

REGULAR CITY COUNCIL MEETING
COUNCIL CHAMBERS - CITY HALL
1000 CITY CENTER CIRCLE
DECEMBER 8, 2009

THE REGULAR CITY COUNCIL MEETING of the City of Port Orange was called to order by Mayor Allen Green at 7:00 p.m.

Pledge of Allegiance

Silent Invocation

Roll Call: Present: Councilman George Steindorfer
Councilman Bob Pohlmann
Councilman Dennis Kennedy
Vice Mayor Mary Martin
Mayor Allen Green

Also Present: Kenneth W. Parker, City Manager
Margaret T. Roberts, City Attorney
Shirley M. Kelly, Deputy City Clerk
Glenda Leftwich, Recording Secretary

SPECIAL RECOGNITION AND PROCLAMATIONS

4. Recognition of Donors for the Port Orange Fire-Rescue Community Sharps Disposal Program

Russ Rafferty, Division Chief, EMS, acknowledged State Farm and their agents who gave \$500 towards the Community Sharps Disposal Program. The Program is run completely through sponsorships. It provides residents a way to dispose of bio-hazard waste such as used needles and syringes, safely. Jeff Hoffner, State Farm, was present representing all Agents.

SPECIAL REPORT

5. Discussion on Federal Ground water Rule (GWR)

Mike Ulrich, Assistant Director of Public Utilities, said the Florida Department of Environmental Protection has recently held workshops regarding the GWR, and provided documents to help public water systems implement requirements for compliance. The rule actually went into effect September 1st. The new regulations are effective December 1, 2009. Paul Salerno, Lab Operations Manager, was introduced by Mr. Ulrich. With Mr. Salerno were Steve Miller, Chief Operator, and Richard Woodman, Maintenance Superintendent. Written handouts were provided regarding definitions. Mr. Salerno gave an overhead presentation and update on the latest rules that will affect the City and its

residents, how the new regulations can impact daily operations and communications through public notification. A key point of the GWR is to identify public ground water sources that are susceptible to fecal contamination. The new rules will also ensure the water system providers take corrective action to eliminate any source of contamination. There was a great deal of discussion regarding public perception. Mr. Ulrich discussed false positives and how this can cause concern for the public. Mr. Miller spoke regarding the City's distribution system and steps that have been taken regarding chlorination.

Mr. Parker, City Manager, pointed out this is another unfunded federal requirement. The City has 40 wells in its system. It may become necessary to outsource some mowing and/or maintenance to allow staff time for other duties. Staff will have to review how personnel are being utilized. Mr. Parker pointed out that Ponce Inlet is a wholesale customer and they are responsible for maintenance of their own system. The City of Port Orange's crews are responsible for quality of water. Mr. Ulrich said staff is estimating as of right now that it is going to require an additional 30-40 hours a week of work. Mr. Parker said he has asked Mr. Ulrich before coming to Council with a recommendation to know hours required and functions that will have to be performed and how he would recommend accomplishing that.

Following discussion among Council Members and staff, the consensus of Council was that staff should look at the hours required to meet new testing guidelines and maintenance of the system and what may need to be outsourced.

CITIZEN PARTICIPATION (Agenda)

6. Free Tax Preparation Program (VITA) – Mike Miller

Mike Miller, One Stop Business Center, gave a presentation regarding free tax preparation service for Volusia and Flagler County residents. The service will be offered at the Grace Church on Ridgewood Avenue. There is no specific schedule set as of now. They will need readers and intake clerks. Volunteers are needed. This is a campaign for working families and the tax preparation is free. Mr. Miller handed out information regarding where one can registers for classes beginning in December.

CITIZEN PARTICIPATION (Non-Agenda – 15 Minutes)

None

CONSENT AGENDA

7. Audit Services – Final Ranking and Award of Audit Services Contract
8. Bid Award – Concession Stand at Coraci Sports Park
9. Joint Participation Agreement with Volusia County for the Hazard Mitigation Grant
10. Appointment of 5th Member to the Municipal Fire Pension Board
11. Authorization to Execute SHIP Program Down Payment Assistance Loan for Ms. Mary Fowler
12. “Piggyback” of Clay County Bid – Musco Lighting – Coraci Phase II
13. Building Activity Report and Monthly Development Activity Report for October and November 2009
14. Confirmation of Youth Advisory Board Member
15. SAFER Grant Application

Motion made by Vice Mayor Martin, seconded by Councilman Kennedy, to approve Agenda Item Nos. 7-9 and 11-14. Motion carried unanimously by voice vote.

