



City of Deltona

2345 Providence Blvd.
Deltona, FL 32725

Minutes

City Commission

Monday, March 16, 2020

6:30 PM

Deltona Commission Chambers

REVISED 03/16/2020

1. CALL TO ORDER:

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

2. ROLL CALL – CITY CLERK:

Present: 9 - Commissioner Avila-Vazquez
Commissioner Bradford
Commissioner King
Commissioner McFall
Commissioner Nabicht
Vice Mayor Ramos
Mayor Herzberg
Interim City Manager Cooper
City Attorney

3. INVOCATION AND PLEDGE TO THE FLAG:

A. Invocation Presented by Mayor Herzberg.

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

The National Anthem was sung by David Castro a student at Trinity Christian Academy.

4. APPROVAL OF MINUTES & AGENDA:

A. Approval of minutes of the Regular Commission Meeting of February 17, 2020 as presented. - Joyce Raftery, City Clerk (386) 878-8502.

Motion by Vice Mayor Ramos, seconded by Commissioner Nabicht, to approve the minutes of the Regular Commission Meeting of February 17, 2020 as presented. The motion carried by the following vote:

For: 7 - Commissioner Avila-Vazquez, Commissioner Bradford, Commissioner King, Commissioner McFall, Commissioner Nabicht, Vice Mayor Ramos, and Mayor Herzberg

5. PRESENTATIONS/AWARDS/REPORTS:**A. Proclamation - Government Finance Professionals' Week**

The Mayor and Commission presented a Proclamation to the Finance Department in honor of Government Finance Professionals' Week.

6. ORDINANCES AND PUBLIC HEARINGS:**A(1) ADD-ON ITEM: Request for approval of Resolution No. 2020-15, declaring a State of Local Emergency - Interim City Manager Dr. Cooper, City Manager's Office (386) 878-8850.****Strategic Goal: Public Health and Safety**

Interim City Manager Dr. Cooper stated this is a declaration of a state of local emergency in cooperation with Volusia County and showing support for Volusia County within the City of Deltona.

Mayor Herzberg asked if the state of emergency was valid for seven days per the City's procedure and it can be extended for three additional seven day periods. Interim City Manager Dr. Cooper replied it is valid for seven days and after that under Florida Statutes with the collaboration of himself and Fire Chief Snyder it can be extended for up to three additional seven day periods and to bring it back to the Commission on the 28th day to extend further if necessary.

Commissioner Nabicht stated about two weeks ago he requested the Interim City Manager schedule a town hall meeting for himself to address the coronavirus and at that time there had not been a State of Emergency declared yet by the Federal Government, the State or the county. The City was looking to use that as a platform to get out information and as everyone knows the county is issuing updates on a regular basis as is Governor DeSantis' office, twice a day. He does not really see a need for the City to go ahead and do anything because it would just be reiterating what the Governor and County Emergency Management is putting out every day. He wanted to reassure the people of Deltona that the City has an excellent emergency management staff and declaring this state of emergency tonight will allow the Interim City Manager and the Fire Chief the tools they need to at a moment's notice be able to act and take advantage of anything that is put in front of them by the county or by the state in order to further public safety in the community. Florida does these types of emergencies better than anybody else in the country. He has lived that for 31 years here. Florida deals with hurricanes and wildfires, and this just plugs in to that same emergency management model. Rest assured that the community is very well prepared. The City of Deltona, Volusia County, and the State of Florida. Governor DeSantis has an excellent rapport with President Trump, the federal people, and he has an excellent team working for the State of Florida getting resources lined up so that when the City of Deltona needs those resources the City will make a call to the county emergency management who will then

make a request up the food chain to the State. If the State cannot deliver then it will go all the way up to the Federal Government to get those resources into the local communities. The City is canceling the town hall scheduled for Wednesday night that the City was going to do with regards to this matter.

Motion by Vice Mayor Ramos, seconded by Commissioner Avila-Vazquez, to approve Resolution No. 2020-15 declaring a state of local emergency establishing COVID-19 response protocol and directs public health emergency. 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: 7 - Commissioner Avila-Vazquez, Commissioner Bradford, Commissioner King, Commissioner McFall, Commissioner Nabicht, Vice Mayor Ramos, and Mayor Herzberg

A. Public Hearing - Ordinance No. 02-2020 amending the Code of Ordinances Subpart B, Land Development Code Chapter 110, Article XII "Planning and Zoning Board" at first reading - Ron A. Paradise, Director, Planning and Development Services (386) 878-8610.

Strategic Goal: Internal and External Communication

Planning and Development Services Director Ron Paradise gave a brief explanation of the item and he went through all the proposed changes to Chapter 110, Article XII "Planning and Zoning Board" to include a correction to the word "meeting" to "meetings" on Page 2, Paragraph (c) of the ordinance.

Commissioner McFall asked Mr. Paradise to clarify the reasoning on eliminating the review of final plat of subdivisions of more than 200 lots. Mr. Paradise replied the Planning and Zoning (P&Z) Board when confronted with a subdivision proposal of over 200 units expressed a position that it is very technical in nature and it involves dedication. The board did not think they had a lot of input on that topic, they felt it was best to streamline the process and just advance those larger projects straight to the City Commission for acceptance.

Mayor Herzberg opened the public hearing.

Elbert Bryan, 1625 Joyner Drive, Deltona, spoke about taking out term limits because he does not think a person should be able to sit on the board for 25 years.

Mayor Herzberg closed the public hearing.

Mayor Herzberg asked what the reason was for removing the term limits and what the previous term limits were. Mr. Paradise replied that was requested again from the P&Z Board and the term limits are currently for three years. Mayor Herzberg asked if the removal for attendance issues was already in there and Mr. Paradise replied absolutely.

