



City of Deltona

2345 Providence Blvd.
Deltona, FL 32725

Regular Commission Meeting

City Commission

Mayor Herzberg
Vice Mayor Avila-Vazquez
Commissioner Bradford
Commissioner King
Commissioner McCool
Commissioner Ramos
Commissioner Sosa

Monday, June 6, 2022

6:30 PM

Deltona Commission Chambers

1. CALL TO ORDER:

2. ROLL CALL – CITY CLERK:

3. INVOCATION AND PLEDGE TO THE FLAG:

A. [Invocation Presented by Commissioner McCool.](#)

Background:

At the Regular City Commission Meeting on Monday, October 17, 2011, the City Commission approved to have each Commissioner by District schedule someone to present the invocation at each Regular City Commission meeting rotating each Commissioner by District starting with District #1, #2, #3, #4, #5, #6 and the Mayor.

4. APPROVAL OF MINUTES & AGENDA:

A. [Approval of minutes of the Regular Commission Meeting of May 16, 2022 as presented. - Joyce Raftery, City Clerk \(386\) 878-8502.](#)

Background:

N/A

Attachments:

[May 16, 2022 RCM Minutes](#)

5. PRESENTATIONS/AWARDS/REPORTS:

A. [Presentation - Certificate of Recognition to the Deltona High Lady Wolves Softball Team State Champions.](#)

Background:

The Deltona High School Lady Wolves won their first Softball State Championship. This is the first state championship won in Deltona High School history and the first softball team in Volusia County to pull off a State title. Coach Ingram and Coach Ramer led the girls to a 6-3

victory over Lake Wales High School in the Friday evening State Championship. Coach Ingram has been a teacher for Deltona High for 21 years and the head coach for 18 years. She has seen the playoffs 17 times. Within her tenure, the Wolves have been district runners-up 4 times, district champions 12 times, in the sweet-16 -7 times and now Regional Final Champions and State Champions. During this season, Coach Ingram also received her 300th win and boasts a record of 306-105-1.

The team continued to outperform their ranking within each post-season game. The dynamic team is comprised of 5 seniors 4 of which are going to college on an athletic scholarship to play softball. As a team, their batting average was .369, with Veronica Puckett and Sophie Stempel leading the pack with .526 & .519 batting averages. Katie McCaw, starting pitcher, had 191 strikeouts. Kaitlyn Sarvis has varsity lettered all four years and is the Class of 2022's Valedictorian.

These student-athletes truly exemplify Champions of Character. They know and do the right thing inside and outside of the athletic setting. They embody the values in high school athletics. The softball parents are extremely dedicated to our student-athletes as well, putting in countless hours to support the girls. The City of Deltona is proud of the Lady Wolves Softball team and all that they have accomplished this season.

- # 1 Emily Donohue
- # 2 Anna Haverty
- # 3 Veronica Puckett
- # 4 Jaylene Mieres
- # 5 Payton Woerner
- #6 Katelyn Sarvis
- #7 Megan Bint
- # 8 Katie McCaw
- # 9 Morgan Davis
- # 10 Kyleen Martell
- # 11 Zoe Cleveland
- # 12 Molly Woerner
- # 13 Jelexis Vazquez
- # 14 Adriana Stump
- # 15 Sophia Correa
- # 16 Sophie Stempel
- # 18 Riley Spann

Head Coach- Lindsay Ingram

Asst Coaches- Christine Ramer and Michelle Decker

6. ORDINANCES AND PUBLIC HEARINGS:

- A. [Public Hearing - Ordinance No. 12-2022, Moratorium on Future Land Use Map amendments and rezoning requests that result in an increase of single-family detached residential density entitlements, at first reading - Ron A. Paradise, Director, Community Services \(386\) 878-8610.](#)

[Strategic Goal: Effective governance and productive government.](#)

Background:

At the February 21, 2022 hearing, the City Commission, by consensus, gave authorization to the Acting City Manager to explore a moratorium on rezoning applications that involve requests for increases in single-family detached residential density from existing zoning entitlements. Please refer to the attached staff report for further information.

On May 18, 2022, the Planning and Zoning Board heard Ordinance No. 12-2022. The Planning and Zoning Board voted unanimously to forward this ordinance to the City Commission with a recommendation to approve the moratorium on Future Land Use Map amendments and rezoning requests that result in an increase of single-family detached residential density entitlements.

