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**CITY OF DELTONA, FLORIDA
REGULAR CITY COMMISSION MEETING
MONDAY, FEBRUARY 16, 2009**

A Regular Meeting of the Deltona City Commission was held on Monday, February 16, 2009 at the City Hall Commission Chambers, 2345 Providence Boulevard, Deltona, Florida.

1. CALL TO ORDER:

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

2. ROLL CALL:

Mayor	Dennis Mulder	Present
Vice Mayor	Michael Carmolingo	Present
Commissioner	Zenaida Denizac	Present
Commissioner	Janet Deyette	Present
Commissioner	Michele McFall-Conte	Present
Commissioner	Paul Treusch	Present
Commissioner	Herb Zischkau	Present
City Manager	Faith G. Miller	Present
City Attorney	George Trovato	Present
Deputy City Clerk	Joyce Kent	Present

Also present: Planning & Development Services Director Chris Bowley; Building Official Cy Butts; Finance Director Robert Clinger; Deputy City Manager Dave Denny; Parks & Recreation Director Steve Moore; IT Manager Steve Narvaez; Planning Manager Ron Paradise; Community Development Manager Lori Serino; Fire Chief Robert Staples; and Acting Public Works Director Glen Whitcomb.

3. SILENT INVOCATION AND PLEDGE TO THE FLAG:

Mayor Mulder led the audience in the silent invocation and the Pledge of Allegiance to the Flag.

Amanda Malino sang the National Anthem.

4. APPROVAL OF MINUTES & AGENDA:

A. Minutes:

1. Regular City Commission Meeting – February 2, 2009.

Motion by Commissioner McFall-Conte, seconded by Vice Mayor Carmolingo to adopt the minutes of the Regular City Commission Meeting of February 2, 2009 as presented.

Motion carried with members voting as follows:

Commissioner Denizac For

1 **Commissioner Deyette** **For**
2 **Commissioner McFall-Conte** **For**
3 **Commissioner Treusch** **For**
4 **Commissioner Zischkau** **Against**
5 **Vice Mayor Carmolingo** **For**
6 **Mayor Mulder** **For**

7
8 **B. Additions or Deletions to Agenda:**
9

10 Ms. Miller asked the Commission to consider adding Item 5-C to discuss the matter of her
11 employment and concerns regarding an alleged inappropriate comment which she did not make. It is
12 her understanding that a majority of the Commission has investigated this matter and is prepared to
13 make a decision. She stated she provided information which was requested by five (5) members of
14 the Commission and the Mayor that she believes would enable them to reach a determination
15 regarding this matter and therefore a decision on the matter is appreciated. She asked the
16 Commission to make a motion to add Item 5-C to the Agenda.

17
18 **Motion by Commissioner Deyette, seconded by Commissioner Denizac to add Item 5-C to the**
19 **Agenda.**

20
21 **Motion carried with members voting as follows:**

22
23 **Commissioner Denizac** **For**
24 **Commissioner Deyette** **For**
25 **Commissioner McFall-Conte** **For**
26 **Commissioner Treusch** **For**
27 **Commissioner Zischkau** **Against**
28 **Vice Mayor Carmolingo** **For**
29 **Mayor Mulder** **For**

30
31 Mayor Mulder asked to add under New Business, Item 10-E regarding his role as Mayor.

32
33 **Motion by Vice Mayor Carmolingo, seconded by Commissioner Deyette to add Item 10-E to**
34 **the Agenda.**

35
36 **Motion carried with members voting as follows:**

37
38 **Commissioner Denizac** **Against**
39 **Commissioner Deyette** **For**
40 **Commissioner McFall-Conte** **For**
41 **Commissioner Treusch** **For**
42 **Commissioner Zischkau** **Against**
43 **Vice Mayor Carmolingo** **For**
44 **Mayor Mulder** **For**

45
46 Mayor Mulder read into the record a letter from Fowler, O'Quinn, Feeney, & Sneed P.A. to the City
47 Manager.

1
2 Commissioner Zischkau asked to add an Item regarding conflicting reports that have come to the
3 attention of the City Commission regarding a racial slur and other irregularities with the
4 administration of the City's contract with Biddle & Associates.

5
6 **Motion by Commissioner Zischkau, seconded by Commissioner Denizac to add Item 10-F to**
7 **discuss conflicting reports with regard to an alleged racial slur and the irregularities in the**
8 **administration of the contract with Biddle & Associates.**

9
10 Mr. Trovato stated outside council has requested that discussions regarding the City's contract with
11 Biddle & Associates not be discussed in the public forum during the City Commission meeting. He
12 stated in his opinion it is highly inappropriate and strongly discouraged that this Item be added to the
13 Agenda because the City has been threatened with potential litigation.

14
15 Commissioner Zischkau stated the Item is not to have discussion regarding the substance of the
16 contract with Biddle & Associates but, to discuss the issues which are already in the press, rumor
17 mill, emails, and in discussions among concerned residents.

18
19 **Motion failed with members voting as follows:**

20
21 **Commissioner Denizac For**
22 **Commissioner Deyette Against**
23 **Commissioner McFall-Conte Against**
24 **Commissioner Treusch Against**
25 **Commissioner Zischkau Against**
26 **Vice Mayor Carmolingo For**
27 **Mayor Mulder Against**

28
29 **5. PRESENTATIONS/AWARDS/REPORTS:**

30
31 **A. Proclamation – School Crossing Guard Day – February 16, 2009.**

32
33 Mayor Mulder read the proclamation declaring February 16, 2009 as School Crossing Guard Day.