Commissioner Nabicht stated with regards to term limits this is a very technical area. There will be people sent for training and it takes a couple years sometimes to get up to speed on these and to become fluent in the language and have a good grasp and understanding of that. Then to throw that experience out the window when this is an advisory board to the Commission, he does not think that is a wise thing to throw that experience and knowledge out the window. The advisory board gives advice to the Commission who would want the best educated people on that board giving the most educated experience and information to the Commission so it can render that final decision.

Vice Mayor Ramos stated under education it states "each board member and alternate members are strongly encouraged to attend". He asked if the Commission should make online training or some type of training mandatory because of the nature of what the board is going to be dealing with or have the City Attorney or whomever give a presentation or training so that the board can have a real understanding because he thinks sometimes that is where the conflict comes in, the role of the board. Mr. Paradise replied mandatory training was discussed, but staff struggled with keeping track of who had training and staff figured that anybody wishing to serve in this capacity would probably be willing to step up to the plate and engage in further training. Staff has handed out some printed training materials and tried to establish a webinar on ethics, but it got canceled based on the coronavirus (COVID-19). Vice Mayor Ramos suggest to use one of the P&Z Board meetings for training purposes, especially if there is nothing on the agenda for them to review. Mr. Paradise replied he does not disagree and staff is going to make it a point to further educate the board on things like Sunshine Laws, ethics, what quasi-judicial means, and some of the other expectations.

Commissioner King stated he does not think that anybody who sits on the board should just be there forever. He asked what the length of the members' terms are currently and Mr. Paradise replied it is two consecutive three year terms so it is a six year stint that one could have. Commissioner King suggested the term limits should stay because the Commission can always reappointment the person to the board if they are doing a good job.

Commissioner Bradford agreed, the Commission has the option to reappoint a person and it is always good to get fresh blood, fresh insight and new knowledge on a board. Having no term limits is how cities get old, stale and stagnant. She is in favor of all the changes, but she is in disagreement on the term limits.

Mr. Paradise stated if it is the pleasure of the Commission staff would be more than happy to leave that language as written.

Commissioner Nabicht asked if the proposed language prohibits the board members from being reappointed and Mr. Paradise replied he believes they have to sit out at a term, which is the way that is interpreted.

Motion by Commissioner Nabicht, seconded by Commissioner Avila-Vazquez, to amend the language in the ordinance to require a minimum of 16 hours of continuing educational training determined by the director that oversees the Planning & Zoning Board in order to help have an educated body.

For: 7 - Commissioner Avila-Vazquez, Commissioner Bradford, Commissioner King, Commissioner McFall, Commissioner Nabicht, Vice Mayor Ramos, and Mayor Herzberg

Mayor Herzberg asked if it was in the three year period and Commissioner Nabicht replied he is not addressing the term, he is just making a motion to amend the language on the education. Mayor Herzberg asked what the time frame was on the education and Commissioner Nabicht replied 16 hours a year.

Commissioner Nabicht asked if 16 hours is a doable number and Mr. Paradise replied it may be a little bit high. Commissioner Nabicht asked what number Mr. Paradise would suggest and Mr. Paradise replied 8 hours a year.

Amended motion by Commissioner Nabicht, seconded by Commissioner Avila-Vazquez, to change the motion to 8 hours of continuing educational training a year. The motion carried by the following vote:

For: 7 - Commissioner Avila-Vazquez, Commissioner Bradford, Commissioner King, Commissioner McFall, Commissioner Nabicht, Vice Mayor Ramos, and Mayor Herzberg

Mayor Herzberg asked for clarification, each board member will have staggered terms, four appointed at one point and three appointed at another point and Mr. Paradise replied correct. Mayor Herzberg stated then the members would all have a three year term and then that term would come up for renewal and Mr. Paradise replied that is correct. Mayor Herzberg asked so during that term the members could chose to either be reappointed or resign and Mr. Paradise replied correct. Mayor Herzberg stated it would be up to the appointing Commissioner to either reappoint that member or chose another applicant and Mr. Paradise replied correct. Mayor Herzberg stated as it stands now the members can only serve two consecutive terms, but this would allow the appointing Commissioner to reappoint the member every three years. She questioned term limits originally, but if the Commissioner still has the ability to reappoint or not reappoint the board member and there are now attendance requirements she is more comfortable with the term limits knowing that there is other stock gaps there.

Commissioner McFall asked if the term of an alternate member now would count against their time as a regular member. So the alternate member may serve for three to six years, become a regular and then be appointed again as an alternate number. Mr. Paradise replied the alternate number can serve a term of no more than three years also, however, the language is silent between toggling between one or the other. He stated he would be willing to massage the language to clarify that in this section so that if there are term limits for alternates and regular serving members it should probably be the same just for ease of implementation if anything.

Commissioner Nabicht asked if a board member's term is up can that member be reappointed by a different Commissioner and he suggested to clean up the language.

Motion by Commissioner Nabicht, seconded by Vice Mayor Ramos, to table Ordinance No. 02-2020.

City Attorney Fowler questioned whether or not the ordinance was advertised and if the item needs to be tabled to time certain.

Commissioner Nabicht withdrew his motion.

Motion by Commissioner Nabicht, seconded by Vice Mayor Ramos, to table Ordinance No. 20-2020 until the next Regular Commission Meeting. The motion carried by the following vote:

For: 7 - Commissioner Avila-Vazquez, Commissioner Bradford, Commissioner King, Commissioner McFall, Commissioner Nabicht, Vice Mayor Ramos, and Mayor Herzberg

B. Public Hearing - Resolution No. 2020-09, Conditional Use Application for a Community Residential Home at 1313 Freeport 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 and that the State Agency for Health Care Administration (AHCA) will provide a significant amount of oversight on the type and character of the care afforded to senior citizens. Also, all conditional uses as per code need to be approved by a majority of vote of five or more by Commission.