10. Appointment of 5th member to the Municipal Fire Pension Board

At the request of Mayor Green, Mr. Parker gave an overview of the existing makeup of Board Members. Mr. Sheridan is a retired firefighter and served on the Board for many years and has a great deal of knowledge.

Motion made by Councilman Pohlmann, seconded by Councilman Kennedy, to appoint Frank Sheridan to the Municipal Fire Pension Board, with term to expire on December 31, 2012. Motion carried unanimously by voice vote.

15. SAFER Grant Application

Councilman Pohlmann does not feel now is the right time to be adding more people. Mr. Parker said this is a Federal competitive grant that has become available. It would pay for salaries and equipment for new firefighters. Staff is proposing to submit the grant application with the understanding that if at the end of two years local funding is not available, the City would be under no obligation to continue funding for the personnel. He explained there are a number of

firefighters who are in the DROP Program and this could give the City the opportunity to have experienced persons on board if and when there are retirements. Fire Chief Weber said the City will lose 30% of its fire personnel in the next 3-4 years. Staff is only asking to make application for the grant. Mayor Green asked how you would establish a benefit package for such employees? He does not want to compound problems the City already has. Chief Weber said 4 positions have been classified as "laid off", you do not have to carry them beyond two years. You would get monies for positions for two years and 2 positions for three years. Councilman Steindorfer agrees to apply for the grant. Vice Mayor Martin said if the City was not losing personnel she would be more hesitant. She too is concerned about economics. Councilman Kennedy questioned the four "laid off" positions. Chief Weber said they kept 4 positions vacant this year. He described what the grant monies would cover, i.e. salary, bunker gear, etc., for the first two years.

Motion made by Councilman Pohlmann, seconded by Councilman Kennedy, to approve the SAFER Grant Application, subject to the City Council having the ability to accept it or reject if approved. Motion carried unanimously by voice vote.

Ted Nofall, Chickadee Drive, said he would say no to any new employees until the City gets costs under control.

Paul Poole, Merryvale Lane, commented on possibly saving monies on pension costs per employee. Mr. Parker said they would be covered under collective bargaining and by the pension system. Mr. Poole asked if the grant would pay retirement? Mr. Parker said it would a portion of it. After the grant period the City would have to pick up the costs.

Councilman Pohlmann said if the grant is awarded the City Council would have some further discussion and consideration on this item. They are only making application now.

TABLED ITEMS

16. Second Reading – Ordinance No. 2009-4 – Repeal Ordinance No. 2008-19 Small-Scale Future Land Use Amendment – Summit Golf Center (tabled 4/28/09; re-tabled 7/28/09; re-tabled 10/6/09)

Remains on the table.

REPORT FROM ADVISORY BOARD

17. Citizen Advisory Committee for MPO

Bobby Ball said there was no meeting this month. In November the one year and five year programs were discussed. Regarding the South Williamson Boulevard project, it is expected the bridge will be completed by January and the remainder by March. Regarding the 2035 Plan, he is on that committee and public participation will be a big part of that. Vice Mayor Martin said that the Strings & Ribbons Games will have a name change. She was disappointed with the poor turnout from Port Orange previously.

33. Settlement Agreement on Cambridge Canal

Ms. Roberts, City Attorney, said this item is to be withdrawn in the event there is any person from the public who is interested in it. The City's consultant, Brad Blais, is here to answer any questions.

Ted Noftall asked if this was a design or construction failure? Mayor Green said both. Quentin Hampton Associates, Inc. designed it and Massey had a sub-contractor build it. Mr. Parker said their insurance company is taking care of the issue.

Motion made by Councilman Pohlmann, seconded by Councilman Kennedy, to withdraw the Settlement Agreement on Cambridge Canal. Motion carried unanimously upon roll call vote.