The Acting City Manager has the authority to make corrections of scrivener's errors and the like.

Options:

- 1) Approve Ordinance No. 12-2022.

Advantages:

- a. The City will have time to engage in public scoping in a more meaningful manner without having to decide single-family detached oriented rezoning applications.

Disadvantages:

- a. Certain projects that may have some public benefits may be delayed.
- b. There may be reputational ramifications; and
- c. The City may be confronted with various applications for increases in single-family detached residential land use entitlements prematurely.

- 2) Do not approve Ordinance No. 12-2022.

Advantages:

- a. Projects that may have some public benefits may be processed without delay;

- b. The City will not run the risk of reputational ramifications; and
- c. There would be a less chance of premature single-family detached rezoning applications.

Disadvantages:

- a. The City will have time to engage in public scoping in a more meaningful manner without having to decide single-family detached oriented rezoning applications.

Attachments: [Staff Report](#)
 [Ordinance No. 12-2022](#)
 [Legal Ad - Ord. 12.pdf](#)

- B.** [Resolution No. 2022-11- A Resolution Electing to Use the Uniform Method of Collecting Non-Ad Valorem Special Assessments Levied within the incorporated area of the City. John Peters, III, Acting City Manager \(386\) 878-8850.](#)

[Strategic Goal: Fiscal](#)

Background:

In anticipation of future growth, the City is looking for funding options for the cost of fire services to property within the incorporated area of the City. The use of the uniform method for collecting non-ad valorem special assessments for the cost as authorized by section 197.3632, Florida Statutes, as amended, allows such special assessments to be collected annually commencing in November 2023, in the same manner as provided for ad valorem taxes.

Approval of this Resolution and the necessary advertising under the Statute, allows the City to start a process where information about the City's taxable property is reviewed and potential classification are created that would translate into recommendations as to potential assessments- such information would be presented to the City Commission prior to any decisions as to proceeding with same. The resolution reserves the City's statutory ability to impose assessments in the incorporated area of the City at some future time. This resolution is non-binding and the City may reduce the areas covered by any future assessments or decide not to go forward with the assessment program at a later date. By adopting the attached resolution, the City is simply reserving the right to use the tax bill collection method beginning in November of 2023.

Section 197.3632, Florida Statutes, requires that the City hold a public hearing and adopt a resolution of intent to use the uniform method of collection for any assessment program in the calendar year prior to any such collection. The resolution, which does not obligate the City to use the method or impose a special assessment, must be adopted by January 1 and sent to the Volusia County Tax Collector, the Volusia

County Property Appraiser and the Florida Department of Revenue by January 10, 2023.

OPTIONS:

1. Approve Resolution- City reserves the ability to impose assessments in the incorporated area of the City.
2. Deny- City will not have the option to impose assessments in the incorporated area of the City beginning November 2023.

Attachments: [RESOLUTION NO 2022-11](#)
[Legal Ad - Res. 2022-11](#)

7. OLD BUSINESS:

8. NEW BUSINESS:

- A. [Code Violation - non-ad valorem tax roll assessment to address City costs relating to a nuisance abatement at 179 Citation Av. - Ron A. Paradise, Community Services Director \(386\) 878-8610.](#)

[Strategic Goal: Community Development and Redevelopment](#)

Background:

On February 27, 2018 the City adopted Ordinance No. 02-2018 and Resolution No. 2018-11. Ordinance No. 02-2018 amended Chapter 38 Code of City Ordinances to allow the City to address, clean up, and otherwise abate nuisances and threats to public health, safety and welfare occurring on private property. Resolution No. 2018-11 provided the ability for the City to recoup the costs associated with the abatement of private property through the levy of a non-ad valorem tax assessment.

Non-ad valorem tax assessment is a process where a local government can levy to recover or impose costs and fees as part of the tax bill for a specific property. Examples of non-ad valorem tax assessments include stormwater, trash collection and other governmental fees. Adopted Resolution No. 2018-11 expands the non-ad valorem assessment ability to include reimbursement for nuisance abatement activities undertaken through the code compliance process.