Commissioner Bradford stated looking at the aerial, the parking/paved area that goes down the side of the house looks like it is on the easement and Mr. Paradise replied it is, it used to be concrete, but staff could not find a permit for it. What the City required was that

the concrete be taken up and then it was converted back to crushed stone which was not considered to be permanent. Commissioner Bradford stated there is not adequate space for a vehicle to turn around. What she sees happening is a lot of on the street parking and she is not feeling comfortable with the parking situation. Mr. Paradise explained that parking is a perennial discussion here in the City, especially in residential areas. The only way to compare or determine what the parking rates are going to be is the fact that there will be two staff members that are family members that will be residing in the house and another staff member coming so that could be three vehicles there and there is enough room to store the three vehicles now. There could be a shuttle service that comes in and picks up the entire group to go to a facility or some sort of activity and there will be this visitation.

Commissioner Bradford asked if the property is on septic and if they would have to go through the county for the number of people in the dwelling, that increase, and Mr. Paradise replied staff has asked that question, but have not found a definitive answer if there is a septic inspection required, however, staff has been told by AHCA (Agency for Health Care Administration) that they require an inspection, but they have been told by other AHCA employees that they do not. Commissioner Bradford stated no, when she applied for her BTR (Business Tax Receipt) with the City it was a requirement that she go to the county for a septic inspection. This is a business, they have a septic tank, and they are adding bodies to the home, why is the City not questioning the capacity and capability of the septic and water. Mr. Paradise replied staff was under the impression that AHCA would do that, but as staff researched it cannot authenticate that. The applicant is not adding any extra rooms to the house, it is just extra family members.

Commissioner Nabicht stated Chapter 419 spells out the requirements for permitting this type of structure and the City does not have jurisdiction over septic that is under the Volusia County Health Department and under AHCA. He explained the idea of these types of facilities, there are dozens of these types of facilities in the City that do not create a traffic or parking problem and the idea is to keep it a residential setting. The Commission has to stick to the requirements of the LDC (Land Development Code) which the facility complies with and set forth the specific items in the conditional use. There is nothing in the a-e items that are that egregious.

Motion by Commissioner Nabicht, seconded by Commissioner McFall, to approve Resolution No. 2020-09, a Conditional Use request for a Community Residential Home at 1313 Freeport Drive, subject to the following conditions:

- a. The dwelling at 1313 Freeport Drive shall serve no more than six (6) residents;**
- b. All residents and related service shall be directly associated with and regulated by the Florida Agency for Health Care Administration (AHCA);**

- c. The applicant shall remain the primary operator of the Community Residential Home (CRH) at 1313 Freeport Drive;**
- d. The applicant shall ensure the dwelling is staffed twenty-four hours a day seven days a week to manage the care of the individuals residing within the dwelling; and**
- e. No signage shall be allowed, besides what is allowed for a home occupation.**

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 asked if AHCA inspected the house and Mr. Paradise replied he does not know. Mayor Herzberg stated so there is no inspection report and the City would approve something before AHCA has inspected it to include the septic system. She cannot support the item until she sees a document showing that AHCA has approved it. She stated there is parking in the front and nobody can park in the back because there is fence in the back and Mr. Paradise replied correct. Mayor Herzberg stated the unfinished garage can house some cars, correct and Mr. Paradise replied that is what has been stated to staff, correct. Mayor Herzberg asked how many bedrooms there were and Mr. Paradise replied he believes it is a three bedroom, two bath home. Mayor Herzberg stated the home will house six elderly people that are going to live there plus two owner occupied people and Mr. Paradise replied yes, but in absence of the AHCA report and based on the square footage this may never get to six residents. Mayor Herzberg stated but that is what the Commission is voting on tonight and Mr. Paradise replied yes, up to six which is state law. Mayor Herzberg asked if this was going to be a business and Mr. Paradise replied yes. Mayor Herzberg stated there will need to be a BTR and Mr. Paradise replied yes, like a home occupation yes. Mayor Herzberg asked if the City requires any other extra garbage requirements. She asked what is going to happen to the property taxes, does it become a business and they start paying a business portion on their property taxes or will they still pay zero tax dollars to the City like they do now under the current exemption. Mr. Paradise replied he thinks it is going to be exempted as it is now. Mayor Herzberg stated that until she gets some answers and an AHCA report she is voting no.

Commissioner King asked when it is determined what kind of septic tank should be put in a home and what drives that, is it the number of bedrooms and Mr. Paradise replied fixtures. Commissioner King stated he does not have an issue with the septic system, but he does not know who owns the house that they are completely tax exempt unless it is a Veteran that is 100% disabled. These houses are all over the City, they serve a good purpose and he is in favor of the item.

Commissioner Bradford restated her position, the facility has to have the right location, the right size and it has to accommodate the people. Approving this would mean two people per room and staff has to have their own living quarters per AHCA and converting the

garage takes away the parking. It does not fit into a three bedroom, two bath, so how is this going to work.

Yamil Rivera Texidor, homeowner and Golden Age Home Care Corp. Registered Agent, stated his house is four bedrooms, two baths. Each bedroom will be used for two residents each and the master bedroom will be for the staff which is allowed by AHCA. When he took his course at an institute accredited by AHCA he was taught that the first step is get approval from the county first before going to AHCA to get approval.

