



City of Deltona

2345 Providence Blvd.
Deltona, FL 32725

Minutes

City Commission

Monday, February 17, 2025

6:30 PM

Deltona Commission Chambers

PUBLIC FORUM: 6:00 PM - 6:30 PM

Mayor Avila opened the public forum and Randy Walker, Dana McCool, Richard Bellach, Gale Barr, Courtney Cross-Burgos, Rose (Ana Loser), Kathy Bryan, and David Sosa addressed the City Commission.

BUSINESS MEETING - 6:30 PM

1. CALL TO ORDER:

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

2. ROLL CALL – CITY CLERK:

Present: 7 - Mayor Avila
Vice Mayor Heriot
Commissioner Avila-Vazquez
Commissioner Colwell
Commissioner Howington
Commissioner Lulli
Commissioner Santiago

3. INVOCATION AND PLEDGE TO THE FLAG:

- A. Invocation Presented by District #4 Commissioner.**
Honoring Veteran - Loren King, 2nd Lieutenant (Retired) U.S. Navy

5. PRESENTATIONS/AWARDS/REPORTS:

- A. Rainier Coombs, President of VEMA, will present a check to the Deltona Firefighters Foundation from the PTSD Awareness event on December 7, 2024.**

6. DELTONA COMMUNITY EVENTS:

4. ADDITIONS AND DELETIONS:

Motion by Commissioner Santiago, seconded by Vice Mayor Heriot, to

add the ratification of the Mayor's Washington D.C. trip before the Consent Agenda for discussion.

The Commission and the City Attorney discussed the motion, motions made at the last meeting, the meaning of the word "ratify", the motion being an option, the trip being approved after the fact, and approving something retroactively.

The Mayor stated he did not want to put the Commission in this situation. He respectfully appreciates someone providing him his rights.

Commissioner Santiago withdrew her motion and Vice Mayor Heriot withdrew his second.

7. CONSENT AGENDA:

Motion by Vice Mayor Heriot, seconded by Commissioner Santiago, to approve Consent Agenda Items 7-A through 7-D. The motion carried by the following vote:

For: 7 - Mayor Avila, Vice Mayor Heriot, Commissioner Avila-Vazquez, Commissioner Colwell, Commissioner Howington, Commissioner Lulli, and Commissioner Santiago

A. Approval of minutes of the Regular Commission Meeting of February 3, 2025, as presented.

Approved by Consent - to approve the minutes of the Regular Commission Meeting of February 3, 2025, as presented.

B. Request for approval of Resolution No. 2025-31, Online Utility Exchange Service Agreement to provide professional services necessary to provide online validation of new water, sewer and reclaimed customers.

Approved by Consent - to approve Resolution No. 2025-31.

C. Request for approval to advertise a Notice of Intent To Sale a portion (0.02 acres +/-) of Tract N, Deltona Lakes Unit 20, currently 11.23 acres.

Approved by Consent - to approve to authorize the Notice of Intent to Sale advertisement for a portion of Tract N, Deltona Lakes, Unit 20; approximately 0.02 acres +/-.

D. Request for approval of Resolution No. 2025-30 - Fiscal Year 2024 Utility Billing and Miscellaneous Accounts Receivable Account Adjustment.

Approved by Consent - to approve Resolution No. 2025-30, Utility Billing and Miscellaneous Accounts Receivable Account Adjustment.

8. ORDINANCES AND PUBLIC HEARINGS:

A. Public Hearing - Resolution No. 2025-26, requesting the acceptance for the Eloah Estates Final Plat to facilitate a means of ingress and egress through 2982 Howland Boulevard, zoned C-2, General Commercial, to 1000 Eloah Estates Road, zoned RM-1, Multiple Family Residential Dwelling District, for the development of 536 apartments on approximately 45.3 acres of land.

The Planning & Development Services Director gave a brief PowerPoint Presentation to include Final Plat Application Request, Background, Eloah Estates History, Eloah Estates Final Plat, and Staff Recommendation.