In the past, the City relied on a traditional method to recapture the costs of abatement which includes levying a lien on a property. In some cases, liens do compel code compliance. Liens are especially effective when placed on property that is considered non-homesteaded. Non-homesteaded property includes commercial uses, vacant property, rental dwellings, etc. If a lien is not satisfied on a non-homesteaded property, the City has the ability to foreclose on the property to compel

repayment.

Foreclosure can also result in a change of ownership.

Homesteaded property is considered the primary domicile of the individuals residing within the home. As per Florida law, homesteaded property enjoys a higher level of protection with regard to foreclosure actions. In the case of a code compliance lien, the options for a local government to foreclose on a homestead property are extremely limited to none. There are cases within in the City where a homesteaded property can have a code compliance lien(s) for years or decades if the house is never sold. City code liens expire after 20 years. The City liens also do not have priority over taxes and the mortgage. If a property changes hands often the City lien is not satisfied. In addition, it is not uncommon for homesteaded properties associated with longstanding liens to be the subject of continued code compliance violations and abatements.

The benefit of the non-ad valorem tax assessment is the City can recover the costs of abatement through the property tax payment process. Basically, the cost of abatement appears on the tax bill for the owner to pay. If an owner does not pay, the amount owed will be subject to the annual County tax certificate auction. At the auction, the taxes will be paid by an investor and the City will be reimbursed for the abatement (and probably other taxes and fees). Eventually, a failure to pay taxes owned could result in the loss of title to the home notwithstanding a homesteaded status.

The dwelling at 179 Citation Av. is a homesteaded property and has been owned by Vivian and Rafael Colon since 2007. Under the current ownership this property has had an extensive code compliance history including 90 investigations resulting in 12 cases being brought before the Special Magistrate. As part of the code actions, there have been seven (7) abatements and five (5) citations. These code cases and citations range from accumulation of debris, inoperative vehicles, parking, construction without permits and lack of property maintenance. The property currently has a lien imposed in the amount of \$26,100.00 which may never be recovered.

On May 17, 2021, the City opened a series of cases as to debris, inoperable vehicles and structures without permits cases on the 179 Citation property. On June 23, 2021, the Special Magistrate found the property to be in violation on all three cases. The owner was given 30 days to comply before a fine would be imposed. At the June 23, 2021 meeting, City staff offered to have a dumpster delivered to the 179 Citation site, at City expense, to aid in the clean up of the property. The owner did not accept the offer for the dumpster. On August 25, 2021,

the cases were brought back to the Special Magistrate because the property had not come into compliance. At this meeting the owner (Mr. Colon) was informed the City was going to move forward with an abatement of the property for public health and safety reasons.

With proper notice, the City conducted an abatement at 179 Citation Av. The abatement included the removal of debris including many old tires, automotive parts, appliances, scrap metal, etc. The abatement activity occurred on September 8, 2021 through September 9, 2021. The cost of the abatement (no administrative fees) totaled \$15,273.03. For more information on the condition of the property before and after the 179 Citation Av. abatement see the attached photos. Currently, there has been no resolution regarding the unpermitted structures and the property is still in violation regarding that matter. However, since the abatement, the owners have not accumulated any more debris and have not been cited or noticed for any other violations.

On May 2, 2022, the owners of 179 Citation Av. (Vivian and Rafael Colon) received notice that the City was going to place a non-ad valorem tax levy on the property as part of the City of Deltona tax roll certification proposed to occur on June 20, 2022. As per City Code Sec. 38-124A(6) the owners of the property have objected to the tax levy request on the 179 Citation property. The written objection from the owners is attached.

As part of the owner's written appeal there is a financial hardship described. The owners also indicate they would like to work with the City to resolve the matter. Therefore, since the owners have not accumulated any debris and have not received any other code citations since the September 2021 abatement, staff suggest the following:

- 1) The City levy in the amount of \$15,273.03.
- 2) The payment of \$15,273.03 be spread over three tax years. The City for the current tax role period will levy the amount of \$5,091.01. Then \$5,091.01 for the next two tax years. This will give the two owners at least a year to pay each of the three instalments.

The tracking regarding the payments about the non-ad valorem tax roll assessment will be addressed by the City Finance Department.

The Acting City Manager has the authority to make corrections of scrivener's errors and the like.

OPTIONS:

1. Include the amount of \$5,091.01 as a non-ad valorem tax levy for 179 Citation Av. as part of the upcoming June 20, 2022 tax role certification and add the same amount for two consecutive years after.