Commissioner Avila-Vazquez asked if this was going to be a non-profit and Mr. Rivera Texidor replied no. Commissioner Avila-Vazquez asked once the applicant gets approved will they be allowed to make any changes to the structure as far as enclosing the garage to make an extra bedroom and Mr. Paradise replied the applicant could come in and pull a building permit and it would be a normal conversion for a single family dwelling unit.

Commissioner Nabicht stated Chapter 419 establishes this process which he explained in detail and the statute deliberately and distinctly calls out this process. Basically this is a zoning issue tonight, will the zoning allow for this type of an occupancy to be there. On paper this looks like a business, but technically according to Chapter 419 it is not. It is a residential home setting to care for the elderly which the statute deliberately and distinctly calls out this type of occupancy. The only concern that has any legitimacy tonight for the Commission to answer which falls under zoning is a parking issue. The concern regarding the septic system are not the City's concern, but the Health Department's. He asked that if the Commission receives one of these applications in the future that to have a little more information such as the application and a diagram or layout of the inside of the building.

Mayor Herzberg opened the public hearing.

Brandy White, 2689 Chalmer Street, Deltona, spoke about getting clarification on why the Commission thought the home was three bedrooms and has that been verified on the property appraiser's site, why the property is tax exempt and why it would carryover, these facilities being near her and not having a problem with them.

Mayor Herzberg closed the public hearing.

Mayor Herzberg asked if the applicant will be charging people to stay in that home and will there be income coming in and Mr. Rivera Texidor replied yes. Mayor Herzberg stated that to her qualifies this as a business. Her concerns are parking, putting businesses in a residential area, and how the exemption is addressed with the property appraiser.

Commissioner Nabicht called the question.

The motion carried by the following vote:

For: 5 - Commissioner Avila-Vazquez, Commissioner King, Commissioner McFall, Commissioner Nabicht, and Vice Mayor Ramos

Against: 2 - Commissioner Bradford, and Mayor Herzberg

Resolution No. 2020-09 was approved at 7:41 p.m.

C. Public Hearing - Resolution No. 2020-01, Conditional Use Application for a Community Residential Home at 2001 Dalton Avenue - 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, the same criteria discussed on Item 6-B is applicable to this item and this facility will be regulated by the State Agency for Persons with Disabilities (APD). Also, all conditional uses as per code need to be approved by a majority of vote of five or more by Commission.

Commissioner Bradford stated she received emails from concerned neighbors because of parking, there is no garage and she questioned whether there is parking in the back. She was sent a picture which she showed from the dais on her cell phone of the property with no posting and the person was told the signs blew down, but then they saw a sign posted. She asked if the property was posted the whole time. She stated those are her two concerns with this item.

Mayor Herzberg stated she saw the post which was put up on the side fence that faces Sullivan Street. She asked what the posting time is and Mr. Paradise replied 14 days. Mayor Herzberg asked when the garage conversion was done and Mr. Paradise replied he did not think it was ever converted, he thinks the house was built that way and when staff looked into it they could not find a permit history. When staff went out and looked at it, there is a gap between the pavement for the driveway and the front face of the house where one would think there would be a garage. Mayor Herzberg stated her concerns are the same as the ones that she expressed with Item 6-B, parking problems because the driveway is even shorter and no garage, and the septic tank issue. She asked that staff follow up on the septic tank issue for all intents and purposes for the future. She asked how many staff members are expected to be at this home and will those be live in staff members or will they be coming and going. Mr. Paradise replied three which will be coming and going, but he will let the applicant elaborate on that.

Applicant Jennifer Sullivan, Exceptional Care Within Your Reach, stated with regards to the staff the owners will not live on the property therefore the homestead exemption will be given up and they will be paying the City for services. Regarding parking, the residents

leave all at one time in the morning for the day program, they go to school and work during the day. There may be an occasional person at the home doing office work or cleanup work so one car will be at the home during the school business day between 7:00 a.m. to 3:00 p.m.

Commissioner Avila-Vazquez asked what the difference is between this residential business and the one on Saxon Blvd. just before Normandy Blvd. and Mr. Paradise replied probably very little difference, there would be these residences in a house in a residential neighborhood. They have the same criteria, however, the City for many, many years just approved these CRHs administratively if they met the criteria under state law.

Commissioner Bradford stated the difference between the two is that they did make them add parking on that unit so they extended the parking so it goes all the way down to the front of the house and they made them have a parking space for the number of each residents when they built the home. There are many times that there is not adequate parking with six parking spaces, parking is an issue. Ms. Sullivan stated the residents will be age 21 and over, adults, and they are serving minimal to moderate clients and if they need care by a doctor or nurse it gets done outside the home. There are minimal visitors and a lot of times when disabled adults get into a group home situation it is because family is no longer available to take care of them. There is some visitation, but it is on a minimal level and the staff owns the van that is used to transport which would be the only vehicle there all the time.

Commissioner Nabicht stated again, these types of facilities are designed to closely mimic a residential setting. Everyone here has probably had a birthday party or a Christmas party where there was eight or 10 friends that come over with their vehicles for four or five six hours and certainly they could not all park in the driveway, this is no different. The facility on Keeling Drive has been there for a couple of years and according to Mr. Paradise's research the City has not had an issue there. So, again, the concerns of parking here are not that massive of a concern and if it becomes a problem there is a mechanism in place where Code Enforcement will address that issue.

Motion by Commissioner Nabicht, seconded by Commissioner King, to approve Resolution No. 2020-01, a Conditional Use request for a Community Residential Home at 2001 Dalton Avenue, subject to the following conditions:

- a. The dwelling shall serve no more than six residents within the dwelling;**
- b. All residents and related service shall be directly associated with and regulated by the Florida Agency for Persons with Disabilities (APD);**
- c. The CRH remains under Exceptional Care Within Your Reach management and ownership;**
- d. The CRH is used only to serve minimal to moderate developmentally disabled adults as defined and regulated by the Florida Agency for**

Persons with Disabilities; and

e. No signage shall be allowed besides what is allowed for a home occupation.

