



City of Deltona

2345 Providence Blvd.
Deltona, FL 32725

Minutes

City Commission

Monday, April 6, 2020

6:30 PM

Deltona Commission Chambers

****PUBLIC COMMENT NOTICE SEE ATTACHED****

In an effort to reduce the possibility of exposure of Residents to the COVID-19 (Coronavirus) we are not allowing public access into the Commission Chambers and practicing social distancing with the City Commission and Staff.

1. CALL TO ORDER:

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

2. ROLL CALL – CITY CLERK:

Present: 7 - Commissioner King
Commissioner McFall
Commissioner Nabicht
Vice Mayor Ramos
Mayor Herzberg
Interim City Manager Cooper
City Attorney

Absent: 2 - Commissioner Avila-Vazquez
Commissioner Bradford

3. INVOCATION AND PLEDGE TO THE FLAG:

A. **Invocation Presented by Commissioner King.**

Commissioner King led everyone in the invocation and the pledge to the flag.

Mayor Herzberg stated on the record that this meeting is being held in the chambers of the City of Deltona, it is being video recorded on DTV and is also being publicized on the internet on Deltona's website. It is only the Commission and staff that are present and there are no members of the public here. She asked Interim City Manager Dr. Cooper to reference the opinion that the City is using for this meeting.

Interim City Manager Dr. Cooper stated under the emergency resolution and declaration signed by Governor DeSantis there were certain aspects of the open meetings law that was

suspended during this emergency. Part of that was physically having others attend the meeting to be able to practice social distancing and everyone here is six feet or more away from each other. He ran it by the City Attorney and the City is in compliance with that, holding the meeting in this way. Staff provided the public with a way to submit their information and their voice could be heard via several options and the agenda was posted early so everyone could review it and submit their questions and concerns in writing and each Commissioner was provided those submissions last week and had time to review them.

City Attorney Segal-George stated she did get a very recent Attorney General Opinion (AGO) 2020-03, the state of emergency as Dr. Cooper referenced, and also what is called the Communications Media Technology, which is used in Florida Statute and the Florida Administrative Code which details the use of other methods for communication. That was basically the type of information that was put out to the media and to the public to enable them to contact and make statements with regards to that agenda so that Commissioners would have the benefit of their opinions.

4. APPROVAL OF MINUTES & AGENDA:

A. Approval of minutes of the Regular Commission Meeting of March 2 & 16, 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 March 2 & 16, 2020 as presented and to approve the addition of ADD-ON Item 6-A(1) to the agenda. The motion carried by the following vote:

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

5. PRESENTATIONS/AWARDS/REPORTS:

A. Proclamation - Water Conservation Month.

Mayor Herzberg stated the Proclamation recognizing Water Conservation Month would be put into the record.

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

Mayor Herzberg stated the Quarterly Board Reports are in written format and will be accepted as presented.

6. ORDINANCES AND PUBLIC HEARINGS:

A(1) ADD-ON ITEM: Request for approval of Resolution No. 2020-16, declaring a State of Local Emergency - Interim City Manager Dr. Cooper, City

Manager's Office (386) 878-8850.**Strategic Goal: Public Health and Safety**

Mayor Herzberg gave a brief description of the ADD-ON Item 6-A(1) declaring a state of emergency. Interim City Manager Dr. Cooper stated the only change to the resolution that is being requested at this period of time is basically because this is a very fluid situation that the City is currently under. Under the emergency resolution he and Fire Chief Snyder confer weekly on extending it for additional seven day periods according to Florida Statute. At this period in time he is asking the Commission to not only extend the state of emergency that the City is under, but to give him and the Fire Chief the authority that if needed at every seven day interval to extend the resolution until that point that the county or the state lifts their emergency resolutions at which time the City would lift their resolution.

Fire Chief Snyder stated Chapter 252-38 requires that cities can only do a state of emergency for seven days at a time. Generally, here in Deltona staff tries to bring it back to the Commission after a month to let the Commission decide whether they want to move forward with that or not. In the interim every seven days the manager and himself get together and decide if they want to move forward. Again, like Interim City Manager Dr. Cooper stated this is probably going to be going on for at least a couple more months. He is not sure how much the Commission and staff will be able to meet, that is at the Commission's discretion, so staff decided this would be a way to continue to extend the state of emergency without the Commission having to come in and meet.

Mayor Herzberg stated she agrees with staff this prevents the Commission from having to have another meeting just for this. Also, the Interim City Manager and Fire Chief are on the front lines of dealing with this.

Motion by Commissioner Nabicht, seconded by Vice Mayor Ramos, to approve Resolution No. 2020-16 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.

Mayor Herzberg stated there were no submissions for public comment on this item.

The motion carried by the following vote:

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

Resolution No. 10-2020 was approved at 6:40 p.m.

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, Interim Deputy City Manager/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.

Commissioner King stated looking at the first page of this document regarding term limits, Mr. Paradise stated that the term limits would be reinstated, but in the document everything is the way it was before. Mr. Paradise replied yes, staff did not change that portion of the agenda memo that was his oversight, but in Section 110-12 it states that no board member shall serve on the board for more than two consecutive three year terms.