The Commission, staff, the applicant and City Attorney discussed the definition of final plat, vacant property, the applicants choosing the processes, development activities, infrastructure bond, approving both parcels, the project and number of units, no additional requests, commercially zoned parcel, and a condition of approval to include finishing Enrico Ridge.

Motion by Commissioner Santiago, to approve Resolution No. 2025-26, accepting the Eloah Estates Final Plat with the conditions stated in the Development Order.

City Attorney Good asked if the motion would also include the additional stipulation that the applicant just made and Commissioner Santiago replied yes.

The Planning & Development Service Director asked about the additional condition of a performance bond within five (5) to seven (7) days and Commissioner Santiago replied she would add it to her motion.

Amended motion by Commissioner Santiago, to include a condition of approval that the applicant finish the Enrico Ridge project and the additional condition of a performance bond within five (5) to seven (7) days. The amended motion failed for lack of a second.

The Commission, staff and the applicant discussed the applicant's other projects, the applicant selling the parcels, the locations of Enrico Ridge & Thalita Terrace, unincorporated Volusia County, rezoning option, the property zoning history, access, leaving 15 acres untouched, pursued as straight zoning, the intent to sell, zoning in progress, and stormwater requirements.

Motion by Commissioner Colwell, seconded by Commissioner Howington, to table the item until the next meeting pending the outcome of the conversation.

Vice Mayor Heriot requested to amend the motion to include some sort of site development when the item comes back, an outline or plan.

Amended motion by Commissioner Colwell, seconded by Commissioner Howington, to include some sort of site development when the item comes back, an outline or plan.

Commissioner Santiago questioned the procedure and if the applicant met all the requirements which they did.

The Mayor opened the public hearing and Kenneth Harris, Dana McCool, Kathy Bryan, Courtney Cross-Burgos and Richard Bellach addressed the City Commission.

Commissioner Colwell clarified his motion, to table the agenda item until there is clarity on the other agreement to finish the other apartment complex. He is looking to enter into a tri-party agreement between the developer, the person purchasing the development and the City to get a confirmation that Enrico Ridge will be completed including a draft site plan.

City Attorney Good repeated the motion to defer the final plat of the Eloah Estates project until such time as there is an agreement negotiated to finish for the Enricho Ridge project which could take the form of a tri-party agreement between the developer, the purchaser and the City or another form such as will accomplish the goal and that the agenda item include a draft site plan. Mayor Avila added that it would include the bonds within seven (7) days.

The amended motion carried by the following vote:

For: 4 - Mayor Avila, Commissioner Colwell, Commissioner Howington, and Commissioner Santiago

Against: 3 - Vice Mayor Heriot, Commissioner Avila-Vazquez, and Commissioner Lulli

B. Public Hearing - Resolution No. 2025-07, accepting the Final Plat for Howland Marketplace, granting a replat of approximately 4.68-acres of land located at 3260, 3270, 3280 Howland Boulevard to create three (3) commercial lots, and two (2) tracts of land within the Howland Marketplace Business Planned Unit Development (BPUD).

The Planning & Development Services Director gave a brief PowerPoint Presentation to include Final Plat Application Request, Background, Aerial, Final Plat, Final Plat Overview,

and Staff Recommendation.

Motion by Commissioner Avila-Vazquez, seconded by Commissioner Lulli, to approve Resolution No. 2025-07 and accept the Final Plat for Howland Marketplace BPUD, with the conditions stated within the Development Order.

Mayor Avila opened and closed the public hearing as there were no public comments.
City Attorney Good read the title of Resolution No. 2025-07 for the record.

The motion carried by the following vote:

For: 7 - Mayor Avila, Vice Mayor Heriot, Commissioner Avila-Vazquez, Commissioner Colwell, Commissioner Howington, Commissioner Lulli, and Commissioner Santiago

C. Public Hearing - Resolution No. 2025-22, Hearing an Appeal to permit a multi-family project “Howland Station” within the General Commercial District (C-2) located at 1600, 1620, 1625, 1630 and 1635 Dr. Martin Luther King Jr Boulevard and 3015 Howland Boulevard, within the City of Deltona; providing conditions, conflicts, severability and an effective date.