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 People renting out rooms to people who are not clean, he explained an incident he went through two weeks ago, people renting out rooms and getting away with it, the judges he knows, and not knowing who will be living in the home.

Mayor Herzberg closed the public hearing.

The motion carried by the following vote:

For: 5 - Commissioner Avila-Vazquez, Commissioner King, Commissioner McFall, Commissioner Nabicht, and Vice Mayor Ramos

Against: 2 - Commissioner Bradford, and Mayor Herzberg

Resolution No. 2020-01 was approved at 7:59 p.m.

7. OLD BUSINESS:

- A. Consideration of Commission appointments of three alternate members to the Planning and Zoning Board for the remainder of a term to expire on March 15, 2022. - Joyce Raftery, City Clerk (386) 878-8502.**

Strategic Goal: Internal and external communication.

Mayor Herzberg stated the Commission will approve the appointments individually.

Vice Mayor Ramos stated there are two applicants that are on other boards and he asked if the board members can dual office hold. Interim Deputy City Manager Ron Paradise replied he does not think so unless there is a special exception like with the Affordable Housing Advisory Committee (AHAC). City Clerk Joyce Raftery stated there are two applicants from other boards that do not want to be on those other boards anymore which are why their names are listed.

Mayor Herzberg passed the gavel to Vice Mayor Ramos.

Motion by Mayor Herzberg, seconded by Commissioner Bradford, to confirm the alternate appointment of Dr. Allen Pfeffer for a term to expire March 15, 2022. The motion carried by the following vote:

For: 7 - Commissioner Avila-Vazquez, Commissioner Bradford, Commissioner King, Commissioner McFall, Commissioner Nabicht, Vice Mayor Ramos, and Mayor Herzberg

Vice Mayor Ramos passed the gavel back to Mayor Herzberg.

Motion by Vice Mayor Ramos, seconded by Commissioner Nabicht, to confirm the alternate appointment of Manuel Rodriguez for a term to expire March 15, 2022. The motion carried by the following vote:

For: 7 - Commissioner Avila-Vazquez, Commissioner Bradford, Commissioner King, Commissioner McFall, Commissioner Nabicht, Vice Mayor Ramos, and Mayor Herzberg

Motion by Commissioner Bradford, seconded by Vice Mayor Ramos, to confirm the alternate appointment of Susan Berk for a term to expire March 15, 2022. The motion carried by the following vote:

For: 7 - Commissioner Avila-Vazquez, Commissioner Bradford, Commissioner King, Commissioner McFall, Commissioner Nabicht, Vice Mayor Ramos, and Mayor Herzberg

8. NEW BUSINESS:

None.

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.

Juan E. Cortez, 1809 Monticello Street, Deltona, spoke about representing the seniors at The Center, the Billiard Team and competing with other centers, they are at a disadvantage with only one pool table, that there are 10-15 billiard players daily, and he requested the City get another pool table for The Center.

Richard Bellach, 1665 South Acadian Drive, Deltona, spoke about Vice Mayor working for Halifax, some being scared of a Commissioner, prior Mayor Masiarczyk, community residential housing, that he has a temper, social workers, the discussion on Items 6-B and 6-C, the City having nothing for young people to do, the prior proposal for a gym, and gangs.

Brandy White, 2689 Chalmer Street, Deltona, spoke about not planning to speak or even

attend, with regards to her notice of claim the 180 day window expired October 2019, past information between her and the City's insurance company, the City Attorney not representing her but the City, she questioned what more needs to be provided, the felony on her record, statements by Sheriff Chitwood, the cost to the residents, that she provided her availability to the City Attorney, she made her one and only phone call to the City Attorney, discussing resolution to move forward, what information is causing a pause, there being more evidence now, the City not doing their due diligence, the cost to residents thus far, legal staff costing close to a million dollars, that the case could not be more clear and why the issue is so difficult.

Elbert Bryan, 1625 Joyner Drive, Deltona, spoke about community residential homes and the debate that occurred regarding them, the City's Facebook page not having information on it, 90% of the residents not knowing there is a City website, residents monitoring the City's website, residents doing surveys, that the Commission does not communicate, and residents talk regularly about the Commission not communicating enough.

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:

Motion by Commissioner Bradford, seconded by Commissioner Nabicht, to approve Consent Agenda Items 10-A through 10-C. The motion carried by the following vote:

For: 7 - Commissioner Avila-Vazquez, Commissioner Bradford, Commissioner King, Commissioner McFall, Commissioner Nabicht, Vice Mayor Ramos, and Mayor Herzberg

A. Ratification for the emergency purchase of the potable water main replacements on Waterfall Circle - John Peters, III, P.E., Public Works Director, (386) 878-8973.

Strategic Goal: Infrastructure

Approved by Consent Agenda - to ratify the emergency purchase of the potable water main replacements from General Underground, LLC. at a total cost of \$226,270.00. 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.

- B. Request for approval of Municipal Utility Installation and Reimbursement Agreement (Capital Charge Credit Agreement) Mijax Deltona - John Peters, III, P.E., Public Works/Deltona Water (386) 878-8973.

Strategic Goal: Sewer Expansion - Infrastructure

Approved by Consent Agenda - to approve this Agreement with Majax Deltona to install certain sanitary sewer lines as described in the Attachment item and 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.