City Attorney Segal-George asked if the item would be set to a date certain. Mayor Herzberg stated yes, right now the date certain on this agenda memo is May 4, 2020. The City Charter requires that the Commission have at least one meeting a month. Right now the models are showing that May 4th would be the peak of the pandemic. She suggest to cancel the May 4th meeting and approve this item to time certain May 18, 2020. So if the Commission has a meeting in May it would be the second scheduled meeting in the month of May. Also, if the model changes then the first meeting in May can always be scheduled, but for advertising purposes a date certain must be determined.

After discussion, the Commission concurred to cancel the May 4, 2020 Regular Commission Meeting and only have the May 18, 2020 Regular Commission Meeting.

Motion by Vice Mayor Ramos, seconded by Commissioner King, to approve Ordinance No. 02-2020, amending the Code of Ordinances Subpart B, Land Development Code Chapter 110, Article XII "Planning and Zoning Board" by adding, revising, and deleting certain provisions at first reading and to schedule second and final reading for May 18, 2020. 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 City Attorney read the title of Ordinance No. 02-2020 for the record.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, AMENDING ARTICLE XII. - PLANNING AND ZONING BOARD; CHAPTER 110, OF THE CODE OF ORDINANCES, CITY OF DELTONA, FLORIDA PERTAINING TO THE OPERATION AND STRUCTURE OF THE PLANNING AND ZONING BOARD; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

Mayor Herzberg asked if there were any public comments submitted for this item and the City Clerk replied no.

The motion carried by the following vote:

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

Ordinance No. 02-2020 was approved at 6:46 p.m.

B. Public Hearing - Ordinance No.10-2020, to Amend Chapter 14- Animals, of the Code of Ordinances, at second and final reading. - Marsha Segal-George, Assistant City Attorney, Legal Department, (386) 878-8873.

Strategic Goals: Internal/External Communications

City Attorney Segal-George gave a brief explanation of the item.

Motion by Commissioner Nabicht, seconded by Commissioner McFall, to adopt Ordinance No. 10-2020 at second and final reading. 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 there were any public comments submitted for this item and the City Clerk replied no. Mayor Herzberg stated there was one email that was sent to the Commission in favor of this item.

The City Attorney read the title of Ordinance No. 10-2020 for the record.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, AMENDING CHAPTER 14 - ANIMALS, OF THE CODE OF ORDINANCES, CITY OF DELTONA, FLORIDA PERTAINING TO ANIMAL RELATED ISSUES: SEVERABILITY AND AN EFFECTIVE DATE.

The motion carried by the following vote:

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

Ordinance No. 10-2020 was approved at 6:48 p.m.

C. Public Hearing - Acceptance of Final Plat (SD19-0002), Lake Gleason Reserve, Ron A. Paradise, Interim Deputy City Manager/Director, Planning and Development Services (386) 878-8610.

Strategic Goal: Economic Development

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

Commissioner Nabicht asked if this was the one when it was originally proposed they had proposed a package plant for the sewer and Mr. Paradise replied no sir that was Lake Sydney. Commissioner Nabicht asked if this would be on sewer and Mr. Paradise replied yes, this will be fully serviced by water and sewer.

Mayor Herzberg asked if there were any public comments submitted for this item and the City Clerk replied no.

Motion by Commissioner McFall, seconded by Mayor Herzberg, to accept the plat known as the "Lake Gleason Reserve" and direct the Mayor and staff to sign the plat as appropriate. 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.

City Attorney Segal-George stated she has been reviewing the plats so as the City has had more action with regards to the development she has been handling plats for Mr. Paradise.

The motion carried by the following vote:

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

D. Public Hearing - Acceptance of Final Plat (SD20-0001), Replat of Tract F, Unit 35 Deltona Lakes, OR 27, Pages 150-157, Ron A. Paradise, Interim Deputy City Manager/Director, Planning and Development Services (386) 878-8610.

Strategic Goal: Economic Development

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

Commissioner King stated during a previous conversation with Former City Manager Ms. Shang's another dollar store was going to be at the corner of Doyle Road and Courtland Blvd. At the meeting, he discovered that staff allowed that dollar store to be built with a septic tank rather than sewer because sewer would be in that area in the future which is true. This development being discussed tonight is in his district yet he knew nothing about it until he happened to drive by the property and three days later a sign went up announcing a public hearing. He asked if the public hearing took place and Mr. Paradise replied this is it. Commissioner King stated with no public by the way. Commissioner King stated he was

under the impression that the City requires new commercial development to have sewer. Staff told him that the sewer would either have to come from Howland Blvd. down to Lake Helen Osteen Road or would have to come up Lake Helen Osteen Road from the direction of Elkcam Blvd. He asked staff if there was a timeline for when the sewer was going to be built and the answer was no.