Attorney Lyman Reynolds with Roberts, Reynolds, Bedard & Tuzzio, PLLC, on behalf of the City, discussed staff's denial of the application, this is the applicants appeal, the basis for staffs' denial, the intent of the live local act, no unity of title, the property agreement for the church, requiring a traffic study and approval by the Commission for the inclusion of the church property, the application remains incomplete and staff requests to deny the applicants appeal.

The Commission, City Attorney, Attorney Rebecca Wilson with Lowndes Law, and Attorney Mark Watts with Cobb Cole discussed the unifying of lots, deed restrictions, the item is for the appeal and not for the project, new zoning regulations, the timeline, and zoning in progress.

Applicant Scott Culp with Atlantic Housing Partners spoke about prior developments, developing affordable, the project location, the Live Local Act, surrounding facilities, meetings with staff and the concerns, the proposed mixed use development, existing conditions vs. proposed plan, the purchase of additional property, site plan approval vs. administrative approval, City Ordinances and changes, doing what is best, affordability and the project benefits.

Attorney Wilson gave a brief presentation to include the project timeline, the Live Local Act, mixed use project, staff negotiations, submittal of final plat and final site plan, F.S. 166.03 and the sufficiency letter, the status of the pending application, the zoning in progress and notice, closing on bonds, amendments to Chapter 76, the appeal and request, equitable

estoppels, the applicants request, and the mixed use requirement.

The Commission, City Attorney, and Attorney Wilson discussed the City's public notice obligation, the developers obligation, the date of the deed, the requirement to close, title search, the final plat, legal requirements and common law.

Motion by Commissioner Lulli, seconded by Commissioner Howington, to deny the Appeal of the decision of the Director of Planning and Development Services.

The Commission, staff and City Attorney discussed the combining of lots, communications with the church, the difference between Live Local Act and mixed use, the relevance of the appeal, and submittal of complete plans.

The Mayor opened the public hearing and Kathy Bryan and Tara D'Errico addressed the City Commission.

City Attorney Good read the title of Resolution No. 2025-22 for the record.

The motion carried by the following vote:

For: 7 - Mayor Avila, Vice Mayor Heriot, Commissioner Avila-Vazquez, Commissioner Colwell, Commissioner Howington, Commissioner Lulli, and Commissioner Santiago

9. ACTION ITEMS:

A. Quasi-Judicial Hearing Regarding Whether Mayor Had Knowledge of Travel Policy Before Date of Travel and that Mayor Violated Travel Policy.

The Mayor called a recess at 8:08 p.m. and reconvened at 8:22 p.m.

City Attorney Torcivia explained the quasi-judicial process and asked that everyone who wanted to provided testimony to please stand to be sworn in.

Each Commissioner expressed their ex-parte communications.

The Mayor opened the public hearing on the ex-parte communications and Donald Freeman addressed the City Commission.

Each Commissioner expressed their ex-parte communications on any "fake" social media accounts.

Commissioner Howington called for a point of order and asked that the City Attorney speak regarding an email she sent earlier in the day. City Attorney Torcivia summarized Commissioner Howington's email which contained questions regarding when a

Commissioner can vote and the regulation under State Statute, whether a member who gains or loses money can vote, repayment of travel expenses, and the Mayor's ability to vote and preside over this matter. She provided statutes and an Attorney General's Opinion (AGO-85-40). She spoke about the City Charter, the statutes, and the City's Code of Ordinances.

Vice Mayor Heriot suggested proceeding with the party who made the initial motion, then give the Mayor an opportunity to rebut and then Commissioner questions and the Commission concurred.

Commissioner Colwell asked several questions of Mayor Avila who responded to the questions and provided several videos as evidence.