- C. Request for approval of two emergency contracts With General Underground, LLC with a total amount of \$484,796.20 to replace waterlines on Waterfall Circle and Bardahl Court / Elderwood Avenue - John Peters, III, P.E., Public Works/Deltona Water (386) 878-8973.

Strategic Goal: Infrastructure

Approved by Consent Agenda - to approve the awarding of a contract with General Underground, LLC in the amount of \$484,796.20 to replace waterlines on Waterfall Circle and Bardahl Elderwood. 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.

11. CITY COMMISSION SPECIAL REPORTS AND REQUESTS:

Commissioner Bradford gave an update on last Thursday's ILA (Interlocal Agreement) Oversight Committee meeting where generally a representative from each City in Volusia County attends and the school board provides everyone an update. She provided a packet to Dr. Cooper that he will disperse to the Commission and it lists all the capital projects that the school board is going to be completing for the 2019/2020 calendar year. When the school board does their own demographics they put the City as having an average age of 39.4 years old, Hispanic. The area of Daytona and Ormond is now the number one area for seniors. They definitely see the City as a rapidly growing game changer and the packet also goes over where the City is at with regards to capacity. The schools went from a few of them being over 100% capacity and now they are under that 100% capacity. Schools do

not look at a city getting another school until that city has reached a consistent 150% capacity in an area. This does take into consideration all of the new subdivisions, projections from the upcoming school year and the new homes. Regular school enrollment is down which is being attributed to the Family Empowerment Act and has currently 275 registered. Charter school enrollment is up as well as the homeschooling trend and that is mostly due to the focus on safety and security for the families. It is also being attributed to the extra funds being given out to families that can use those state dollars for enrollment now in order to put their children in private schools. There is a lot of information in the report and there is a sheet that outlines where the impact fees and collections have gone.

Commissioner Bradford stated she asked City Attorney Fowler the question regarding the potential motion again and she asked him his opinion on it. City Attorney Fowler stated not having had the opportunity to study this for any length of time other than during the course of the meeting. When the Commissioner asked him he said it is a general grant of authority to do whatever is necessary to accomplish whatever the particular motion might be. To the extent that that is more than the Commission intends or wishes to grant to someone then perhaps the Commission ought to consider those situations in which the Commission does that because it would not be appropriate in every situation. The Commission might not wish to have somebody to have whatever authority is necessary to do things when those things that might necessarily be done to accomplish another element might be inconsistent with the Commission's general requirements. So, while he understands the purpose behind it and he understands why it was done. It is a grant of authority that candidly is very, very broad and could either intentionally, although he does not believe that to be the case, but mistakenly employed or engaged in a fashion that the Commission would not otherwise wish had the Commission known. So again, it is a blanket grant of authority to do whatever might be required to accomplish whatever the motion was. It does not make it wrong, but it is a weaponization that the Commission might wish to apply maybe a little bit more judiciously.

Commissioner Bradford stated all she is asking is to have the language reviewed, that the Commission lessen the motion until the Commission can discuss it at a meeting and to reduce the motions back to the way it was before the language was changed last year. Mayor Herzberg stated the City Manager has no authority, which is how it has always been, for anything over \$25,000. Commissioner Bradford asked if the language in the motion trumps the \$25,000 spending authority and City Attorney Fowler replied it might, that is where its application to the particular direction might apply. It is a general grant of authority and to the extent that it might be inconsistent with the \$25,000 commitment limit. Then the argument would be that the Commission should not have said that or the Commission should have said to take whatever steps necessary not to exceed \$25,000 because that caveat is not in that phrase.

Commissioner Avila-Vazquez stated the City Manager has spending authority of up to \$25,000 and she used the example of having a revolving credit card vs. a credit card limit.

The City Manager has the authority to make a decision up to \$25,000 without the Commission's approval and when the Commission approves a motion it has nothing to do with the \$25,000 spending authority. She asked if she was correct in that it is separate and City Attorney Fowler replied it is and it is not, there is a \$25,000 spending cap without direct authority, but if the Commission approves a particular action and it says to the City Manager to do whatever is necessary to accomplish that it certainly opens the door to an argument that by doing that the Commission has in an essence authorized, for this particular instance, the City Manager to exceed \$25,000.

Commission Bradford read a motion as it is stated currently and she read a motion that she looked up from the October 15, 2018 meeting. She is okay with the City Manager signing any documents needed to push the item through, but the current language gives the City Manager full consent to do whatever he wants.

Mayor Herzberg asked if a budget transfer requires Commission approval at some point to include where the money would come from and City Attorney Fowler replied yes, it probably would or at least it should.

Commissioner King asked if the City Attorney could write up a limited edition for the Commission to look at and City Attorney Fowler replied yes, but each one of these activities is a little bit different and so to have a blanket approval or blanket type of authority is really a little difficult. If the Commissioner is talking about spending money, then the Commission could say they would approve this not to exceed an additional 10% or 5%, whatever it might be. This goes beyond spending money though; it authorizes activities and direction to staff. The Commission would have to have a motion in mind to be able to see what it could involve because it could involve any number of things. Now, typically it does not, but that does not mean it could not.

Mayor Herzberg stated at some time the City Manager needs that authority to do things like research and to contact other agencies. She asked if that was part of the City Manager's job if there is no cost involved. City Attorney Fowler replied it would be part of his or her job to do the research, but this discussion is about having the authority to execute which is what the current motion does. This is not go study this, this is go get this done and do anything you have to in order to make it happen. There might be situations in which an issue is so important that the Commission directs the City Manager to do whatever necessary to get it done.