Commissioner King stated this would be the eleventh store of this type and out of those eleven stores five of them are within two miles of his house. He asked if the Commission voted no to subdivide this land what would happen and Mr. Paradise replied he believed that the applicant would have 30 days in which to make a determination to either retool the application or to file in circuit court. He suggested that if there is concerns about the end user here that the concern be addressed specifically to that matter versus trying to utilize the plat which is technical in nature to effectuate some sort of determination on small box retail type businesses. Commissioner King stated he thinks that if this were to be voted down tonight and that retail store wanted to be there that they would either have to buy the entire piece of property or they would have to back out or file suit. Mr. Paradise stated if the City handled it that way to be cognizant of its reputational standing in the business world as well.

Commissioner King asked what the benefit was to the City and its residents to having another dollar store. Mr. Paradise replied convenient access to goods and services and the City gets a tax base increase. Commissioner King asked how much in taxes the dollar store generates annually and Finance Director Camille Hooper replied she did not know.

Commissioner King stated small box stores are not good for the community, it is a convenience store, and are a hindrance to those larger grocery stores. These stores have less nutritional products than a grocery store and a lot of times citizens spend more money at these types of stores. He is opposed to this, the people in his district are opposed to it, they are opposed to the end result and they are upset because they knew nothing about. He pointed out that a resident on April 2nd requested to view all documents related to this item, the City Clerk acknowledged the email on April 2nd, but no appointment to view the records had been made as of tonight's meeting. He suggested that the Commission consider putting this off until the next meeting so that people have an opportunity to discuss it, look at the information, and make comments.

Commissioner Nabicht asked if the reason the item was before the Commission was because of the replat and Mr. Paradise replied that is correct. Commissioner Nabicht stated if it was not a replat it would have just gone through the development process and the Commission may have gone out there to do a ribbon cutting. These types of things, these stores, do not come before the Commission for approval and again, it did just because it is a replat.

Commissioner Nabicht stated what does concern him is not that it is a dollar store because the company has a business model which they follow and most of these stores in the City have been successful, but it is not about the store. What concerns him is how staff arrived at the decision to allow a sceptic when clearly for years the City has always required

commercial to hook up to sewer. It is disturbing to him that staff would not have said that the developer has to run the line to connect to sewer and cost share the line with the City. The City is doing that with the developers down on Doyle Road for those subdivisions and making them cost share those lines. He asked what the rationale is and he realizes that it has nothing to do with this replat, but it is going to make a difference on how he votes on this. Mr. Paradise stated the requirement for the central sewer is illustrated in the Comprehensive Plan Policy I2-SS1.5 In order for there to be a robust development program central utilities is essential for that to happen. Also, there is an environmental issue here, everyone knows about the algae growth in Blue Springs, the water quality and the nutrients in the water. The policy does allow the ability for the DRC (Development Review Committee) to look at certain parameters to determine if sewer or a septic tank may be appropriate. The wastewater flows from this particular use would be less than one ERU (Equivalent Residential Unit) and would generate less wastewater flow than a single family dwelling. The City is approving single family dwelling units on septic tanks within the Deltona Lakes Plat quite routinely.

Commissioner Nabicht stated staff is presuming that flow is based upon this end user, but his concern is that nobody knows that the end user will continue to occupy that business. If that business changes hands there is a laundry list of things that could go into that location and it can become anything listed within the zoning classification which could affect then the amount of septic. As an end result to that it may become an unsellable piece of property and be a blight or the start of blight in in that area. So he does not think that the rationale and the DRC's decision holds any water here.

Mr. Paradise stated the applicant was required to install an advanced treatment Aerobic Septic System, the BAM (Biosorptive activated media) unit which offers a higher degree of wastewater treatment than the standard issue septic tank. Furthermore, they designed the project so when sewer becomes available it will be hooked up. Plus the tract is essentially a dedication to the City for a lift station site, so that when the sewer lines are put in there is a lift station there in order for the entire area to be served efficiently and effectively. They also paid their sewer connection fees up front which are based on those wastewater flows.

Commissioner Nabicht stated staff operated within their bounds, but he does not think the Commission's policy is clear enough in this case to achieve the end result, in terms of sewer and septic, that the City may want to achieve. He thinks one of the things that needs to be done is to make it very clear in a policy and if the City needs to put a moratorium on commercial building with the use of anything less than connection to City sewer, the Commission may want to consider some discussion with regards to that. Volusia County is investing very heavily in upgrading the Del-North System which would most likely serve this property and the City is not doing its part to force the connection and the revenue that would be generated to help support that sewer expansion by allowing a commercial business to be on septic. He suggested the Commission look at its policy about commercial business and subdivisions.

Commissioner Nabicht asked if the City eliminated package plants and City Attorney

Segal-George replied that is correct. Commissioner Nabicht stated he thinks the Commission needs to take the same action on commercial septic. He does not think there is any place in the City anymore for commercial septic. The only way to get sewer costs down in the City is to expand the sewer system and put new construction onto that expanded system. He asked if the DO (Development Order) had been issued and Mr. Paradise replied yes and for clarification they are required to connect when sewer is available, but there is no capital plan at this time.