34
35 **B. Recognition of Fox 35 Safety Salute – Deltona Fire Department.**

36
37 Mayor Mulder presented a Certificate of Recognition to Chief Robert Staples for Deltona's
38 Fire/Rescue Department Personnel winning Fox 35's "Friday Salutes Hometown Hero's" weekly
39 competition.

40
41 **C. Discussion of Faith Miller's Contract.**

42
43 Ms. Miller stated as the Commission is aware there has been a lot of controversy regarding
44 allegations made by one of the City's vendors. She stated she denies making the statement in
45 question but, she does acknowledge that there may have been a misunderstanding as to what was
46 actually said. She apologized to the Commission and the citizens of the City for the
47 misunderstanding just like she did to the vendor the day the meeting occurred. As everyone is

1 aware this is a contract dispute between the City and a vendor. Today she is committed to doing
2 her very best effort to be clear and concise every time she speaks as she represents the City, the
3 Commission and the residents. She understands that inappropriate comments as alleged by the
4 vendor are not condoned or acceptable.
5

6 Mayor Mulder stated as the only witness on the Commission, the incident happened quickly and
7 he does not think anyone attempted to be dishonest. He stated he is not sure what exactly was said
8 since there were a lot of side conversations at the time but, one of Biddle's associates did become
9 visibly upset when he heard what he felt was an insulting remark. There are two (2) accounts of
10 what happened that day and nothing is clear. He stated after consideration he has no reason to
11 believe Ms. Miller was dishonest; she is a good manager who admits her mistakes when she
12 makes them and a good employee. He stated under the circumstance of unclarity and conflicting
13 statements when much was going on in the room he does not think it is fair to take punitive action
14 against Ms. Miller. He stated Ms. Miller has a 13 year spotless work history with the City and
15 almost no employee has been with the City as long as she has with this kind of stellar record.
16

17 Commissioner Denizac stated it took her by surprise when at 6:20 p.m. tonight she was informed
18 that Mr. Fowler had been retained by the City and at approximately 3:30 p.m. she had asked Ms.
19 Miller if Mr. Fowler had been retained to which she replied no. She apologized to any member of
20 the Jewish community or any person affected by the alleged racial comments. She stated in her
21 opinion racial slurs do not belong in City Hall. It was troubling to her to find out that a statement
22 was added to the contract where Biddle & Associates would hold the City hold harmless for any
23 statements or comments made at the meeting. The City Manager and the City Attorney failed to
24 communicate with the Commission regarding information that had attracted media and public
25 attention, has caused embarrassment to the City, and has affected the residents of Deltona. They
26 have gone against the policy that administration will provide the Commission all relevant
27 information, will ensure that the Commission is fully informed and is neither surprised nor
28 blindsided on issues affecting the City. The City Attorney's attempt to cover up the alleged racial
29 comment made by the City Manager is in her opinion unethical and inappropriate. The way to
30 hold harmless the City is by acting truthfully and ethically and in her opinion the City Attorney
31 and the City Manager have failed in these two (2) areas.
32

33 **Motion by Commissioner Denizac, seconded by Commissioner Zischkau to terminate the**
34 **contracts with the City Manager Faith Miller and City Attorney George Trovato.**
35

36 Commissioner McFall-Conte stated as soon as issues began to arise with Biddle & Associates Ms.
37 Miller should have notified the Mayor and each member of the Commission. As soon as emails
38 came to the City that had the subject line "Biddle vs. the City of Deltona" the Mayor and each
39 member of the Commission should have received a phone call saying there was no law suit instead
40 of hearing about it in a workshop. It should not be up to the Mayor and each member of the
41 Commission to set up meetings with the employees but, the employee who should take the
42 initiative. If there are ongoing problems with particular vendors, especially ones the Commission
43 awarded contracts to, the first time the Commission finds out about the problems should not be a
44 termination letter or emails received from the vendor. She stated she has discussed with each
45 Charter Officer how the situation should be handled in the future and they know her expectations.
46 She suggested the Commission require Ms. Miller to attend sensitivity training and a letter should
47 be placed in her personnel file stating the accusations were made, denied, and not proven.

1 Another avenue will need to be taken by the Commission if the denial is ever proven false and she
2 would support the termination of both contracts with the Charter Officers.

3
4 **Commissioner Zischkau withdrew his second and Commissioner Denizac amended the**
5 **motion to terminate the contract with Faith Miller.**

6
7 **Motion failed with members voting as follows:**

9	Commissioner Denizac	For
10	Commissioner Deyette	Against
11	Commissioner McFall-Conte	For
12	Commissioner Treusch	Against
13	Commissioner Zischkau	For
14	Vice Mayor Carmolingo	Against
15	Mayor Mulder	Against

16
17 **Motion by Commissioner Denizac, seconded by Commissioner Zischkau to terminate the**
18 **contract with the City Attorney.**

19
20 **Motion failed with members voting as follows:**

21		
22	Commissioner Denizac	For
23	Commissioner Deyette	Against
24	Commissioner McFall-Conte	For
25	Commissioner Treusch	Against
26	Commissioner Zischkau	For
27	Vice Mayor Carmolingo	Against
28	Mayor Mulder	Against

29
30 Commissioner Deyette stated she has known Ms. Miller since 1998 and has never known her to be
31 dishonest, use racial slurs, or inappropriate language. She questioned why the information is
32 coming out now when the meeting was in November, 2008.

33
34 Vice Mayor Carmolingo stated he has nothing to say that would be adverse to Ms. Miller's
35 character and she has always been helpful to him.

36
37 **Motion by Commissioner Deyette, seconded by Vice Mayor Carmolingo to require Ms.**
38 **Miller and Mr. Trovato to attend sensitivity training and to notify the Commission when**
39 **they will be attending the training and when the training is completed.**

40
41 Commissioner Denizac asked who would pay for the sensitivity training and Mayor Mulder
42 replied the City Manager and City Attorney.

