

City of Davenport Regular Meeting Minutes of July 6, 2021

Minutes of the Regular Meeting of the City of Davenport, Florida, held Monday, July 6, 2021 at 7:00 p.m. in the Commission Room after having been properly advertised with the following members present: Mayor H.B. Robinson and Commission Members: Vice-Mayor Brynn Summerlin, Commissioner Bobby Lynch, Commissioner Tom Fellows and Commissioner Jeremy Clark. Also present: City Manager Kelly Callihan and City Attorney Tom Cloud.

Mayor Robinson declared a quorum present and opened the meeting with invocation and a salute to the flag.

APPROVAL OF ORDER OF BUSINESS

Motion by Commissioner Clark and seconded by Commissioner Fellows to approve the Order of Business. Motion carried unanimously.

PUBLIC COMMENT

Freida Priest of 105 E. Maple Street thanked the City for the fireworks on the 4th of July. She also asked for an update on the museum for the Historical Society's. She was informed that the City Attorney was currently working on the contract which will be brought to the City Commission for review then provided to the Historical Society for their review and comments then approval.

There being no one else the Mayor closed Public Comment.

CONSENT AGENDA

Motion by Vice-Mayor Summerlin and seconded by Commissioner Lynch to approve the Consent Agenda which consisted of the June 21, 2021 Planning Commission and the June 21, 2021 Regular Meeting. Motion carried unanimously with no discussion or public input.

OLD BUSINESS

1. PUBLIC HEARING AND SECOND AND FINAL READING OF ORDINANCE NO. 987 TO APPROVE THE ANNEXATION OF 626 SYLVAN RAMBLE ROAD. OWNER OF RECORD: DOMINGO MANUEL

At this time the Attorney was instructed to read Ordinance No. 987 by title.

City Planner Raymond Perez provided that this was a request to approve the annexation of 626 Sylvan Ramble Road. This was second reading of the Ordinance and there were no changes since first reading.

The Mayor opened and closed the Public Hearing with no public input.

Motion by Commissioner Clark and seconded by Commissioner Fellows to approve on second and final reading, Ordinance No. 987. Motion carried unanimously with no discussion.

2. PUBLIC HEARING AND SECOND AND FINAL READING OF ORDINANCE NO. 988 TO APPROVE THE ANNEXATION OF 632 SYLVAN RAMBLE ROAD. OWNER OF RECORD: ROSENDO MEJIA CALLEJAS

At this time the Attorney was instructed to read Ordinance No. 988 by title.

Raymond provided that this was the second reading of the Ordinance for the annexation of 632 Sylvan Ramble Road and there were no changes.

The Mayor opened and closed the Public Hearing with no public input.

Motion by Commissioner Fellows and seconded by Vice-Mayor Summerlin to approve Ordinance No. 988 on its second and final reading. Motion carried unanimously with no discussion.

3. PUBLIC HEARING AND SECOND AND FINAL READING OF ORDINANCE NO. 1010 TO APPROVE THE ANNEXATION OF 0 NORTH BOULEVARD WEST. OWNER OF RECORD: CITY OF DAVENPORT. (GENERAL LOCATION - WEST OF BY-GOSH BOULEVARD AND SOUTH OF NORTH BOULEVARD WEST)

At this time the Attorney was instructed to read Ordinance No. 1010 by title.

Raymond provided that this was the second and final reading of the Ordinance annexing 0 North Boulevard West.

The Mayor opened and closed the Public Hearing with no public input.

Motion by Commissioner Lynch and seconded by Commissioner Clark to approve Ordinance No. 1010 on its second and final reading. Motion carried unanimously with no discussion.

4. PUBLIC HEARING AND SECOND AND FINAL READING OF ORDINANCE NO. 1011 TO APPROVE THE REZONING OF NORTH BOULEVARD WEST FROM RESIDENTIAL ESTATES 1 (RE-1) AND CONSERVATION (CN) TO RESIDENTIAL 3 (R-3)

At this time the Attorney was instructed to read Ordinance No. 1011 by title.

Raymond provided that this was second and final reading of the Ordinance rezoning the property from Residential Estate 1 (RE-1) and Conservation (CN) to Residential 3 (R-3).

The Mayor opened and closed the Public Hearing with no public input.