Mayor Herzberg asked if the second lot was 7.9 acres, the divided part and Mr. Paradise replied yes. Mayor Herzberg asked what would be allowed there and Mr. Paradise replied any retail use consistent with the C1 zoning including a grocery store. Again, that would be dependent on the availability of utilities which will drive what goes there. Mayor Herzberg asked if the Commission goes ahead and lets this go on a septic tank, is the Commission obligated to do the same for whomever builds next to this. Also, with regards to the DRC process something about that process has to be done a little bit differently and there is an onus on the developer to not clear the land until the approval is received. The other side of this is if the end user was an Aldi's and not a dollar store would the Commission be having this conversation. She asked if an Aldi's would have to go on sewer and Mr. Paradise replied yes and they would want sewer.

Mayor Herzberg stated the big aversion is to a dollar type store and she suggested the Commission may need to look at if there is such a public aversion to this type of a store doing what Palm Coast has done. This type of a store continues a food desert, it does not supply fresh fruits and vegetables and it may deter something like a grocery store from coming in to that area. She questioned what is going to be the Commission's firm stand on sanitary sewer for commercial development. She asked what the legal ramifications are if the Commission turns this down and City Attorney Segal-George replied she could not give any specifics tonight which may be the impetus to continue this to the next meeting. Basically, it is the costs that have incurred in proceeding forward and from what she understands what was done by the DRC and what led to this point was all done within the rules. That does not mean that the Commission cannot say it does not want this or go in that direction. Staff can look at all these things and what options the City has. Palm Coast is pursuing this and the process includes a resolution of zoning in progress, to go to some type of moratoria, a draft ordinance would be presented, there would be a hearing and all of that would be discussed because there are pros and cons. If the Commission wants to consider this right now it is a good time to do that because the City is not having as many meetings. Staff can bring something forward to cement the fact that no commercial is to go in without sewer. Staff can look at something for the Commission to review with regards to looking at dollar stores, some have done dollar stores as a conditional use and required them to have fresh food available. She suggested to continue the item, give staff time to look at some of the concerns and at least bring back some ideas to the Commission.

Commissioner Nabicht stated he does not want to go back to when everything came before the Commission, he does not want to slow down the development process and give staff a clear direction on what their options are.

Motion by Commissioner Nabicht, seconded by Vice Mayor Ramos, to continue the final plat, SD20-0001, to a date certain of May 18, 2020.

Mayor Herzberg asked if there were any public comments submitted for this item and the City Clerk replied there were five submissions. Mayor Herzberg stated the submissions will be attached to the minutes for the record and also prior to the public comment portion the Commissioners received a lot of emails regarding this item that should also be part of the public record.

The motion carried by the following vote:

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

7. OLD BUSINESS:

None.

8. NEW BUSINESS:

- A. Request for approval of a Contract with Wright Express Financial Services Corporation (WEX) to provide fuel purchases at various locations within the City of Deltona, the State of Florida and nationally. - John A. Peters, III, PE, Director, Public Works & Utilities (386) 490-2522.**

Strategic Goal: Fiscal Issues

Motion by Commissioner Nabicht, seconded by Vice Mayor Ramos, to award the contract with WEX to provide for fuel purchases, 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.

Mayor Herzberg asked if there were any public comments submitted for this item and the City Clerk replied no.

The motion carried by the following vote:

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

- B. Request for approval of a contract with Cathedral, LLC to provide Utility Bill Printing and other printing services as outlined in the contract. - John A. Peters, III, PE, Director of Public Works & Utilities (386) 490-2522.**

Strategic Goals: Fiscal Issues

Motion by Vice Mayor Ramos, seconded by Commissioner Nabicht, to award the Contract with Cathedral, LLC to provide Utility Bill Printing services and other printing services as outlined in the contract 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.

Mayor Herzberg asked if there were any public comments submitted for this item and the City Clerk replied no.

The motion carried by the following vote:

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

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

Mayor Herzberg asked if there were any general public forum comments and the City Clerk replied two. Mayor Herzberg asked if staff wanted to attach those for the record and the City Clerk replied they will be attached to the official minutes.

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 Nabicht, seconded by Vice Mayor Ramos, to approve Consent Agenda Item 10-A as published.

Mayor Herzberg asked if there were any public comments submitted for this item and the City Clerk replied no.

The motion carried by the following vote:

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

A. Request for approval of Resolution Number 2020-13; budget amendment for the Equipment Replacement Fund. - Camille Hooper, Finance, (386) 878-8553.

Strategic Goal: {Fiscal Issues} Maintain a balanced budget.

Approved by Consent Agenda - To approve Resolution No. 2020-13, budget amendment for the Equipment Replacement Fund. 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 King stated after his conversation that he had this past week with the Interim City Manager and Assistant City Manager he know that they are looking at some possibilities for these box stores.

Motion by Commissioner King, to put a moratorium on these box stores coming in and have enough time to look at them, determined what the City can do, what the requirements should be for them to come in and to follow the lead of Palm Coast and other places around the country that are already doing this so that the City can try to get a handle on the development that is coming in.

Commissioner King stated the City needs to look at some of the other companies that may come into the City, but right now will not. He thinks if the process can be slowed down it would be a good thing so his motion is to initiate a moratorium until the staff and Commission can come up with a solution that will be beneficial to the City and its residents.