43
44 **Motion carried with members voting as follows:**

45		
46	Commissioner Denizac	Against
47	Commissioner Deyette	For

1	Commissioner McFall-Conte	For
2	Commissioner Treusch	Against
3	Commissioner Zischkau	Against
4	Vice Mayor Carmolingo	For
5	Mayor Mulder	For

6
7 **6. PUBLIC FORUM – Citizen comments for items not on the agenda.**
8

9 Mayor Mulder stated now and in the future citizens will not be permitted to come to the podium and
10 make unsubstantiated allegations against anyone on the Commission or staff regardless of who they
11 are, what party they are affiliated with, or whether they are a resident or not.
12

13 a) Robert Bello, 1932 Peoria Street, spoke regarding how good the City looks and respecting the title
14 of Mayor.
15

16 b) Bill Kessler, 1771 Providence Blvd., spoke against the increased fees by Progress Energy and read
17 a letter from the Executive Director of the Jewish Federation Gloria Max in support of the City
18 Manager.
19

20 c) Dexter Anderson, 2585 Coachman Drive, spoke against the poor drainage system in his
21 neighborhood.
22

23 d) Edward Korn, 1325 Montoya Drive, spoke against Ms. Miller's choice of words, applauded the
24 Commission for requiring Ms. Miller to attend sensitivity training and he asked the City to make a
25 general public statement as to the status on racial slurs or ethnic epithets, specifically with the
26 Jewish Community.
27

28 e) Jennifer Bailey-DiRocco, 899 Leeward Drive, spoke in favor of Item 10-A with the modification
29 to include low and moderate income households.
30

31 f) Gale Barr, 555 Dustin Terrace, spoke against the alleged anti Semitic remark and invited the
32 Mayor, the Commissioners, Mr. Lopez, and Ms. Miller to attend the Annual Community Service
33 Shabbat Across America to be held on March 20th at 6:30 p.m.
34

35 g) Helen Sanders, 813 Cheriton Street, spoke regarding comments made at the February 2, 2009
36 Regular City Commission Meeting.
37

38 h) Larry DeMatteo, 2501 Barry Drive, spoke regarding newspaper articles on the Special Assessment
39 District and the recent articles surrounding the City Manager and City Attorney.
40

41 i) Mary Biddle, 6723 Fairway Cove Drive, spoke regarding the RFP, the media, the City's contract
42 with Biddle & Associates, and asked the Commission to reinstate Biddle & Associates' contract.
43

44 j) Doug Horn, 2042 Swanson Drive, spoke regarding his concerns about the Public Market and he
45 suggested the vendors apply for a Facilities Use Agreement and have liability coverage.
46

47 k) Barbara Willey, 1407 Section Line Trail, spoke against groups using City facilities without paying
48 the rental fees.

- 1
2 l) Jennifer Chasteen, 662 Mosquero Avenue, spoke regarding negative media coverage.
3
4 m) Maria Rodriguez, 3071 Bryce Court, spoke against the water rates.
5
6 n) Raquel Quiles, 1786 Concert Road, spoke against the water rates.
7
8 o) Nancy Schleicher, 1460 S. Baton Drive, spoke in favor of following a code of conduct and having
9 an outside investigation into alleged allocations. She spoke against the Special Assessment
10 District and invited the public to attend a Community Information Forum to be held at Dewey
11 Boster Park on Saturday, April 25th between 2:00 - 4:00 p.m.
12
13 p) Tariq Habib, 601 Antoinette, spoke regarding violations received from the Fire Department,
14 having qualified employees working for the City and wanting a meeting with Mayor Mulder.
15
16 q) Ed Alvarado, 1968 Eden Drive, spoke in favor of the Fire Department and the Special Assessment
17 District.
18

19 **7. CONSENT AGENDA:**

20
21 **Motion by Commissioner McFall-Conte, seconded by Vice Mayor Carmolingo to approve**
22 **Items 5-A through 5-C.**

23
24 **Motion carried with members voting as follows: Commissioner Denizac, For; Commissioner**
25 **Deyette, For; Commissioner McFall-Conte, For; Commissioner Treusch, For; Vice Mayor**
26 **Carmolingo, For; and Mayor Mulder, For.**

27
28 ***A. Request for fee waiver – Deltona Lodge 756 – 5K Scholarship Fundraiser for**
29 **graduating high school students in Deltona.**

30
31 **Approved by Consent Agenda – to authorize staff to waive the fees associated with the 5K Run**
32 **scholarship fundraiser for graduating high school students in Deltona.**

33
34 ***B. Request for approval to award ITB # 0919 – Replacement of Multi-Aspirator – Deltona**
35 **Water.**

36
37 **Approved by Consent Agenda – to approve award to Mass Transfer Systems at a total cost not**
38 **to exceed \$47,500.00 in accordance with the City of Deltona ITB # 0919.**

39
40 ***C. Request for Approval of Renewal of Facility Use Agreement – New Beginnings Church.**

41
42 **Approved by Consent Agenda – to approve the renewal of the Facility Use Agreement with**
43 **New Beginnings House of Worship for use of the Craft Room at the Deltona Community**
44 **Center, Deltona, Florida, for a period of one (1) year.**

45
46 Mayor Mulder called a 20 minutes recess at 8:00 p.m. and reconvened at 8:20 p.m.
47

48 **8. ORDINANCES AND PUBLIC HEARINGS:**

1
2 **A. Transmittal Hearing – Ordinance No. 43-2008, Amending the Comprehensive Plan of**
3 **the City of Deltona, by Amending the Capital Improvements Element providing for the**
4 **replacement of the Capital Improvement Project Sheets.**

5
6 The public hearing was opened and closed as there were no public comments.