FINANCE

18. Resolution No. 09-105 – Budget Appropriations

RESOLUTION NO. 09-105

A RESOLUTION OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROPRIATING OPERATING AND CAPITAL FUNDS FOR VARIOUS CITY OPERATIONS; SETTING FORTH REVENUES AND

EXPENDITURES; AND PROVIDING AN
EFFECTIVE DATE.

Motion made by Vice Mayor Martin,
seconded by Councilman Steindorfer,
to adopt Resolution No. 09-105. Motion
carried unanimously upon roll call vote.

COMMUNITY DEVELOPMENT

19. Second Reading – Ordinance No. 2009-25 – Rezoning and Approving a
Master Development Agreement and Conceptual Development Plan –
Intracoastal Oasis Marina

Planning Commission recommends approval with conditions.

ORDINANCE NO. 2009-25

AN ORDINANCE OF THE CITY OF PORT
ORANGE, VOLUSIA COUNTY, FLORIDA,
REZONING AND APPROVING A MASTER
DEVELOPMENT AGREEMENT AND
CONCEPTUAL DEVELOPMENT PLAN FOR
INTRACOASTAL OASIS MARINA PCD;
PROVIDING FOR CONFLICTING ORDINANCES;
PROVIDING FOR SEVERABILITY AND
PROVIDING AN EFFECTIVE DATE.

Charles Lee, Advocacy of Audubon of Florida, was present and voiced his
opposition. Some of their concerns include filling of open water, property
adjacent to a rookery island and proximity of enhanced activity, transient docking,
parking, watercraft, and loss of some habitat. He questioned title to the land. He
asked that Council consider the affect on the island, and the fact that there is a
public boat ramp close by already.

Ted Nofall, Chickadee Drive, has no objection to the proposed project.

Barry Lusher, 67 Circle Drive, Seabird Island, opposes the project. He feels there
are games being played. He asked that Council turn down the request. What is
proposed is not a recreational use but a commercial operation and is not
compatible to area residents. There is no demand for boat slips in Port Orange.
Mr. Lusher said the City should purchase the property and refer the developers

to Riverwalk to develop such a project. He questioned if the State would give access where needed. Mr. Lusher said Seabird Island is not close to what it appears to look like on Page 2 of the Site Plan. It is closer. He spoke regarding what appears to be the location of the pump out slip location, traffic movement and seawall. Circle Drive is on top of the line of the trailer area he fears will have to be dredged. He asked that the plan be redone and the proper location of Seabird Island be shown.

David Hartgrove, Halifax River Audubon, is against the project. The access built to the rookery island allows people to now drive up and view birds.

Lynn Bramwell has been here over 30 years. The new bridge had to be redesigned so as not to affect the birds. Council should think about the affects of the proposed project and not approve it.

Ron Richards, 57 Circle Drive, Seabird Island, said those representing the Audubon organizations spoke the truth. He commented on noticing of meetings. He is concerned with the gas and the pumping station. They will be in the proximity of where he lives. He spoke regarding the depth of the water and does not feel that dredging makes sense.

Bunny Richards, Seabird Island, spoke regarding the birds, dolphins, and manatees that could be affected by the project. The area in question is precious and should be preserved. To develop will destroy all food supply. There are many bald eagles that come in to feed in the area. She reportedly has spoken to the Army Corps of Engineers and they cannot believe what is being done. Ms. Richards said the area in question is part of a National Preserve that was set up by three Presidents.

Mayor Green pointed out there is still much work to be done before the proposed project would receive final approval. Vice Mayor Martin commented she is becoming uncomfortable with the project. Councilman Pohlmann feels there has been some exaggeration by Mr. Lee, the Audubon representative.

Joe Calderwood, applicant, spoke regarding fill and what is proposed. The fill represents one foot under where parking will be and the building has been downsized to have the least impact. It will be on pilings. There will be stormwater vaults. There remains a lot to deal with going through those governmental agencies having jurisdiction before approval.