Motion died for a lack of a second.

Mayor Herzberg stated the problem with seconding a motion like that right now without any guidelines may hamstring something that the City really wants. By May 18, 2020 the City Attorney can bring something back to the Commission. City Attorney Segal-George replied yes ma'am, there is a process to go through in these circumstances so she would like to come in with a resolution of zoning in progress where the City takes the first step and start putting criteria down as to what the Commission may or may not want. At that point, once the Commission has a fairly good idea from there the City would move to some kind of a temporary moratorium with a draft ordinance. So nothing is going to happen in the interim, but it gives the Commission time to look at exactly what it is trying to accomplish. If everyone is okay with that she will bring the resolution of zoning in progress forward and a list of potential ideas and possibilities.

Commissioner McFall stated he supports a possible moratorium, but not voting on it tonight. He wants the City Attorney to bring something back to the Commission to look at, see what other cities are doing, see how it is working for those cities and if the City does this to make sure it is appropriate in that it also does not hinder property rights and does not hinder the growth of the City.

Commissioner Nabicht stated he supports the concept, but his concern is the definition. The definition of a small box store is very vague and he thinks the Commission has to really pay attention to that detail.

Mayor Herzberg stated along with looking at a moratorium, the sewer situation and what the Commission wants this City to be she thinks that it needs to be clarified as to why certain businesses are not in the City. Several years ago John Wanamaker explained the process and the criteria that a lot of businesses use when they come into an area. She suggested to have that done again whether the City's own economic development people do it or someone from outside. She also suggested an economic development town hall for the public to understand why the City gets small box stores and why the City does not have an Aldi store. A lot of it is demographics and infrastructure because these businesses want to be on sanitary sewer, hook-up to gas and the City does not have that. The Commission and staff need to look at what the City really draws, what it is capable of, look at a realistic commercial tax base and property rights. She thinks the Commission needs to have an in-depth conversation that addresses all of that from perspectives of staff, the Commission, the residents and an outside business perspective and to have something by May 18, 2020.

Commissioner Nabicht stated this goes back to an overall planning issue and it is not just about sewer, but gas. Staff needs to take the future land use map and the zoning map and create some overlays. Where there is property that is commercially zoned staff needs to develop a strategic plan that looks at whether there are the proper size water mains feeding the commercial property, the code requirements for certain sized water mains, make sure that sewer is available to connect in the future in the commercial land use areas and to work with utility companies to bring natural gas lines into the City and expand on existing gas lines. The City has to have those basic utilities in the future commercial land use areas that are zoned for commercial use. Developers or the landowners should do their due diligence to make sure the land has all the parts that are going to need and the City can do pioneering agreements or shared or future shared use agreements in the Development Order (DO).

Motion by Commissioner Nabicht, seconded by Commissioner King, to put a moratorium on issuing permits on any future commercial projects that would allow septic and on any commercial development being issued permits without a plan for them to move forward to get connected to sewer in order to receive a CO (Certificate of Occupancy).

Commissioner McFall stated he understands the motion, but he still sees a property rights issue. People have invested hundreds of thousands of dollars on a little 50 foot commercial piece of property and commercial is a wide range, it could be a little mom and pop business with two or three parking spaces. There is a lot of commercial property that does not have access to sewer right now and he does not know if he can support taking away their rights to use that property the way it was purchased, currently zoned and the City approved used.

Commissioner Nabicht explained where he is coming from, he used the example of the closed Winn Dixie store on Howland and Courtland Blvds. and that he just wants it to be built right from the beginning which does not mean that business is going to stay and maintain what the City approved. He wants to deal with this on the front end by connecting to sewer, doing pioneering agreements and doing future cost shares. He wants to look at the bigger picture which is the Deltona utilities customers and what the City could possibly get saddled with down the road.

Vice Mayor Ramos stated he wonders now that the Commission has directed the Interim City Manager and City Attorney to work on this should the Commission wait to get input from them regarding some language that everyone can feel comfortable with instead of passing a motion today that later on the Commission might not totally agree with.

Interim City Manager Dr. Cooper stated he agreed with the Vice Mayor. He asked the Commission to allow 30 days for himself, the City Attorney and staff to come up with some language to bring forward to the Commission. He agrees 100% with Commission Nabicht that if it is done right the first time you do not have to worry about it in the future, but he also wants to give staff time to make sure that what will be presented is not creating another residual effect that was not expected.

Commissioner Nabicht stated he does not know what is in the pipeline and he is asking that the Commission formally direct staff by policy to “pump the brakes” and give them 30 days to bring something back to the Commission.

Interim City Manager Dr. Cooper stated if he is not mistaken, the DRC meeting was canceled due to COVID-19 and not being able to practice safe distancing. There has not been any discussion regarding having virtual meetings at this point.

City Attorney Segal-George stated if the Commission is going to do a moratoria or any of those kinds of things it has to be in a written document and it should be done for a specific period of time until legislation is adopted. She is concerned about putting out a statement without definition and without pointing to specific areas in the comprehensive plan and the code. Staff can take the Commission’s direction and bring back suggestions that staff can then develop either via a resolution, ordinance, code change or whatever needs to be done.