7
8 Mr. Paradise stated this is an amendment to the Capital Improvement Element which is a State
9 mandate pursuant to Chapter 163 of Florida Statutes. This is intended to ensure that the City's
10 Capital Improvement Program is financially feasible. The report ensures the City's levels of service
11 thresholds are being met and there is funding to implement the levels of standards.

12
13 Commissioner Denizac suggested having a workshop on the item because the manual is over 200
14 pages long and there was not enough time to read it. Mr. Paradise stated a good portion of the
15 manual is support documentation derived from the City's budget that was approved in 2008. He
16 stated a workshop could be scheduled element, this is a requirement by the State for local
17 governments to do their Capital Improvements Element annually. If local governments do not do this
18 the State will sanction that they will not be able to amend their Comprehensive Plan.

19
20 **Motion by Commissioner McFall-Conte, seconded by Vice Mayor Carmolingo to adopt**
21 **Ordinance No. 43-2008, amending the Capital Improvements Element of the Comprehensive**
22 **Plan providing for the replacement of the Capital Improvement Project sheets.**

23
24 Commissioner Zischkau asked which items were amended or added and Mr. Paradise replied the
25 charts and tables with the Capital Improvement Element.

26
27 Commissioner Denizac requested to have the documents ahead of time in the future. She asked what
28 tools besides the budget were used and Mr. Paradise replied the established levels of service standards
29 that are articulated in the Comprehensive Plan.

30
31 Mr. Trovato read the title of Ordinance No. 43-2008.

32
33 **AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AMENDING THE**
34 **COMPREHENSIVE PLAN OF THE CITY OF DELTONA, BY AMENDING THE**
35 **CAPITAL IMPROVEMENTS ELEMENT PROVIDING FOR THE REPLACEMENT OF**
36 **THE CAPITAL IMPROVEMENT PROJECT SHEETS; FINDING CONFORMITY WITH**
37 **STATE STATUTES; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN**
38 **EFFECTIVE DATE.**

39
40 **Motion carried with members voting as follows: Commissioner Denizac, For; Commissioner**
41 **Deyette, For; Commissioner McFall-Conte, For; Commissioner Treusch, For; Commissioner**
42 **Zischkau, For; Vice Mayor Carmolingo, For; and Mayor Mulder, For.**

43
44 The Ordinance was adopted at 8:32 p.m.

45
46 **9. OLD BUSINESS:**
47

1 **A. Request for approval to award RFP #0915 – Wide Area Network (WAN)**
2 **Communication Services to Brighthouse Networks – ITS Division (tabled on February 2, 2009).**

3
4 **Motion by Commissioner McFall-Conte, seconded by Commissioner Treusch to approve**
5 **award to BrightHouse Networks to be utilized as needed for an agreement period of four (4)**
6 **years.**

7
8 **Motion carried with members voting as follows: Commissioner Denizac, For; Commissioner**
9 **Deyette, For; Commissioner McFall-Conte, For; Commissioner Treusch, For; Commissioner**
10 **Zischkau, For; Vice Mayor Carmolingo, For; and Mayor Mulder, For.**

11
12 **B. Appointment of one (1) member to the Parks & Recreation Advisory Committee**
13 **(tabled on February 2, 2009).**

14
15 **Motion by Commissioner Denizac, seconded by Commissioner McFall-Conte to confirm the**
16 **appointment of Debra Wert (Commissioner Denizac’s appointment) to the Parks & Recreation**
17 **Advisory Committee for the remainder of a term to expire on December 3, 2009.**

18
19 **Motion carried with members voting as follows: Commissioner Denizac, For; Commissioner**
20 **Deyette, For; Commissioner McFall-Conte, For; Commissioner Treusch, For; Commissioner**
21 **Zischkau, For; Vice Mayor Carmolingo, For; and Mayor Mulder, For.**

22
23 **10. NEW BUSINESS:**

24
25 **A. Request for Approval for Amendment to the State Housing Initiatives Partnership**
26 **(SHIP) Program 2004-2006 Local Housing Assistance Plan and Authorization for**
27 **Submission to Florida Housing Finance Corporation.**

28
29 **Commissioner McFall-Conte asked why not target moderate income households instead of just the**
30 **low and very low income households. Mrs. Serino replied the current local housing assistance**
31 **plan calls to service income levels of 120% below the median area income plans. In current local**
32 **housing plan years there has not been sufficient funding designated to foreclosures because there**
33 **is a statutory set aside that states a certain amount of money must be spent on construction related**
34 **activity. Looking at the old plan staff identified approximately \$90,000 that could be used for**
35 **foreclosure assistance. In the plan there is statutory set aside if very low income has not been met,**
36 **\$15,000 would have to be maintained just for very low income, and the balance of the money**
37 **could go to low and moderate income. After discussing the limited funds, the state of the SHIP**
38 **funds for the rest of the planning year, and since very low income is a concern the decision was to**
39 **leave it at very low income which is consistent throughout the plans.**

40
41 **Vice Mayor Carmolingo asked if there was any hope of helping the moderate income households**
42 **and Mrs. Serino replied at the current time with the present funding the only way would be with**
43 **the balance of the \$90,000 of which \$15,000 must be maintained just for very low income**
44 **households.**

45
46 **Commissioner Zischkau asked as of what time are the residents going to be measured as moderate**
47 **or low income households and Mrs. Serino replied as of today and projected forward with the**

1 maximum foreclosure assistance being \$7,500 per household.

2
3 Commissioner Denizac stated the first priority should be the very low income households and
4 once that threshold has been met then open it up to the moderate income households. She stated
5 the motion should not be changed to accommodate middle income households.