Councilman Pohlmann commented this is a private entity. He feels a marina is needed. He is not a bird specialist but does not feel there will be the major

impact feared. There is already boat traffic in the area. Public access will not be affected. There should not be a large conflict between this commercial project and the public. He supports the project. Councilman Kennedy does not believe the boat ramps will have a major impact on the bird island. State and environmental groups are aware of impacts and will consider those. What is under consideration now is only the rezoning.

Motion made by Vice Mayor Martin, seconded by Councilman Martin, to adopt Ordinance No. 2009-25 on second and final reading. Motion carried unanimously upon roll call vote.

20. First Reading – Ordinance No. 2009-27 – Approving the 14th Amendment to the Southwinds PUD Master Development and Conceptual Development Plan

ORDINANCE NO. 2009-27

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING THE 14TH AMENDMENT TO THE SOUTHWINDS PLANNED UNIT DEVELOPMENT AGREEMENT AND CONCEPTUAL DEVELOPMENT PLAN; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Planning Commission recommends approval.

Tim Burman, Principal Planner, gave the staff presentation. If approved, the Amendment will provide the requirements for the development and establish permitted uses for a portion of the property, which fronts on Clyde Morris Boulevard. Mr. Burman gave an overview of four polices issues as follows:

1. Waive the requirement to install a 4' sidewalk along Richel Road;
2. Allow a six-foot living wall as an option to address screening requirement along the eastern property line;
3. Reduce the area tree protection requirement to 6%; and
4. Waive the requirement to preserve 65% of the existing trees within the Clyde Morris Boulevard landscape buffer.

Mayor Green said to make certain that maintenance requirements on the wall are very clear. Mr. Burman said that is included in the MDA. Councilman Steindorfer asked will the 6-foot living wall be a hedge? Mr. Burman said that is one option. Vice Mayor Martin has no problem with waiving the requirement regarding the sidewalk. Mr. Burman spoke regarding areas to be vegetated. Councilman Pohlmann spoke on the public benefits proposed. He is okay with removal of the requirement of the sidewalk and the living wall is a good idea. He spoke regarding the proximity to residential. Mr. Burman said there will be buffers and a wall. Councilman Kennedy asked is the drainage ditch existing? Parker Mychenberg said it is where the existing lake is. He pointed out where the long wall will occur. Councilman Kennedy asked if Phase II is off on the north side of the property. Mr. Mychenberg said yes. Mr. Parker asked who maintains the medians? Mr. Burman said the City. Buddy LaCour, developer, said he went to the HOA. Part of the public benefit is the entire area will be cleaned up. There will be a nice landscape plan. He pointed out that tree requirements are based on land including the lake.

Motion made by Vice Mayor Martin, seconded by Councilman Kennedy, to approve Ordinance No. 2009-27 on first reading. Motion carried unanimously upon roll call vote.

21. Condition Use Permit – Spruce Creek Partners, LLC, Owner/Applicant – RV & Boat Storage in the Light Industrial “LI” Zoning District

Planning Commission recommends approval.

Tim Burman, Principal Planner, gave the staff presentation. If approved, the applicant will be allowed to continue an existing RV and boat storage at 4465 Spruce Creek Road until December 8, 2012. The applicant has also requested that the application fee be refunded. Mr. Burman said staff costs are \$719 and fees are \$450 plus the cost of legal advertising.

Council discussed at length with staff costs includes. Mr. Parker clarified staff's cost is \$719 which includes staff's review and processing of the application, the application fee is \$450, and the applicant is charged the legal advertising cost.

Wayne Clark, Community Development Director, said the \$719 includes only the staff time. He explained what is involved in processing an application.

Larry Fornari, applicant, said he originally received a conditional use permit in 2006. He had requested it for five years but that was not granted. This is the third time he has had to reapply and pay the fee.

Motion made by Vice Mayor Martin, seconded by Councilman Pohlmann, to approve the Conditional Use Permit/Spruce Creek Partners, LLC, Owner/Application for a RV/Boat Storage in the Light Industrial "LI" zoning district, permit to expire on December 8, 2014, and to waive the \$450 for the next five years but to charge for legal advertising. Motion carried unanimously upon roll call vote.

22. Accept the 2009 Concurrency Management Report

Consensus of Council was to accept the 2009 Concurrency Management Report.