Mr. Paradise stated a lot of what is being dealt with here surrounds the comprehensive plan

policy and the language there of. With regards to central sewer the spotlights cast on that policy which makes it manageable and it is a matter of focusing in on that policy.

Mayor Herzberg asked how many businesses the City has in the queue that would come before DRC that this may or may not affect and Mr. Paradise replied he does not know of any at this juncture.

Vice Mayor Ramos stated he thinks the direction is clear, but again, he does not know that a motion right now tonight is necessary as the direction has somewhat been understood, there is nothing in the queue and he would prefer to have something in front of the Commission that is much more effective in the future.

Commissioner King asked if the Commission does not vote for this moratorium tonight then what happens to the things that end up in the queue tomorrow or the next day. If between now and when the Commission receives some kind of direction from the Interim City Manager or City Attorney will whatever is in the queue move forward or will it stay where it is until the Commission has clear direction as to what it wants to do. He asked if staff was in agreement that if something else comes in staff will hold off on it until this gets done.

Mayor Herzberg asked if it has to go through DRC for something like that. City Attorney Segal-George replied that is part of it, but she has been given direction this evening and she understands what the direction is.

Mayor Herzberg stated her concern regarding doing something this evening is the message that it sends which is Deltona stops development for sewer. The Commission and staff do not have a solid answer on what the City is exactly doing and everyone knows what the intent is, but she does not agree with doing something on a knee jerk reaction without a document in front of the Commission. She suggested that staff provide an update should anything come in through permitting or anyone shows an interest because it is on staff to inform those potential businesses what may be coming down the road that this Commission spoke about tonight.

Commissioner King withdrew his second and Commissioner Nabicht withdrew his motion.

Commissioner Nabicht stated tomorrow the Volusia County Council will be voting on a multimillion dollar package that involves the City of Deltona and their services here. One of which will be a contract to Massey for the widening of Howland Blvd. from Providence Blvd. to Elkcarn Blvd. which is about a \$13.2 million award to do that widening and it is coming out of Volusia County's transportation reserve. It has been a long difficult endeavor and there was a lot of moving pieces to that project. He publicly thanked County Manager Recktenwald for facilitating that and the City staff that worked diligently with DOT (Department of Transportation), TPO (Transportation Planning Organization) and county staff on bringing this to fruition. It has been a long standing plan and a lot of heavy lifting was done by Councilwoman Deb Demmings from over on the east side. It just goes to show that

when the different government entities work together on a project, the heavy lifting can get done, the barriers can be removed and we can succeed in getting a much needed transportation project brought to the City and finished in a reasonable period of time. This is a good project for Deltona and he cannot thank the county council enough, their staff and City staff for the work that has been done. Also, the expansion of the much needed sewer upgrades are going to take place in Volusia Counties Del-North System on Catalina Blvd. and Wolf Pack Run which will enhance the capabilities of central sewer in the Del-North System and the future growth that is anticipated to come in that service area. Again, he thanked Volusia County for listening to the City's staff and management team working through all the hurdles and making it happen.

Vice Mayor Ramos stated the River to Sea TPO launched a survey as of March 30, 2020 until May 30, 2020 called "Tell the TPO". This is a great opportunity for people to participate and be involved so that transportation projects can better serve the community. The survey is posted on the City's website, it will take five to 10 minutes and this is an opportunity to make sure that everyone's voice is heard as transportation moves forward in the future.

Commissioner King stated he has some issues with not being able to make the public be more a part of the meeting and he suggested that between now and the next meeting to come up with some ways where the City uses some kind of medium like Zoom or something where people can log in, see the meeting, and then make their comments. He suggested and ask that staff look into that and see what can be done for residents to participate virtually with their iPhone or their computer and be able to communicate. He thinks the City can do better to make sure that the public is able to participate in the meetings.

Mayor Herzberg stated since Commissioner King brought this up there needs to be a consensus from the Commission. The next meeting will not be until May 18, 2020 and basically the request is for public participation in a virtual sense because right now everyone is able to see and hear this meeting. It is public participation at the time the item is discussed because the City has allowed public participation similar to the way the county has through the website and so forth. It is in the Commission's policies and procedures that Commissioners do not participate in meetings electronically and that has been clearly stated in the past. Former Commissioner Denizac was adamantly against that and brought forth that there was to be no virtually or calling into a meeting and Commissioners had to be present to participate. That is why the Commission is present here today because it is in the Commission policy and it would require a policy change or an amendment to that. She asked if there was any interest to go ahead and look into that and have staff come back with something or wait to see what happens on May 18th.

Commissioner King stated he is not referring to the Commission. The policy says that the Commissioners need to be here to participate, but he is specifically referring to the public. Mayor Herzberg stated right, but there has also been requests or commentary from Commissioners who do not want to physically come to City Hall and want to be able to participate remotely.

Commissioner McFall stated he is comfortable with during a time of a declared emergency that the Commission have the ability to meet in a virtual setting by phone or computer. There are other cities around the nation that are doing that, it is being done in the schools and it is something that the Commission ought to be able to do, but only during a qualified time of a declared emergency by the City that the Commission is able to meet that way.