6
7 Mayor Mulder asked if approved as presented by staff would Ms. Jennifer Bailey-DiRocco who
8 indicated she is of moderate income be helped and Mrs. Serino replied if it is presented how it is
9 written it is restricted to very low income. If it were revised to include moderate income and she
10 fulfills the rest of the criteria then yes.

11
12 Mr. Bowley stated both the old and the new plan have a strategy that was previously approved for
13 very low, low, and moderate incomes. Once the qualifications have been met for the very low
14 income the plan automatically opens up the SHIP Program to the low and moderate income
15 households.

16
17 **Motion by Commissioner McFall-Conte, seconded by Vice Mayor Carmolingo to approve the**
18 **amendment to State Fiscal Year 2004-2006 Local Housing Assistance Plan and authorize**
19 **submission to the Florida Housing Finance Corporation, as required by State Law.**

20
21 **Motion carried with members voting as follows: Commissioner Denizac, For; Commissioner**
22 **Deyette, For; Commissioner McFall-Conte, For; Commissioner Treusch, For; Commissioner**
23 **Zischkau, For; Vice Mayor Carmolingo, For; and Mayor Mulder, For.**

24
25 Commissioner Denizac asked if the program works on a first come first serve basis and Mrs.
26 Serino replied "yes", due to demands the program will be run a little differently than the rest.
27 There will be a prescreening form to make sure all the requirements are met. Mr. Bowley stated if
28 there is one qualified applicant for very low income then it opens the program up for moderate
29 income on a first come first complete basis.

30
31 **B. Request for waiver of fees – Hispanic American Youth Group of Deltona, Inc.**

32
33 Commissioner McFall-Conte asked if the Hispanic American Youth Group of Deltona, Inc.
34 received a grant during the grant cycle and Mrs. Serino replied the group applied and received a
35 \$2,000 grant for fiscal year 2008-2009 which was used for a cultural event.

36
37 Mayor Mulder stated the group had a space which was free and due to the City's Codes the group
38 was forced to move out because it was not zoned properly. This group of kids does nothing else
39 other than dance and often for the benefit of the community.

40
41 Commissioner Denizac asked if the group had always used the grant money for the purpose stated
42 and President Maritza Vazquez replied "yes". Commissioner Denizac asked how much money the
43 City would lose and Mr. Moore replied \$4,800. She stated on top of electricity and other things
44 the Community Center is expected to sustain financial solvency and Mr. Moore replied "yes".

45
46 Commissioner Zischkau asked for an estimate of how many other youth groups or nonprofit
47 groups which have contracts or agreements with the City to pay for the facilities and Mr. Moore

1 replied he would have to do some research and would get back with him.

2
3 Ms. Vasquez stated the Hispanic American Youth Group of Deltona put the City of Deltona on the
4 map in Florida and in other states. The group has been in the newspaper representing Deltona in a
5 positive way. The group is not asking for long term space but temporary space until a permanent
6 space could be located. She stated she has attended City meetings and not once has she heard of
7 any plans for the youth of the community. When business owners give up space to provide a place
8 for the kids to meet the City closes it down because of a code violation. Other cities in Florida
9 have a Community Center for the youth of the community free of charge and Deltona has nothing.

10
11 **After discussion, the applicant withdrew the request for waiver of fees.**

12
13 **Motion by Commissioner Zischkau to set the whole issue for a workshop.**

14
15 **Motion died for lack of a second.**

16
17 Mayor Mulder stated he did not have any objection to setting up a workshop on the issue.

18
19 **C. Discussion re: Community Mailboxes.**

20
21 Mr. Burbank stated this request was to look into moving mailboxes out of the public rights of way
22 in the City of Deltona. The more staff looked at this the more they thought it was a great idea for
23 a number of reasons. Rather than try to move the mailboxes off every street staff focused on the
24 thoroughfare roads. The benefits of the plan include improved traffic safety, improved traffic
25 flow, improved mail security, increased energy efficiency, improve the efficiency of the roadway
26 maintenance program, and improve the appearance of the neighborhoods.

27
28 Commissioner Denizac asked if the City had any data that supports any connection between the
29 mail boxes and traffic accidents and data that supports mail being stolen and Mr. Burbank replied
30 “no”.

31
32 Commissioner McFall-Conte asked what the estimated cost would be to the City and Mr. Burbank
33 replied nothing. He stated if the City does the cut-offs it would cost \$12-15,000 each but, if the
34 mailboxes are moved on the side street the post office bears the entire cost.

35
36 Mayor Mulder asked if the mailboxes would be accessed via a vehicle and Mr. Burbank replied
37 there would be some inconvenience and residents may need to walk a half a block. If there is
38 someone who physically cannot get the mail or the elderly the post office would deliver the mail.
39 Mr. Burbank stated some of the roads are County maintained so staff discussed the idea with them
40 and the County Traffic Engineer is in favor of the changes.

41
42 Commissioner Zischkau asked if residents would be required to cross the street to get to the
43 community mailboxes and Mr. Burbank replied he cannot answer that. Commissioner Zischkau
44 asked if residents would be required to take down existing mailboxes and Mr. Burbank replied the
45 post office would notify the residents to require the residents to remove the existing mailboxes
46 without compensation. Commissioner Zischkau asked if the City could require the post office to
47 place community mailboxes on both sides of the street and Mr. Burbank replied staff could

1 encourage the post office to do so.

2
3 Commissioner Zischkau asked if the post office has indicated the changes would be done this year
4 and Mr. Burbank replied “no”. Mayor Mulder asked what time frame the City would be looking
5 at and Mr. Burbank replied it would be the post office’s time frame entirely and staff would offer
6 daily encouragement to the post office to move forward.