23. Technical Appeal for Work Without a Permit Penalty Fee – Teovar Bidula – 281 Windsor Drive

Mr. Bidula went before the Construction Regulation Board on November 18, 2009 and they upheld the Building Official's determination that work was started prior to a permit being issued and upheld the \$500 penalty fee. They do, however, recommend Council consider reducing the \$500 fee.

Teovar Bidula presented his case. He was in the process of doing work by way of enclosing a building structure when a stop work order was issued. A permit had not been obtained. He did then obtain a permit, however, a \$500 penalty fee was imposed for work beginning without a permit. He is appealing the \$500 fee. Mr. Bidula stated he was not aware a permit was required.

Mayor Green said he did change the structure. Councilman Kennedy spoke regarding the background of how such a fee came to be \$500. Councilman Pohlmann supports the \$500. Mr. Parker said Council reviewed this item previously and agreed to keep the fee structure. Vice Mayor Martin said she upholds the Building Official's determination. Councilman Steindorfer agrees. Mayor Green upholds the fee.

Motion made by Councilman Pohlmann, seconded by Vice Mayor Martin, to uphold the Building Official's determination that work was commenced at 281 Windsor Drive prior to the issuance of a permit and uphold the \$500 penalty fee. Motion carried unanimously upon roll call vote.

24. Appeal of Planning Commission Decision – Patty Williams

Planning Commission recommends denial.

Ms. Roberts, City Attorney, pointed out additional information on the dais regarding review of a variance appeal and what shall be considered.

Mike Disher, Planning & Development Manager, was available to answer questions. Mayor Green spoke regarding when the dock was redone and where was it located. There was discussion among Council Members regarding how the new dock was located. Councilman Pohlmann pointed out there was no permit obtained the first time and when the plans were submitted for a dock the second time it still was not located according to the approved plans. Vice Mayor Martin said a variance should have initially been asked for. Councilman Steindorfer agreed a variance should have been requested.

Kerry Leuzinger, Building Official, gave an overview of the case. Ms. Williams requested an after-the-fact variance from LDC Chapter 9, Article III, Section 27(b) pertaining to the dimensional requirements for a dock at 4134 Halifax Drive. The dock was constructed wider than allowed by Code and contrary to the building permit finally obtained. It was built at five feet in lieu of 4 feet allowed. Mayor Green pointed out any licensed marine contractor should know that a permit is required.

Councilman Pohlmann asked Richard Whiteing if he has done work in Volusia County before. Mr. Whiteing, who had appeared at the Planning Commission Meeting on November 19th and stated he was representing his son, the contractor, said at Sunglow Pier but that is a different criteria. Vice Mayor Martin is concerned that he did not come to the City first. A contractor knows to check on the rules everywhere they do work. Mayor Green said his understanding is the individual lives at the subject address fulltime and is handicapped (in a wheelchair), and that is the reason a wider dock is needed. Mr. Disher said the DEP Permit was applied for July 13th. The work without a permit was in June.

George McMasters, Planning Commission Member, said Council is missing the point. He feels the rope being used as a safety rail is an issue too. He voted no on the request for the variance because it was work done without a permit. The footprint of the entire dock was moved. If it is wrong then why vote to approve those actions.

Mayor Green finds it hard to make a decision on this being a hardship. He has concerns of what may have been done before the City caught the issue. Ms. Roberts said there are pilings that will have to be removed. It was pointed out the City measures planking. She asked if the handicapped individual referred to is a member of the household? Ms. Williams said yes. He is her brother-in-law and she takes care of him part-time. He comes to her home every day by van. He sleeps at the Manor of the Green.

Motion made by Vice Mayor Martin, seconded by Councilman Kennedy, to uphold the Planning Commission's decision for denial of a variance request for property at 4134 Halifax Drive as it relates to a dock. Motion carried unanimously upon roll call vote.

PUBLIC WORKS

25. Second Reading – Ordinance No. 2009-26 – Releasing Beckman Paving, Inc. from Roll-Off Franchise Agreement

Mayor Green declared a conflict of interest and said he will abstain from voting.