Commissioner Avila-Vazquez asked if every project had a dollar amount attached to it when the Commission approves the budget. City Attorney Fowler replied most of them do if it is a project that involves spending's, but the project could involve negotiating a contract or an agreement with someone that might not involve the expenditure of money, but the bulk will. If the item was to purchase something for \$15,000 and it ended up costing \$37,000 that is \$22,000 over. He asked if that would be okay and his guess is no, the Commission

would not want that done. Now, he does not mean to suggest that it has been done or that anybody would do it, but that kind of a motion is open ended enough that somebody could say well you told me to get it done, to do anything that was necessary and it was necessary, I did it.

Commissioner Nabicht stated to give some Commissioners a level of comfort with this is to remove it off of the motions and to have Dr. Cooper provide the Commission with language in a policy directive that provides guidance to the City Manager on what limitations or what the Commission expects from the manager when the Commission executes a vote because what the Commission is saying is they do not trust the City Manager to carry out the job that the Commission just approved up on the dais. The City Manager runs the City, not the Commission. The Commission provides policy for the City Manager to operate within. When the Commission takes a vote up on the dais to do x, y, z, the Commission expects that the manager is going to faithfully and properly execute its wishes. There may be issues that the Commission is not aware of because of rapidly changing conditions that if he has to schedule or put off to another meeting, the City may miss a good opportunity. He suggested to create a policy that gives the manager the bounds to work within, there is probably language that can be plagiarized from another city or county if the manager or City Attorney want to research how other cities have addressed this. If the Commission is uncomfortable with the language on each voting item it will be taken off and the Commission will give a general policy "Do what you're expected to do to run the City". Otherwise, the Commission can be seven micromanagers and nothing will get done, it is that simple.

Mayor Herzberg stated she agreed, the Commission has tried over time to streamline things and there are certain things that are not even brought to the Commission such as land development that the Commission has said it does not need to approve under a certain square footage in order to move the process along. The same goes for DRC (Development Review Committee), the Commission tried to streamline that over the years to go ahead and make that flow better. First of all understand that this is a majority body and she asked which Commissioners are interested in changing the language. If the majority of the Commission are interested in changing the language and are uncomfortable with what it says at the end of the motions then let's go ahead and address it, but if the majority is comfortable with the language then it stays as is.

Commissioner Nabicht stated he would like to hear from Dr. Cooper and he asked him what he needs currently as the Interim City Manager to be able to execute the Commission's wishes when the Commission votes on something to be able to do your job and bring an item to fruition. Does he need this language, does he need to modify the language or can the Commission get rid of it and put it into a policy. He asked what Dr. Cooper's recommendation was because this is really how he is going to operate and accomplish stuff. Interim City Manager Dr. Cooper stated the language means really nothing to him basically. This is a referendum on Jane Shang. The non-trust of the City

Manager is a referendum on the previous City Manager which he had nothing to do with and he does not think she did anything wrong, embezzled any money or anything of that nature. So for the language to be brought up to limit the power of the City Manager whether it be him as an interim or anyone else coming forward, he thinks is going to be a mistake. Again, this is a trust factor on his end and if he is not trusted then he should not have been voted to be the Interim City Manager.

Commissioner Bradford stated this was not brought up as a trust issue and she is sorry Dr. Cooper feels that way. She brought this up when this was first changed. The Commission has a fiscal responsibility and that fiscal responsibility is when the Commission approves something to make sure it is as it was approved. She stated does the Commission want to have to wait for a surprise in the budget when it comes before them and funds are being transferred because an item costs more than anticipated. She understands emergency funding and she understands when there is an emergency that comes up. However, the Commission has a fiscal responsibility as well to make sure that the City stays within the approved budget. If the language is in an item that is being approved for the budgeted she will vote no on that item.

Motion by Commissioner Nabicht, seconded by Commissioner McFall, to leave the language as it stands "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". The motion carried by the following vote:

For: 5 - Commissioner Avila-Vazquez, Commissioner McFall, Commissioner Nabicht, Vice Mayor Ramos, and Mayor Herzberg

Against: 2 - Commissioner Bradford, and Commissioner King

Mayor Herzberg stated she has two items, the first one is there was an Executive Board Meeting for the Volusia League of Cities and the dinner in March which was to take place next week has been cancelled due to COVID-19. The other thing that she wanted to bring up was the Elected Officials Roundtable and Mayor Donald Burnette from Port Orange asked for an update on COVID-19 at that time. The Health Department was present answering some questions, that was Monday, and as discussed this is a fluid situation. A lot of the information has changed, but basically the Health Department was making the same statements that they are making now. There were no testing and they were working on getting the labs up and so forth. The same thing with not releasing any information, except the county regarding those positive cases. There was a discussion about flooding

and sea level rise and there was a group there called the American Flood Coalition and she requested to be on that coalition to address some of the flooding concerns and to learn more about what everyone is looking at in State of Florida and around the country. There was also a discussion about a long range transportation plan and affordable housing. Interim City Manager Dr. Cooper has some documents regarding that which will be distributed to the Commission.

12. CITY ATTORNEY COMMENTS:

None.

13. CITY MANAGER COMMENTS:

None.