Motion by Commissioner McFall, that the City can have virtual meetings and attendance by phone, computer or other means during a declared state of emergency.

Commissioner McFall stated when it is not an emergency the Commission has an obligation to try and attend the meetings. Initially, schools had some problems with going to virtual learning with people hacking into the system and now there is a gatekeeper if you will. So if someone wanted to speak and starts becoming inappropriate it can be turned off or not allow the speaker the rest of their time.

Vice Mayor Ramos stated there are two things going on here, Commissioner King's conversation is about public comments and Commissioner McFall made a motion about the Commission changing the ordinance.

City Attorney Segal-George stated it is a Charter provision. Commissioner King stated it says in the Charter that the Commission must be present, but he questioned whether it says the public has to be present.

Commissioner Nabicht called for a point of order, there is a motion on the floor with no second that the Commission is having discussion about. Mayor Herzberg asked if there was a second to the motion.

Commissioner King asked if the motion was for everyone including the Commissioners or just the public that does not have to be present. Commissioner McFall replied everyone including the Commissioners do not have to be here because two or three of the Commissioners could become sick and not able to attend, but could still participate from home. The City should be able to have a virtual meeting including commentary from the public because that is important. He suggested having the meetings in the courtyard and he was concerned about not being able to include the public tonight, but after looking at the situation he absolutely understands why the City is doing what it is doing. The Commission needs to make sure everyone is safe, provide a way to meet and for the public to provide appropriate input.

Commissioner King seconded the motion.

Mayor Herzberg asked what can be legally done with regards to the Charter and what can the Commission do about the motion and the second. City Attorney Segal-George replied the Charter provision specifically requires the Commissioners to vote in person, in a public setting. Some cities like Cocoa Beach have a provision where someone can participate from home, but it cannot be used as a quorum and she has not seen it where it says nobody has to be present. The only option she could think of to get to where the motion and the second is coming from is by trying to use the emergency to circumvent the Charter for this period, but it could be challenged. Due to a situation that could have never been imagined in preparing the Charter or because of no time to make changes to the Charter at this particular point, it would be basically marrying what is being proposed to an emergency declaration from the Commission to create a virtual meeting. It would have to result in a document and the reasons explained as to why the City is using emergency power to basically circumvent for a limited period of time the provision of the Charter. The City has to have the technology to be able to put all of that together, it is a timing thing and she does not know if it can be done by the May 18th meeting because the a Special Commission Meeting would need to be called to authorize it and then have the virtual meeting on the 18th.

Commissioner Nabicht stated there are other issues that have to be spelled out, for instance, does every Commissioner have the ability to connect on FaceTime, Zoom or whatever platform will be used or is the internet connection reliable. This all needs to be provided in the policy if the Commission is going to that. There are two very, very different issues here and one is more manageable he thinks than the other. He thinks it is more difficult to come up with a solution presently for the Commission to meet virtually than it is to create something for the public to be able to participate virtually, but he could be wrong. He has a lot of concern about circumventing something that is in the Charter and he would rather address changing the Charter down the road rather than circumventing the Charter. He would support the component that looks for a platform to allow public participation and then to continue to meet here in this setting.

Commissioner King withdrew his second and Commissioner McFall withdrew his motion and support working toward a better public input opportunity at the next meeting.

Commissioner King asked if a motion was needed to get the public participation in place by the next meeting and Interim City Manager Dr. Cooper replied no, he has clear direction.

Commissioner Nabicht stated he wanted to make it clear as doable as possible because this whole situation is so fluid it may or may not be able to happen by May 18th, but certainly the manager will try.

Mayor Herzberg asked the City Attorney to come up with any legal opinions about the state of emergency. She too does not want to circumvent the Charter, but she totally understands the Commissioner's reluctance to be here. City Attorney Segal-George stated she knew this was a huge obstacle and that a number of Commissioners are concerned about being

present at the meetings. Whatever is done could easily be challenged and a lot of other cities do not have that same requirement in their Charter and it is much easier to change a policy.

Mayor Herzberg stated the City Manager and City Attorney have their direction to find a way to come up with some form of virtual public participation by the 18th of May.

Commissioner King stated churches are doing virtual services, bible studies and worship services and a lot of them put that together in about two weeks. So he thinks that is very doable for the City to at least have public participation even if the public has to message in a question or comment.

Mayor Herzberg stated she has a request, a gentleman owns a residential property on the corner of Saxon and Providence Blvds. and multiple times he has requested that she address him wanting that corner rezoned commercial for future land use. Former Vice Mayor Treusch had that same request for Providence and Fort Smith Blvds. and then Providence and Saxon Blvds. to look at future land use for putting an overlay for possible future commercial land use, there were public hearings on that. She is doing her due diligence and bringing that forward. Commissioner Nabicht suggested if that is the direction the Commission wants to look at going in that it be tied and included in the providence trail plan for future infrastructure through that area to ensure adequate infrastructure to support a commercial rezoning in that portion of Providence Blvd.

