also includes the home businesses near Justin Plaza, some are empty and have been purchased by a company. She would like to know what the company's intentions are for those four (4) or five (5) houses because they are deteriorating like before. Her second request is the status of gas station near Lil Sammy's Food Mart on Deltona Blvd. Her third request is an update on the small building that used to be Dr. Vazquez. These are all vacant properties and she would like to know what their intentions are.

Commissioner McCool requested a resident friendly budget meeting, if for nothing else, to see what is important to them. Her second request is a public meeting where residents can bring their water bills and staff can explain the bill to them and educate them on things to look for in regards to leaks. Her third request is that the City Commission consider vacating their offices at City Hall and she will bring this back up in two (2) weeks.

Mayor Avila requested to continue responding to citizens questions asked during public comments and copy the Commission on the correspondence.

Mayor Avila requested to do a Town Hall collectively similar to the visioning session that was done for the Comprehensive Plan where the residents can come in and ask questions of department heads and if the Commission agrees he will cancel his Town Hall and the Commission concurred.

13. CITY ATTORNEY COMMENTS:

14. CITY MANAGER COMMENTS:

The City Manager stated he will put something together like a charrette meeting with the staff and he will discuss it tomorrow morning at the staff meeting. With regards to the July

4th Proclamation, he will make sure that it is include in future years.

15. CITY COMMISSION COMMENTS:

Commissioner Heriot spoke about responding to residents' questions, the budget process, supporting the idea of a Town Hall but, he encouraged residents to reach out to the Commission regarding budget questions.

Commissioner Shimkus reminded everyone of the July 4th event.

Commissioner Avila-Vazquez gave a shout out to the Caribbean Chamber for their event yesterday. She spoke about vacating Commission offices, respecting the City Charter and the City Manager, and Commissioners responding to residents under City Commission Comments.

Commissioner McCool reminded everyone of Fall Baseball registration, August 2nd the Mommy and Me Dance, July 15th low cost animal vaccines, the City Manager's Report, September 27th Wig Out for Cancer, and July 11th Compstat Meeting.

Mayor Avila spoke about cancelling his Town Hall effectively immediately, and looking into an issue with a resident's water bill and tiered billing.

16. ADJOURNMENT:

There being no further business, the meeting adjourned at 8:22 p.m.

Santiago Avila, Jr., MAYOR

ATTEST:

Joyce Raftery, CMC, MMC, CITY CLERK