7
8 **Motion by Commissioner Treusch, seconded by Commissioner McFall-Conte to allow staff**
9 **to bring the item forward for first reading.**

10
11 **Motion carried with members voting as follows: Commissioner Denizac, For; Commissioner**
12 **Deyette, For; Commissioner McFall-Conte, For; Commissioner Treusch, For; Commissioner**
13 **Zischkau, For; Vice Mayor Carmolingo, For; and Mayor Mulder, For.**

14
15 **D. Discussion re: Naming of Walking Trail at Wes Crile Park.**

16
17 Mayor Mulder suggested naming the walking trail after Gus Dowles who recently passed away
18 and was an active member of the community.

19
20 Commissioner McFall-Conte stated she would support the nomination but, the Commission
21 needed to take into consideration former Commissioner Harvey who was recommended by the
22 Parks & Recreation Advisory Board.

23
24 Commissioner Denizac suggested the Parks & Recreation Advisory Board submit more names for
25 consideration to include a biography and to have something bigger than a trail named after former
26 Commissioner Harvey.

27
28 **Motion by Vice Mayor Carmolingo, seconded by Commissioner Deyette to name the walking**
29 **trail at Wes Crile Park after Gus Dowles.**

30
31 Mayor Mulder does not see naming the trail after anyone else but, does not have a problem
32 sending it back to the Parks & Recreation Board for them to submit as many names as possible
33 including Gus Dowles.

34
35 Vice Mayor Carmolingo stated the trail was the idea of the Senior Advisory Board. Mayor
36 Mulder asked if the Senior Advisory Board could work on the naming process along with the
37 Parks & Recreation Advisory Board.

38
39 **After discussion, the Commission concurred to:**

- 40
- 41 • **To have the Parks & Recreation Advisory Committee and the Senior Advisory Sub-**
42 **Committee research and provide as many names as possible to bring forward to the**
43 **Commission for consideration;**
 - 44 • **To include Mr. Gus Dowles as one of the names for consideration;**
 - 45 • **To provide a biography with each name that is presented; and**
 - 46 • **To have something more substantial named after former Vice Mayor William S.**
Harvey.

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E. Presentation by Mayor Mulder.

Mayor Mulder stated he asked to make this presentation tonight with much deliberation and after many years now of duress. His fate as the leader of this City is placed in both his own hands and those of the Commission. He would like to share with everyone just some of his and his family's experiences of the past several years. He thinks it may give some perspective of why he is presenting tonight and why he will request at the end of the presentation some action form the Commission. He stated when he signed up to run for Mayor, he used mostly his own money to campaign, he was mostly unknown, he was unliked by the establishment and he knew there would be lots of public criticism involved. He also knew that the job does not pay and it is a political service. He is still fine with that but, he is not fine with being electronically harassed, losing business, being slandered, and being forced to consider resignation to make the harassment stop. He is asking the Commission to approve the expenditure of legal fees to defend himself and the City where necessary and to make available to the public a schedule of fees paid and reimbursed so that the public may understand the damage that a certain group has caused. All avenues have been exhausted outside of harsh legal action. He is only asking to expend funds on those issues that have been started as a result of him being Mayor. He stated after all the public has seen who will want to be Mayor or serve on the Commission if this is not stopped, except for those certain groups want in office and will not harass or slander. He is afraid after counsel with his family and attorney that if this action is not approved by the Commission the City will need another Mayor to run the next meeting. He has reached his limit and asks for the Commission's support to stop making this illegal, irresponsible, and maybe criminal behavior acceptable.

Motion by Vice Mayor Carmolingo, seconded by Commissioner Deyette for the City to provide reimbursement and expenditures of legal fees to protect both proactively and reactively the City as a government including its employees and its Mayor from material damages, slanderous or libelous comments or claims and unsubstantiated allegations past, present and future where the Mayor feels is necessary and that a report of fees expended be made available for the public for their review.

Commissioner Denizac explained several incidents which had occurred to her and her family. She stated she cannot support the motion, it could be very costly and she would hate to use tax payer's money on this. She suggested Mayor Mulder stay strong.

Commissioner McFall-Conte explained several incidents which had occurred to her and her family. She stated she appreciates all the Commissioners being included in the motion but she does not see expending tax dollars on this. She stated if slanderous comments are made against her she would find a way to take care of the situation herself.

Vice Mayor Carmolingo stated his granddaughter happened to come across one of the blogs, seen the characters and she commented that he is not that kind of person. This needs to be done by the Commission as a whole and it must stop because it is not right. He stated he works hard at his position and any resident would say that if there is a problem he is there.

Commissioner Treusch stated he believes the Mayor is a man of high integrity, he is up against the wall and he would support him. He agreed with Vice Mayor Carmolingo to go after the people

1 who are responsible for this because it is creating havoc.

2
3 Commissioner Deyette stated reporters used to take pride in researching and reporting the truth.
4 Now reporters are quick to imply without investigating both sides, rely on hearsay, gossip, blogs,
5 and untruths. She explained several comments which were posted to the blogs about her. If the
6 City does not fight back and keeps tolerating it then the citizens will be left wondering what to
7 believe.

8
9 Commissioner Zischkau stated the subtext of the presentation asked the Commission to use tax
10 payer's money to pay for a law suit against one of the Mayor's critics. If there is business losses
11 or slander than it is the Mayor's right to go to court at his own expense. He asked if there are any
12 legal fees authorized by the City Charter to protect the Commission against false allegations and
13 Mr. Trovato replied he would have to check the City Charter.