14. CITY COMMISSION COMMENTS:

Commissioner Nabicht asked if Interim City Manager Dr. Cooper got a chance to find anything regarding Governor DeSantis' comments made yesterday at one of his briefings about releasing the FEMA (Federal Emergency Management Agency) money, the reimbursement from the previous hurricanes. Interim City Manager Dr. Cooper replied yes, he spoke with the Finance Director and she told him that the City had received mostly all of the funds from the last hurricane, not the one that just passed because the City did not have any, but the previous one. The Finance Director was checking on the last little bit that was supposed to be coming in. Commissioner Nabicht asked if the Interim City Manager knew roughly where the City stands with regards to the balance in the Disaster Fund and Interim City Manager Dr. Cooper replied that is a balance the Finance Director will have for him in the morning. Commissioner Nabicht stated that because this public health emergency is so rapidly changing and there is no way to know what will happen to the revenue stream. He knows the City always builds a cushion into its budget of anticipated revenues, but he would like the Interim City Manager and the Finance Director to reevaluate that situation and at the earliest possible convenience report back to the Commission. Whether the Commission needs to convene at an emergency meeting for an update or it can wait until the next Regular Commission Meeting. He would like to hear if there are any changes in strategies that need to take place, if the City needs to put any projects on hold because the City only gets about a 75% reimbursement. This does not negate the fact that the City has normally anticipations disasters that are on the horizon. For example in June it is hurricane season, the county is in a wildfire situation where the fire readiness level is high and any number of things can occur. The City may have to make some emergency purchases to buy some special equipment as yet to be determined, all those kinds of things. So again, he just would like the Interim City Manager and the Finance Director to take a look at the City's position and see if any of those revenue forecasts can be identified to be changing.

Commissioner Avila-Vazquez stated she wanted to respond to a comment made by one of the residents regarding returning phone calls. She just want to say that when she gets an email from a District 3 resident and it comes to her or it is forwarded to her by the secretary she does respond directly to the resident. When there is an email that comes in, but she is

not sure where that resident is from she will answer, but she also forwards the complaint to the Interim City Manager to look into and address it with the appropriate department which is what the Commissioners have been told they are supposed to do. So, if it is from District 3 and it comes directly to her to either her email or her phone she normally responds to them and handles the problem. Also, she has met a lot of times with Captain Marino regarding issues and complaints from Deltona Blvd. businesses and she has even met here at City Hall with a lot of the issues regarding the homeless. So they try as much as possible to address the residents' complaints. Again, if it is not her district she forwards the issue to the Interim City Manager to address with that resident and their appropriate Commissioner.

Vice Mayor Ramos stated if he could just add on to Commissioner Nabicht's comments, he would prefer to see an email as soon as possible instead of waiting for the next time that the Commission meets because nobody knows when that might be. Commissioner Nabicht stated no, no, by whatever appropriate means. If it is something that can be emailed, certainly, but it may be something the Commission has to give further direction to the manager based on his findings. Whatever the appropriate means is to communicate it. Vice Mayor Ramos stated with regards to the comment that there is nothing for the City's youth. The Parks & Recreation (P&R) Department has taken a positive turn, unfortunately, staff had to cancel the Spring Basketball Camp due to what is going on. The City has had two basketball teams with an average of 100 to 120 students playing and staff is working on a tournament for ages 18 and up. Staff is working on having flag football and the P&R Director is also working on partnering with the National Youth Organization as it relates to continuing to work on basketball, softball, baseball and soccer. So there is a lot going on in the City, especially when it comes to the City's youth. Everyone stay safe.

Mayor Herzberg stated she was going to comment on the P&R Department and that there is a gym at Wes Crile for the youth, but it is currently shut down. Regarding Facebook the City puts out emails and statements from the Interim City Manager this morning. The City has a presence on Nextdoor, Twitter, Instagram and Facebook. Just today, 12 hours ago, Deltona's P&R has canceled its youth. Eleven hours ago staff put out the latest from the Florida Department of Health about social distancing and a flier was provided. Then eight hours ago staff put out that Volusia County Schools will offer free meals for students during the week of March 23rd to 27th. Then six hours ago, all non-essential City events will be canceled and for a list there is a link to the regular web page which lists the statement that was put out this morning and six hours ago staff put out that the neighborhood centers opened a drive through emergency food pantry. On Instagram it also shows the non-essential City events that were canceled about six hours ago. So that is not a complete list because there are a lot of people who do not use social media and there are a lot of people that do not use computers. The City also has a list of residents that signed up for emails which go out and the things mentioned were sent out today. She tries to share what she can on the pages that she is on. She stated she is sorry, Mr. Bryan, she does not share information on his social media page, but if he is okay with it she will send the information to him. She does not know what is proper on some of the private social media pages, but she tries to send, share, whatever she can on the community watch pages and neighbors

helping neighbors. Commissioner Nabicht stated there is also DTV, Channel 491. Mayor Herzberg stated the City does try, is there always room for improvement, absolutely, and she thinks the City is doing a much better job updating its social media especially Instagram. She sees a lot of information on Nextdoor and that seems to be a relatively big venue for sharing. She gave a shout out to the Volusia County Sheriff's Office (VCSO). If anyone is a Live PD fan like she is, the VCSO was on the show last Friday and Saturday and this Friday and Saturday which was exciting to watch. She gave a shout out to Deputy Omar Bello who did an amazing job and he was really, really good. She apologized she does not know the Deputy's name, a young gentleman that is up at The Center a lot of the time, he was really great too and she recognized those two for sure. She stated please, ladies and gentlemen, residents of Deltona, and anyone else that is watching, be safe, social distancing, do not panic, and wash your hands. The City is canceling next week's workshop and there is no Regular Commission Meeting or Workshop scheduled for March 30, 2020. The next Regular Commission Meeting would be April 6, 2020 and that meeting is up in the air right now, to be determined and depends on the virus, what goes on with the state, and what things get shut down. As everyone has heard the President stated today no crowds greater than ten people, this is what the President is recommending so that came out as of this evening. So please, ladies and gentlemen, the City of Deltona is here for you, the City's first responders and medical people. Please take care of yourselves in these uncertain times.

15. ADJOURNMENT:

There being no further business, the meeting adjourned at 8:57 p.m.

Heidi K. Herzberg, MAYOR

ATTEST:

Joyce Raftery, CMC, MMC, CITY CLERK