Attorney Anthony Sabatini, on behalf of Mayor Avila, gave a broad overview of what we believe is expected of the Commission as a whole, provide an overview of some of the evidence and then will speak about the evidence as it comes along.

Attorney Sabatini called his first witness, Mayor Avila, and proceeded to ask him questions which he answered.

Commissioner Avila-Vazquez spoke about the Commission's responsibilities, the Commission policy and procedure, the City of Deltona Policy and Procedures, the recent travel policy not being voted on, and her travel experience. Attorney Sabatini cross examined Commissioner Avila-Vazquez.

Commissioner Howington asked several questions of the City Clerk who responded to the questions.

Vice Mayor Heriot asked questions of the Mayor who responded to the questions, and he spoke about different events/functions, policies and lack of clarification.

Commissioner Howington presented several videos for evidence, and she asked Mayor Avila and the City Clerk questions which they answered. Attorney Sabatini cross examined Mayor Avila.

Commissioner Howington and Vice Mayor Heriot asked questions of the City Clerk who responded to the questions.

Commissioner Lulli called Point of Order as there was a Commissioner interjecting while another Commissioner was conducting questions and questioned the process.

Commissioner Howington called resident Elbert Bryan to the podium for questioning. Attorney Sabatini cross examined Mr. Bryan.

City Attorney Good reminded the Commission that they too can cross examine any

witnesses.

Attorney Sabatini continued cross examining Mr. Bryan.

Vice Mayor Heriot cross examined Mr. Bryan.

Mayor Avila clarified his request for reimbursements for travel.

Commissioner Howington continued to question Mayor Avila. Attorney Sabatini cross examined Mayor Avila. Commissioner Howington spoke about a conversation she had with the Mayor regarding his awareness of the travel policy.

Commissioner Lulli spoke about not approving travel for Commissioners, not being a Commissioner in 2023, and he questioned Mayor Avila. He testified that he never submitted travel expenses, appointed as the City's representative to TPO (Transportation Planning Organization), and he was aware of the policies in Teams.

Commissioner Colwell questioned Mayor Avila.

Mayor Avila opened the public hearing and Kathy Bryan, Elbert Bryan, Richard Bellach, Carolyn Hickerson, Katherine Gallagher, Doug MacDonald, Ray Waters, and Donald Freeman.

Motion by Commissioner Lulli, seconded by Commissioner Howington, to continue the meeting for 30 minutes. The motion carried by the following vote:

For: 7 - Mayor Avila, Vice Mayor Heriot, Commissioner Avila-Vazquez, Commissioner Colwell, Commissioner Howington, Commissioner Lulli, and Commissioner Santiago

The public hearing continued with Janet Deyette, Courtney Cross-Burgos, David Sosa, Gale Barr, David Markle, Rose (Ana Loser), Robert Trombetta, Lindsey Briones, Yudith Fernandez, Jeff Dinan, Jason Voelz, and Giannina Monzon.

Motion by Commissioner Howington, seconded by Commissioner Colwell, that the mayor violated the official travel policy.

Vice Mayor Heriot called Point of Order, that is not the item that is being discussed. Commissioner Howington replied it is part 2, she dropped the first part. City Attorney Torcivia read a transcript of the prior meeting.

Attorney Sabatini objected to the lack of due process and notification. They are severing a paragraph and there is no severance clause, had knowledge and violated. Also, the violation has a mens rea of knowingly, to of knowingly violated the policy.

City Attorney Torcivia read the transcript of the prior meeting.

Commissioner Howington questioned if both allegations had to be met.

City Attorney Torcivia read Section 2-380 of the Code of Ordinances. The alleged violation is required to be summarized in the motion and she read the motion again.

Amended motion by Commissioner Howington, seconded by Commissioner Colwell, that the Mayor had knowledge of the travel policy before the date of travel and that the Mayor violated the travel policy. The amended motion failed by the following vote:

For: 4 - Commissioner Avila-Vazquez, Commissioner Colwell, Commissioner Howington, and Commissioner Lulli

Against: 3 - Mayor Avila, Vice Mayor Heriot, and Commissioner Santiago

City Attorney Torcivia clarified that the motion required a supermajority vote so the motion failed.