14
15 **Motion by Commissioner Zischkau, seconded by Commissioner Denizac on Commissioner**
16 **Zischkau's subsidiary motion to the main motion to exclude Herbert Zischkau from the actions**
17 **outlined in the main motion.**

18
19 **Amended motion by Commissioner Zischkau, seconded by Commissioner Denizac on**
20 **Commissioner Zischkau's subsidiary motion to the main motion to exclude Commissioner**
21 **Denizac, Commissioner McFall-Conte, and Commissioner Zischkau from the actions outlined**
22 **in the main motion.**

23
24 **Motion carried with members voting as follows:**

25		
26	Commissioner Denizac	For
27	Commissioner Deyette	For
28	Commissioner McFall-Conte	For
29	Commissioner Treusch	For
30	Commissioner Zischkau	For
31	Vice Mayor Carmolingo	For
32	Mayor Mulder	Against
33		

34 **Amended motion by Vice Mayor Carmolingo, seconded by Commissioner Deyette for the City**
35 **to provide reimbursement and expenditures of legal fees to protect both proactively and**
36 **reactively the City as a government including its employees and its Mayor and those members**
37 **who wish to be represented in the this motion, Commissioner Treusch, Commissioner Deyette,**
38 **Vice Mayor Carmolingo and Mayor Mulder where needed from material damages, slanderous**
39 **or libelous comments or claims and unsubstantiated allegations past, present and future where**
40 **the Mayor feels is necessary and that a report of fees be expended and be made available to the**
41 **public so they may see the extent of damage that has been caused.**

42
43 **Motion carried with members voting as follows:**

44		
45	Commissioner Denizac	Against
46	Commissioner Deyette	For
47	Commissioner McFall-Conte	Against

1	Commissioner Treusch	For
2	Commissioner Zischkau	Against
3	Vice Mayor Carmolingo	For
4	Mayor Mulder	For

5
6 **11. CITY COMMISSION COMMENTS:**
7

8 a) Commissioner McFall-Conte stated she was present at the Library's Environmental Center today
9 and she was amazed at the expanded portion. She stated she is looking forward to another tour by
10 Councilwomen Pat Northey near the end of construction.
11

12 b) Commissioner McFall-Conte stated she brought up at last week's workshop decorum which was
13 shown at tonight's meeting. At a Commission meeting there is a different type of decorum, when
14 someone is gaveled they need to respond and City staff should not be engaged in arguments with
15 Commissioners.
16

17 c) Commissioner McFall-Conte stated as she puts accusations from both sides aside, she looked
18 over all the public record requests which she made, she is not comfortable working with a vendor
19 who still threatens to sue the City. Putting accusations aside it is a liability to have a vendor work
20 with the City who is continuing to sue the City.
21

22 Commissioner McFall-Conte asked if there is any type of liability if the City continues to have
23 the vendor work on the one item for the City. Mr. Trovato replied the liability would be reduced
24 because the City would be fulfilling the requirements of the contract.
25

26 d) Commissioner Denizac stated she is displeased with some of the things that have taken place
27 within the last week. One of her most disturbing complaints is the fact that someone called
28 Biddle & Associates and told them the Commission met in an Executive Session to discuss the
29 contract and the Commission voted to terminate the contract with them. Commissioner Denizac
30 asked Ms. Miller and Mr. Trovato if either of them had called Biddle & Associates and both
31 replied they had not.
32

33 Commissioner Denizac stated she was lied to today and none of her colleagues seem bothered
34 about it. She stated that she asked Ms. Miller regarding the hiring of Mr. Skip Fowler and she
35 said no, he has not been hired. Yet Mrs. Biddle stated a week ago she was contacted by Skip
36 Fowler. The Commission has never met to even discuss the hiring of outside counsel.
37

38 Commissioner Denizac asked Mayor Mulder if he called Biddle & Associates to tell them the
39 Commission met in an Executive Session to discuss the contract and the Commission voted to
40 terminate the contract with them. Mayor Mulder replied he does not have any information on that
41 or any recollection of ever saying it. He stated he does not think it is appropriate that anyone be
42 recording any phone calls without notification.
43

44 Commissioner Denizac stated based on the fact she had been lied to and in light of all the things
45 that have happened this week. As an individual Commissioner and one of the bosses she will be
46 writing a letter of reprimand to place in the City Manager's and City Attorney's personnel files.
47