Mayor Herzberg stated the City Manager and the Fire Chief have instituted a burn ban for the City of Deltona following Volusia County due to the dry conditions. She asked if that includes sky lanterns that are lit and released into the air. Fire Chief Snyder replied he does not know specifically and he does not know if they are illegal to begin with. The only thing that is legal through the burn ban is anything that is permitted through the forestry and barbecue grills so he would say that they are not legal. The burn ban specifically says the only way a person can burn is if they have a permit through forestry and they give them permission to burn that day or if the person has a gas or barbeque grill or something to that effect that they can do that, but not a fire pit or burning of trash, leaves or underbrush.

12. CITY ATTORNEY COMMENTS:

None.

13. CITY MANAGER COMMENTS:

Interim City Manager Dr. Cooper stated as of Thursday this week he will be closing City Hall down for a day for a deep cleaning, a sanitizing cleaning and the company need two days to do that because of the size of City Hall. City Hall will be closed on Thursday and Friday City Hall is already closed for Good Friday. He is looking at other buildings, Public Works, The Center and Deltona Water which will more than likely take two days as well. He may be coming forward with a contract to try and keep them on retainer for the duration for some type of continuous cleaning.

14. CITY COMMISSION COMMENTS:

Commissioner Nabicht wished everybody a safe blessed Holy week and a blessed Easter on Sunday. He died and will rise again for us, that we will get through this and come out on the other side of this. He stated once this is over with the Commission is going to have some very big issues to deal with going into budget to try and forecast the future economic picture because he thinks the City is going to be looking at a way of doing business like it has never done before. He thanked Fire Chief Snyder and all first responders, now more than ever we need to support the men and women of in emergency services. The mental strain that they are dealing with on a day to day basis is like nothing they have ever dealt with before. This is equivalent to a war and there will be scars from that war and we will all be required to help with that healing process and getting the City, the county and the entire country back on the path. He thanked the Commissioners and staff for being here tonight and holding up to their obligation and duty. We are at war and we are the leaders and generals at this time, so thank you for being here tonight he appreciates it.

Commissioner King stated we will be praying that we can put the budget together and do it the way that it is supposed to be done not only for the community, but for the City. Truly the first responders are doing an awesome job and he thanked every single one of them for what they do. If there is any way that the Commission can provide support to them to just let them know they will do what they can. He thinks that is a personal offer as well as the City's offer. We need to continue to pray for our nation, for all first responders, doctors, nurses and all the people that are working in hospitals everywhere. Now all of the medical service people are moving out and are being deployed to assist them in curing this disease for those who have not. Let's continue to prayer and to do what is right for the City, its citizens, the State and the nation.

Commissioner Nabicht stated he also wanted to include all those people in the supply chain, at Wal-Mart and Publix who are stocking the shelves and working around the clock putting up with the craziness. Thank you supply chain wherever you fit in that.

Vice Mayor Ramos stated at the end of the day encourage everyone to please follow CDC (Center for Disease Control) guidelines, social distancing and stay at home if possible. If you do not need to be out please stay at home. He is thankful for the first responders and he asked everyone to keep an eye on their neighbors, it is important. The Commission has been saying thank you to a lot of folks, but he also wanted to say thank you to the City's employees and the Interim City Manager for keeping the City open, closed, but open and still doing business. He thinks it is important that we all stay safe.

Mayor Herzberg stated she did not know how many saw Representative Santiago's little press conference outside City Hall today. The Representative is diligently working to try to get two testing centers in Volusia County, one on the east side and one on the west side. He has been pounding the powers that be, he is working diligently to get some sort of drive up or drive through testing center and get some testing here because the biggest issue is the guidelines are very strict on how a person can get tested. If someone can get tested the

results take five to 10 days to get the results which is a big stressor on everybody. She applauded Representative Santiago's efforts and hopefully the City will be hearing something positive in the next few days and he is able to achieve that. She thanked Interim City Manager Dr. Cooper and for his leadership and for him and Fire Chief Snyder who worked with the Representative to see if a testing site would be a possibility for Deltona. Aside from thanking everyone that is working really, really hard to get everyone through this. As of now the projections for Florida are the first week or two in May which is why she requested that the meeting be moved out. No one needs to be out in public if they do not have to be and she understands that there are a lot of people that have to be out there for their jobs, their families, the elderly or children. So, this is not a joke ladies and gentlemen this is very, very, very serious. The is word that the hospitals are slow right now so pray and hope that it stays that way, but unfortunately probably not. So, stay safe, use social distancing, stay inside and do whatever it takes to keep you and your family healthy and safe. Everyone is important to her, this Commission and staff and that includes staff members. She wished everyone a Happy Easter and hopefully when the Commission meets again in May there will be a more positive view on everything. She thanked staff, the City Attorney and everyone. She asked to convey her thanks to all the staff of the City of Deltona that are still here working diligently for the City.

15. ADJOURNMENT:

There being no further business, the meeting adjourned at 8:44 p.m.

Heidi K. Herzberg, MAYOR

ATTEST:

Joyce Raftery, CMC, MMC, CITY CLERK