ORDINANCE NO. 2009-26

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING ORDINANCE NO. 2009-17 RELATING TO A NONEXCLUSIVE FRANCHISE FOR ROLL-OFF CONTAINER COLLECTION AND DISPOSAL OF WASTE WITHIN THE CITY OF PORT ORANGE PROVIDING THAT BECKMAN PAVING INC. OF FLORIDA SHALL NOT BE GRANTED A FRANCHISE; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR

SEVERABILITY AND PROVIDING AN
EFFECTIVE DATE.

Motion made by Councilman Steindorfer, seconded by Councilman Kennedy, to adopt Ordinance No. 2009-26 on second and final reading. Motion carried 4 – 0 upon roll call vote, with Mayor Green abstaining.

PUBLIC UTILITIES

26. Resolution No. 09-106 – Sale of 2.0 State Wetland Mitigation Bank Credits to the County of Volusia for Pioneer Trail at Turnbull Bay Road Intersection

RESOLUTION NO. 09-106

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING THE RESERVATION AGREEMENT FOR SALE OF MITIGATION CREDITS TO VOLUSIA COUNTY, FLORIDA; AUTHORIZING THE MAYOR AND CITY MANAGER TO MAKE AMENDMENTS AND TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY OF PORT ORANGE; AND PROVIDING AN EFFECTIVE DATE.

Motion made by Vice Mayor Martin, seconded by Councilman Pohlmann, to adopt Resolution No. 09-106. Motion carried unanimously upon roll call vote.

PUBLIC SAFETY

27. Resolution No. 09-107 – Special Detail Rates to be Charged by Police Department

RESOLUTION NO. 09-107

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, ESTABLISHING THE SPECIAL DETAIL RATE OF \$40.00 PER HOUR TO BE CHARGED BY THE POLICE DEPARTMENT FOR OFF DUTY DETAILS FOR TRAFFIC AND PEDESTRIAN CONTROL, CROWD CONTROL AND ROUTINE LAW ENFORCEMENT FOR PUBLIC AGENCIES; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

Assistant Police Chief Wayne Miller was present to answer any questions. Mayor Green asked if this covers Officers only? Mr. Miller said it is everything. This gets the Department moving more toward full cost recovery. Vice Mayor Martin does not feel it is a bad rate. Mr. Parker said this goes through the City's payroll system in negotiated contracts. Overtime hours can be excluded over a certain number. Mr. Miller said this is a separate action from the union.

Motion made by Councilman Steindorfer, seconded by Councilman Kennedy, to adopt Resolution No. 09-107. Motion carried unanimously upon roll call vote.

28. Biketoberfest Report

Assistant Police Chief Wayne Miller and Sergeant Christopher Besuden gave the Biketoberfest 2009 After Action Report. Discussion included the number of traffic violations, sound violations, activity and complaints investigated.

PARKS AND RECREATION

29. Review Proposed Design for Veterans Park

Margaret Momberger, Landscape/Architect for the City, handed out and described a revised design for the Veteran's Plaza. Mayor Green had a question regarding where people would stand for a 21 Gun Salute. Ms. Momberger said staff plans to revisit with the VA groups and this will be discussed further. Some

of the features of the redesign include a larger plaza, pavers, 3 flag poles, vehicular drop off, columns around the perimeter, an observation deck, benches, and landscaping improvements. Persons would be allowed to purchase pavers for the plaza in memory or in honor of veterans. Also, there would be a tree purchase program honoring persons. Councilman Kennedy asked about a POW Flag. Ms. Momberger said it would be underneath the U. S. Flag. Vice Mayor Martin is pleased with the design. Councilman Pohlmann supports finding a funding source. At the request of Councilman Steindorfer, Ms. Momberger described how you will get to the observation deck. Mr. Parker said there will be safety rails. Mr. Parker described how funding would be provided. It is planned to have the project bid and completed by Memorial Day.