- 1 e) Commissioner Treusch stated he does not think the Biddle situation will be resolved easily. He
2 asked about the paragraph which was attached to the contract between Biddle & Associates and
3 the City excluding the City from any liability and Mr. Trovato replied it is inappropriate to
4 answer any questions or to make any statements regarding the facts of the matter in dispute. The
5 contract was never amended. There was only one contract approved by the Commission and one
6 enforceable contract that the City has operated under since the contract was approved.
7
- 8 f) Commissioner Deyette stated the Lyonia Nature Preserve Tour was wonderful, the expansion of
9 the library is going to be more than what it ever was, there is a balcony overlooking the
10 amphitheatre and the stage. She stated she is pleased the Commission decided to be a part of the
11 project.
12
- 13 g) Commissioner Deyette reminded everyone the South West Volusia Summit is this Saturday.
14
- 15 h) Commissioner Deyette thanked Captain Brannon and several other officers who attended her
16 Town Hall Meeting. She thanked neighborhood watch groups for coming and providing
17 suggestions. The meeting was taped and will be repeated on DTV, channel 199.
18
- 19 i) Commissioner Deyette stated she believes Commissioners are more than policy makers and that
20 Commissioners are called public servants for a reason. She believes in leading citizens by being
21 servants to them to the best of her ability. Commissioners are the representative, protectors and
22 guardians of the citizens of the City. She believes Commissioners should not speak publicly
23 against the City without gathering all the facts first and being unbiased without political feelings.
24 She stated she takes seriously anyone who would be willing to make statements to harm the City.
25 Nobody is perfect and Commissioners are all regular people who ran for office. When
26 Commissioners are first elected there is an inherent respect and she believes respect cannot be
27 demanded but, instead earned day by day by acting like responsible, ethical and prudent leaders.
28
- 29 j) Commissioner Zischkau stated the four (4) to three (3) vote to take tax payer's money to
30 silence Mayor Mulder's critics is a violation of the right to free political speech. The
31 Commission Resolution that passed at Mayor Mulder's request is a violation of the Federal
32 and Florida laws that guarantee the right of free speech. He stated he believes the City Charter
33 allows the City to pay certain legal bills but, only if they are connected with City business.
34 Mayor Mulder's add on Item 10-E goes way beyond the Charter's rule. The majority of the
35 Commission has voted four (4) to three (3) to pay for Mayor Mulder's private legal fees for
36 business damages and claims of slander which are his personal expenses. Four
37 Commissioners have abused their governmental power to freeze political decent. He stated he
38 strongly objects to this misuse of tax payer's money and the City's police power.
39
- 40 k) Vice Mayor Carmolingo stated it is easy to make statements when the person is not the subject
41 of the blogs. He stated he hesitates to use tax payers money but, when something needs to be
42 stopped it should be stopped. Freedom of speech is one thing but, to take advantage of a
43 person's life and place a spin on things that are not the truth is not freedom of speech. He
44 stated he has been accused of things on the blog that he has never even thought of doing his
45 whole life. If his background were checked there would not be anything found. He stated he
46 has received emails at City Hall accusing him of being corrupt. He stated he will not even take
47 a free lunch or discounted lunch from anyone.

- 1
2 l) Vice Mayor Carmolingo stated he was bothered by some of the residents giving negative
3 reports in the media and not one mentioned the two positive editorials, Green Ordinance and
4 Social Services Building, which were in the newspaper.
5
6 m) Vice Mayor Carmolingo apologized to the Pony League who invited him to throw out the first
7 ball but, he has a Summit Meeting that Saturday.
8
9 n) Mayor Mulder stated there have been a lot of positive things that happened in the City. The
10 majority of comments he gets are positive. People talk about the Social Services Building, the
11 City's parks, Thornby, and the Amphitheatre. It is not about spin to him, he could care less
12 what people call him, and it is the things that cut much deeper. It is as much about Deltona
13 and its ability to attract future leaders to the dais. He stated when he comes out of this position
14 he would have learned more life lessons than probably most people in office for any amount of
15 time and he is grateful for it. He stated he is going to try to focus on the positive in the City
16 which there is a lot. If the Commission could be in agreement that if there is nothing nice to
17 say about a colleague then do not say anything. There are two (2) issues one which was dealt
18 with tonight and the other is the respect the Commissioners have for one another. He thanked
19 Commissioner McFall-Conte for her comments regarding keeping decorum and appreciates
20 her professionalism.
21

22 **12. CITY ATTORNEY COMMENTS:**

23
24 Mr. Trovato stated a statement was made that the Law Offices of Fowler, O'Quinn, Feeney &
25 Sneed P.A. were hired a week ago and that is not correct. He stated he spoke with them more than
26 a month ago, not to hire them but, to get another attorney's perspective who has the experience,
27 knowledge, and expertise to look at this from an objective perspective and to tell him if the City's
28 course of action was proper or if there was any liability. At that time Mr. Fowler stated from what
29 he has seen nothing the City has done wrong at this time. When emails began arriving at City Hall
30 without any warning and were sent directly to all the City Commissioners from Biddle &
31 Associates they were all one sided. The emails sent prior to that to the City Manager and City
32 Attorney many of which were responded to by the City's Legal Department but, his understanding
33 is that none of the emails with his response ever reached the City Commissioners. He stated it is
34 surprising to him that any Commissioner would think that staff would receive numerous amounts
35 of emails from a vendor let alone their attorney and assume nobody at City Hall responded.
36 Fowler, O'Quinn, Feeney & Sneed P.A. were requested as done regarding many things at City
37 Hall in a proactive manner to send staff an engagement letter which has not been received. Once
38 the engagement letter is received the City Manager will evaluate what position the City is in that
39 day and either bring it up under individual comments when she meets with each Commissioner as
40 to whether or not this is something the City wants to move forward with and or place it on the
41 Agenda for the Commission to decide whether or not the City should be proactive or sit back and
42 wait till the City is attack and become defensive. Unfairly accusing the City Manager of lying
43 when not all the facts have been gathered is not something he is willing to sit quietly for and not
44 respond to and that is the situation as it stands today.
45

46 Mr. Trovato stated tonight accusations have been made that are not only horrendous in his opinion
47 but, also incredulous. It is appalling to believe that anyone could make a determination on the

1 false accusations made against him without any proof at all. He stated he stands behind the
2 actions he has taken in regards to this matter because it protects the tax payer's of the City, the
3 Commission, and all the employees of the City. Proof is what is needed in regards to any
4 accusation and proof is not what anyone has.

5
6 Commissioner Denizac asked Mr. Trovato to explain the letter received tonight from Fowler,
7 O'Quinn, Feeney & Sneed P.A. "because he keeps going back and forth making her look like a
8 complete fool."

9
10 **13. CITY MANAGER COMMENTS:** None

11
12 **14. ADJOURNMENT:**

13
14 There being no further business, the meeting adjourned at 10:48 p.m.

15
16 Approved this _____ day of _____, 2009.

17
18
19
20 **ATTEST:**

Dennis Mulder, MAYOR

21
22
23 _____
Joyce Kent, DEPUTY CITY CLERK

24