Advantages:

- a. There is a high degree of certainty the City will recoup some of the public abatement investment in the property;
- b. The non-ad valorem tax levy approach will serve as a viable method to achieve/maintain code compliance Citywide; and
- c. Long term compliance at the 179 Citation property will be more likely.

Disadvantages:

- a. There could be displacement of the owners if they do not pay the non-ad valorem tax levy and;
- b. If the property sells, the City will probably not get paid for following years.

2. Do not include the amount of \$5,091.01 as a non-ad valorem tax levy for 179 Citation Av. As part of the upcoming June 20, 2022 tax role certification and add the same amount for two consecutive years after.

Advantages:

- a. Displacement of the owners will be less likely.

Disadvantages:

- a. The City will have to lien the property to recoup the abatement costs with little certainty of when the money will be recovered; and
- b. The non-ad valorem tax levy approach will not serve as a viable method to achieve/maintain code compliance Citywide. This approach is the only way the City has to recoup abatement costs on homestead property.

Attachments: [objection letter 179 Citation](#)
[179 Citation before and after](#)

- B.** [Code Violation - non-ad valorem tax roll assessment to address City costs relating to a nuisance abatement at 941 Shorecrest Av. - Ron A. Paradise, Community Services Director \(386\) 878-8610.](#)

Strategic Goal: Community Development and Redevelopment

Background:

On February 27, 2018 the City adopted Ordinance No. 02-2018 and Resolution No. 2018-11. Ordinance No. 02-2018 amended Chapter 38 Code of City Ordinances to allow the City to address, clean up, and otherwise abate nuisances and threats to public health, safety and welfare occurring on private property. Resolution No. 2018-11 provided the ability for the City to recoup the costs associated with the abatement of private property through the levy of a non-ad valorem tax assessment.

Non-ad valorem tax assessment is a process where a local government can levy to recover or impose costs and fees as part of the tax bill for a specific property. Examples of non-ad valorem tax assessments include stormwater, trash collection and other governmental fees. Adopted Resolution No. 2018-11 expands the non-ad valorem assessment ability to include reimbursement for nuisance abatement activities undertaken through the code compliance process.

In the past, the City relied on a traditional method to recapture the costs of abatement which includes levying a lien on a property. In some cases, liens do compel code compliance. Liens are especially effective when placed on property that is considered non-homesteaded. Non-homesteaded property includes commercial uses, vacant property, rental dwellings, etc. If a lien is not satisfied on a non-homesteaded property, the City has the ability to foreclose on the property to compel repayment. Foreclosure can also result in a change of ownership.

Homesteaded property is considered the primary domicile of the individuals residing within the home. As per Florida law, homesteaded property enjoys a higher level of protection with regard to foreclosure actions. In the case of a code compliance lien, the options for a local government to foreclose on a homestead property are extremely limited to none. There are cases within in the City where a homesteaded property can have a code compliance lien(s) for years or decades if the house is never sold. City code liens expire after 20 years. The City liens also do not have priority over taxes and the mortgage. If a property changes hands often the City lien is not satisfied. In addition, it is not uncommon for homesteaded properties associated with longstanding liens to be the subject of continued code compliance violations and abatements.

The benefit of the non-ad valorem tax assessment is the City can recover the costs of abatement through the property tax payment process. Basically, the cost of abatement appears on the tax bill for the

owner to pay. If an owner does not pay, the amount owed will be subject to the annual County tax certificate auction. At the auction, the taxes will be paid by an investor and the City will be reimbursed for the abatement (and probably other taxes and fees). Eventually, a failure to pay taxes owed could result in the loss of title to the home notwithstanding a homesteaded status.

The dwelling at 941 Shorecrest Av. is a homesteaded property and has been owned by Joseph Esquibel and Juan A. Esquivel since 2009. Under the current ownership this property has had an extensive code compliance history including 97 investigations resulting in 14 cases being brought before the Special Magistrate. As part of the code actions, there have been 15 abatements and 11 citations. These code cases and citations range from accumulation of debris, inoperative vehicles, parking, construction without permits and lack of property maintenance. The property currently has several liens imposed totaling \$42,910.00 which may never be recovered.