ADMINISTRATION

30. Resolution No. 09-108 – Resolution Expressing Doubt as to the Validity of Proposed Volusia County Resolutions Impacting CRA's

RESOLUTION NO. 09-108

A RESOLUTION OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, EXPRESSING DOUBTS AS TO THE VALIDITY OF THE ASSERTIONS CONTAINED IN PROPOSED VOLUSIA COUNTY RESOLUTIONS RELATING TO THE DELEGATION OF POWERS BY THE COUNTY AND THE EXERCISE OF DELEGATED POWERS BY MUNICIPALITIES UNDER THE COMMUNITY REDEVELOPMENT ACT; RESERVING THE RIGHT TO CHALLENGE ANY FUTURE MODIFICATION OF REDEVELOPMENT POWERS PREVIOUSLY DELEGATED TO THE CITY BY THE COUNTY; AND PROVIDING AN EFFECTIVE DATE.

Mr. Parker said there have been earlier meetings regarding this issue with County and other City representatives. The Volusia County Council will be considering this item Thursday, December 10. The resolutions proposed will impact the delegation of powers and the exercise of those delegated power by the City under the Community Redevelopment Act. A meeting on October 5th has been the only meeting called by the County to allow the cities/CRA's the opportunity to collectively discuss their concerns with County staff and County

Commissioner Hayman. County staff notified the cities/CRAS on November 9th that the County would be considering the latest draft on December 10. The cities/CRAs were further advised that any additional input was to be provided directly to the County Council on December 10th. Two issues relate to the ability to do revocation of delegated authority and TIF Revenues and the potential impact of financing and obligating other dollars and working with the private sector. The City has been provided letters regarding this issue from their Bond Counsel and Southeast Investments.

Vice Mayor Martin has concerns how this could affect bond ratings. Developers seeking financing could be affected. Councilman Pohlmann supports the City's proposed resolution. He hopes the County Council will be given the opportunity and sufficient time to read background materials that should be provided them prior to voting on the issue. Councilman Kennedy agrees.

Ted Nofall asked staff's cost into this so far. Mr. Parker said for the City of Port Orange probably \$1,000. With other cities it could be several thousand. Mr. Nofall asked why the County is doing this. Mr. Parker said they have some questions about other cities. Mr. Nofall said he is tired of being beat up on taxes. He asked if the City has considered converting police functions to the Sheriff's Department to lower costs. Mayor Green said yes but it was just general conversation No detailed numbers were run. The problem is when you ask the public what they want you get a different answer for what they want for police, ambulance, and fire. Those issues need to be addressed. When you speak to the public regarding police, fire and emergency medical services they want the best. The City is currently in union negotiations. Mr. Parker said the City has gone through the Impasse procedure process. The City is waiting on the Special Magistrate's Report. It is due on Friday. Ms. Roberts spoke regarding timing and scheduling of hearings. Scheduling problems were not due to the City's request but the union's. Mayor Green commented everyone wants the best service available but no one wants to pay for them.

Paul Poole has concerns regarding how the County's potential action could affect bond ratings, and agrees with the potential issue of the County last year and problems with their bonds. The bond ratings for the City of Port Orange are very strong. There could be some potential for savings, i.e. maybe use some of the infrastructures the County has in place.

31. Harbor Oaks B-23 Canal Dredging Project

Shannon Lewis, Assistant City Manager, gave an update on the Harbor Oaks – B-23 Canal Dredging Project. Ms. Lewis gave an overview of what was

authorized last summer and meetings with residents. The City has been given verbal assurance from partnering agencies that they will work with us to get formal agreements needed. There is a request to waive normal bidding procedure. Because of the cost savings hydraulic dredging is recommended and dredging to the same depth as the Army Corps of Engineers is preferred. It is not recommended that there be a sediment trap at the mouth of the canal because DEP has found that it does not work and will not permit it. Redi-rock seawalls are not recommended for the public seawall reconstruction.

There was a meeting with Harbor Oaks residents in November. All residents that will be affected were not in attendance, however, those present indicated if they are going to provide hold harmless agreements they feel the maximum amount of spoil should be removed. Before making a final decision they would like to review a copy of a legal agreement and conceptual design. They want to be protected from gross negligence of the contractor. They asked that the City provide a way for the contractor to remove any structures from the canal on behalf of them, if they have fallen down and will interfere with the project. A minimum of 22 feet is needed to bring equipment through the canal. Those present at the November meeting were not in favor of filling in the canal north of Main Street.