10. CITY ATTORNEY COMMENTS:

11. CITY MANAGER COMMENTS:

The City Manager thanked his old Mayor Randy Walker from Garden City, Michigan who is the longest serving Mayor in the history of the City. Six (6) months ago when he decided to come down here he had no idea this would be the meeting he would come to.

12. CITY COMMISSION COMMENTS, REQUESTS & REPORTS:

Commissioner Colwell requested a workshop on the TNR (Trap Neuter Release) program.

Vice Mayor Heriot requested that the Commission Travel Policy be brought back to the Commission for review and updates within the next 30 days. He amended the request to include all travel policies related to staff and elected officials to be brought before the Commission for a vote.

Mayor Avila amended the request to include all policies over two (2) years be renewed and to have a renewal schedule.

The Commission concurred with Vice Mayor's request.

Vice Mayor Heriot asked for a full review of all the policies, an index of all the policies to include dates and anything over two (2) years to come back for a review and the Commission concurred.

Commissioner Lulli gave a report on the TPO (Transportation Planning Organization).

Commissioner Lulli requested that the TPO board summary and the 2025 call for projects memorandum be distributed to all the Commission and the Commission concurred.

Commissioner Lulli requested to bring back before the Commission the City Commission Operating Guidelines with the modification to include that special board reports, TPO and Team Volusia, be added to the agenda as a link and the Commission concurred.

Commissioner Lulli spoke about native landscaping, reviewing public comments and responding accordingly.

Commissioner Howington spoke about the Team Volusia Executive Committee Meeting.

Motion by Vice Mayor Heriot, seconded by Commissioner Lulli, to extend the meeting another twelve minutes. The motion failed by the following vote:

For: 7 - Mayor Avila, Vice Mayor Heriot, Commissioner Avila-Vazquez, Commissioner Colwell, Commissioner Howington, Commissioner Lulli, and Commissioner Santiago

Commissioner Howington continued to speak about the Team Volusia Executive Committee Meeting.

Commissioner Howington requested that if it is not brought back during the meeting, that we look at recording public comments and putting it in the archives if it is not going to be televised. So that there is a record that can be accessed in the future if needed.

Commissioner Howington asked that the Commission consider a symbolic vote of no confidence in the Mayor based on policy violations.

The Commission and City Attorney discussed a "symbolic vote", and termination of proceedings.

Motion by Commissioner Howington, seconded by Commissioner Colwell, to make a symbolic vote of no confidence for the Mayor vote of no confidence in the mayor that is not specifically related to the last item.

The Commission discussed the prior proceedings, moving forward, and being judged twice.

The motion failed by the following vote:

For: 3 - Commissioner Colwell, Commissioner Howington, and Commissioner Lulli

Against: 4 - Mayor Avila, Vice Mayor Heriot, Commissioner Avila-Vazquez, and Commissioner Santiago

Commissioner Santiago spoke about moving forward, letting it go, progressing the City, work on infrastructure, work on stormwater, landscaping, development code, going green, commercial and downtown, stop the politics and move forward.

Mayor Avila requested permission to allow the insurance commissioner to help talk to residents about lowering their home insurance and the Insurance Commission of Florida using The Center for a Town Hall.

Motion by Vice Mayor Heriot, seconded by Commissioner Howington, to allow the State Insurance Commission to come to the City to present and host a Town Hall on insurance topics for Deltona residents at The Center at no cost to the State agency. The motion carried by the following vote:

For: 7 - Mayor Avila, Vice Mayor Heriot, Commissioner Avila-Vazquez, Commissioner Colwell, Commissioner Howington, Commissioner Lulli, and Commissioner Santiago

13. ADJOURNMENT:

There being no further business, the meeting adjourned at 10:44 p.m.

Santiago Avila, Jr., MAYOR

ATTEST:

Joyce Raftery, CMC, MMC, CITY CLERK