On December 8, 2020, the City opened a series of cases as to debris, structures without permits, and lack of home maintenance at the 941 Shorecrest property. On April 28, 2021, the Special Magistrate found the property to be in violation on all cases. The owner was given 30 days to comply before a fine would be imposed. On July 28, 2021, the cases were brought back to the Special Magistrate because the property had not come into compliance. At a subsequent Special Magistrate meeting on October 27, 2021 to update a fine, and to address public health, safety and welfare City staff stated for the record debris on the property would be abated.

With proper notice, the City conducted an abatement at 941 Shorecrest Av. The abatement included the removal of debris including wood fencing material, tires, mechanical parts, appliances, scrap metal, etc. The abatement activity occurred on November 15, 2021 through November 16, 2021. The cost of the abatement (no administrative fees) totaled \$9,600.00. For more information on the condition of the property before and after the 941 Shorecrest Av. abatement see the attached photos. Currently, there has been no resolution regarding unpermitted structures and lack of appropriate property maintenance. The property is still in violation regarding those matters. In addition, the house is occupied but there is currently no water and electric service to the dwelling. Since the abatement, the owners have accumulated more debris and the City is prepared to abate the property yet again.

On May 11, 2022, the owners of 941 Shorecrest Av. (Joseph Esquibel and Juan A. Esquivel) received notice that the City was going to place a non-ad valorem tax levy on the property as part of the City of Deltona

tax roll certification proposed to occur on June 20, 2022. As per City Code Sec. 38-124A(6), the owners of the property have not objected to the tax levy request.

Therefore, since the owners have not objected, are still in non-compliance, and have already accumulated more debris necessitating yet another abatement, staff suggest the following:

- 1) The City levy the entire amount of \$9,600.00.

The Acting City Manager has the authority to make corrections of scrivener's errors and the like.

OPTIONS:

1. Include the amount of \$9,600.00 as a non-ad valorem tax levy for 941 Shorecrest Av. as part of the upcoming June 20, 2022 tax role certification.

Advantages:

- a. There is a high degree of certainty the City will recoup all of the public abatement investment in the property;
- b. The non-ad valorem tax levy approach will serve as a viable method to achieve/maintain code compliance Citywide; and
- c. Long term compliance at the 941 Shorecrest Av. property may be more likely.

Disadvantages:

- a. There could be displacement of the owners if they do not pay the non-ad valorem tax levy.

2. Do not include the amount of \$9,600.00 as a non-ad valorem tax levy for 941 Shorecrest Av. as part of the upcoming June 20, 2022 tax role certification.

Advantages:

- a. Displacement of the owners will be less likely.

Disadvantages:

- a. The City will have to lien the property to recoup the abatement costs with little certainty of when or if the money will be recovered; and
- b. The non-ad valorem tax levy approach will not serve as a viable method to achieve/maintain code compliance Citywide. This approach is the only way the City has to recoup abatement costs on homesteaded property.

Attachments: [941 Shorecrest before and after](#)

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. 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. However, individual Commissioners may wish to respond under their "City Commission Comments". 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.

Citizen comments for any items. (4 minute maximum length per speaker)

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.

- A. [Request for approval of Resolution No. 2022-12 declaring certain property of the City as surplus and authorizing the sale or disposal of such property](#)

[Strategic Goal: Fiscal Issues](#)

Background:

Over time, certain items of the City become obsolete or lose their usefulness via replacement, upgrade or loss of functionality. These items should be declared surplus and disposed of by the most appropriate means available. The attached Resolution declares certain vehicles and equipment as surplus and authorizes their disposal.

Upon approval authorizes the necessary budget transfers to facilitate Commission approval and further authorize the City Manager to sign any documents necessary to further Commission approval of this item.

OPTIONS:

1. Authorize the sale or disposal of items

2. Do not authorize disposal of items and items will take up needed space

Attachments: [Resolution No. 2022-12](#)
 [Fixed Assets Disposal first half of 2022](#)

12. CITY COMMISSION SPECIAL REPORTS AND REQUESTS:

13. CITY ATTORNEY COMMENTS:

14. CITY MANAGER COMMENTS:

15. CITY COMMISSION COMMENTS:

16. ADJOURNMENT:

NOTE: If any person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings, and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (F.S. 286.0105).

Individuals with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk, Joyce Raftery 3 business days in advance of the meeting date and time at (386) 878-8500.