There was discussion regarding property the City owns along the east side of the B-23 Canal and south of Main Street. There have been several private improvements made on the property through the years. There are also two private improvements on the Oak Street right-of-way. In June of last year the City required that all non-structural elements be removed, however, the docks and boat house were allowed to remain pending a final decision on use. There are several property owners that have been using public property on Cedar and Oak Streets. They have expressed an interest in purchasing, leasing, or being provided with City approval for continued use of the park lands joining the canal. Some residents in the neighborhood are interested in a passive park, linear walkway, boat ramp or other passive recreation. There is a problem with parking however. Ms. Lewis outlined options the City has. Six of the 8 property owners agreed to remove the structures at their cost. Two have not responded. There is another dock along the Oak Street right-of-way that no one is claiming. It is not permitted or recorded in the public records.

Discussion among Council Members and Staff included costs and available monies, cost participation, scheduling for dredging of Rose Bay, type of dredging preferred, need for signatures, removal of structures on City property or working around them, and risk factors. Councilman Pohlmann asked how much money is available. Ms. Lewis said there is \$1.3 million budgeted and a \$300,000

legislative appropriation for the B-23 Canal. Council made a decision last year that the City would conduct the dredge and replacement of its seawalls but not the cost of any private property owner seawalls. To go wall to wall dredging and replace all of the City's seawalls you are looking at about \$2.1 million. Mayor Green said you could do the pumping and delay the sea walls. Vice Mayor Martin would like to see Council move forward and agrees that hydraulic dredging is the way to go. Ms. Lewis said those individuals who would want to or are willing to remove their docks ahead of time would make the project easier and more feasible, however, it is not necessary to conduct the project. Councilman Steindorfer said if you do not get everyone to sign the hold harmless agreement he still feels you should go down the middle and nothing else. Mayor Green said he would vote to do nothing in that case. Ms. Lewis said a concern they had was there was no width or depth that they could in good faith say that they would not experience the same problems.

Paul Wesley, Bayshore Drive, said they will continue to try to get the necessary signatures and waivers to proceed. Ms. Roberts, City Attorney, said the document has been drafted. Robert Dahl, 7 Cedar Street, spoke regarding the public land and the City leasing it or licensing it to him. He said he would also pay for the seawall in front of his area. Joan Maddaloni asked how it is possible for a small number of property owners to stop such a project. She suggested there must be some way to resolve that issue.

Consensus of Council was to move forward with the hold harmless agreement and obtaining signatures, to finalize agreements with State and Federal partners, and to dredge the full amount. Also, staff is to proceed with seawall design and permitting and bid and then prepare an amendment for Council consideration to DMC to finalize those services.

32. Discussion of the Existing Police Department Building on Dunlawton

Mr. Parker called attention to information on the dais regarding ways the Police Department can be used after they relocate to their new facilities on Clyde Morris Boulevard. He gave an overview of some options. Discussion included freeing up space in City Hall and renovations to the building not being budgeted right now. Mr. Parker has recommended that the facility continued to be used and locate Fire Administration, IT, EOC, and RCC to the existing PD eventually. EOC and RCC are currently located in that building. Following discussion the consensus of Council was to do nothing at this time.

33. Settlement Agreement on Cambridge Canal

Withdrawn earlier in the meeting.

COUNCIL COMMENTS

34. Comments/Concerns from Council Members

Mayor Green reminded Council Members that the Christmas Luncheon is tomorrow. Councilman Steindoerfer commented on the Christmas Parade and feedback that he had received regarding how crowded it was at Orange Avenue and when Dunlawton Avenue was shut down. Mr. Parker will follow up on that. Vice Mayor Martin said the movie that was canceled Friday will be shown Saturday. She wished everyone a Merry Christmas, as did Councilmen Pohlmann and Kennedy. Mayor Green said it appears that the Innoprise issue will be moving forward legally. Mr. Parker asked Council if it is their consensus that Mayor Green is speaking for the entire Council on this issue. Council agreed.

ADJOURNMENT: 10:50 P.M.

Mayor Allen Green

Attest:

Kenneth W. Parker, City Manager