Motion by Vice-Mayor Summerlin and seconded by both Commissioner Lynch and Commissioner Fellows to approve Ordinance No. 1011 on its second and final reading. Motion carried unanimously with no discussion.

5. PUBLIC HEARING AND SECOND AND FINAL READING OF ORDINANCE NO. 1012 TO APPROVE THE ANNEXATION OF 1212 HIGHWAY 17/92. OWNERS OF RECORD - RICHARD D. VIGGIANO TRUST

At this time the Attorney was instructed to read Ordinance No. 1012 by title.

Raymond provided that this was the second and final reading of the Ordinance for the voluntary annexation of 1212 Highway 17/92 consisting of 3.02 acres. There had been no changes since first reading.

The Mayor opened and closed the Public Hearing with no public input.

Motion by Commissioner Lynch and seconded by Vice-Mayor Summerlin to approve on its second and final reading, Ordinance No. 1012. Motion carried unanimously with no discussion.

6. PUBLIC HEARING AND SECOND AND FINAL READING OF ORDINANCE NO. 1015 TO APPROVE THE ANNEXATION OF 1311 HIGHWAY 17/92. OWNERS OF RECORD - RICHARD D. VIGGIANO TRUST (GENERAL LOCATION - SOUTHWEST SIDE OF HIGHWAY 17/92)

At this time the Attorney was instructed to read Ordinance No. 1015 by title.

Raymond provided that this was the second and final reading of the Ordinance for the annexation of 1311 Highway 17/92 consisting of 3.53 acres.

The Mayor opened and closed the Public Hearing with no public input.

Motion by Commissioner Fellows and seconded by Commissioner Lynch to approve Ordinance No. 1015 on its second and final reading. Motion carried unanimously with no discussion.

7. PUBLIC HEARING AND SECOND AND FINAL READING OF ORDINANCE NO. 1016 TO APPROVE THE ANNEXATION OF HIGHWAY 17/92. OWNERS OF RECORD - RICHARD D. VIGGIANO TRUST (GENERAL LOCATION: SOUTHWEST SIDE OF HIGHWAY 17/92 BETWEEN BATES ROAD & MYSTERY HOUSE ROAD)

At this time the Attorney was instructed to read Ordinance No. 1016 by title.

Raymond provided that this was the second and final reading of the Ordinance annexing 21.09 acres off Highway 17/92.

The Mayor opened and closed the Public Hearing with no public input.

Motion by Commissioner Clark and seconded by Commissioner Fellows to approve on second and final reading, Ordinance No. 1016.

The Vice-Mayor asked if the two small parcels still forthcoming. Raymond responded that they would be presented at their next meeting.

Commissioner Fellows questioned the status of the Interlocal Agreement with Haines City. The City Manager advised that he had spoken to the City Manager and was informed that it was forthcoming and had no issue with the City moving forward with the annexation.

There being no further discussion, the Mayor called for the vote. Motion carried unanimously.

8. PUBLIC HEARING AND SECOND AND FINAL READING OF ORDINANCE NO. 1021 APPROVING REVISIONS TO ARTICLE II (OCCUPATIONAL LICENSES) AND ARTICLE III (SOLICITORS) OF CHAPTER 10 OF THE CODE OF ORDINANCES

At this time the Attorney was instructed to read Ordinance No. 1021 by title.

Code Enforcement Officer Steven Hunnicutt Staff presented this item outlining staff's recommended changes.

The Mayor opened and closed the Public Hearing with no public input.

Motion by Vice-Mayor Summerlin and seconded by Commissioner Lynch to approve Ordinance No. 1021 on its second reading.

The Vice-Mayor asked if there were no changes to the Ordinance since first reading. Steven responded that there were none.

NEW BUSINESS

1. REQUEST TO APPROVE THE FUNDING OF \$73,534.56 TO REPAVE THE CITY'S PORTION OF NORTH BOULEVARD

The City Manager advised that the County had started paving North Boulevard from West Boulevard to Highway 27. He had Darryl contact the County and as a result the City would be able to piggy-back off the County contract and pave North Boulevard from West Boulevard to County Road 547. In speaking with the Finance Director, they could use their Transportation Impact Fees.

Commissioner Fellows asked if this would include taking out the curbing. The City Manager responded that the curbing was a different project.

The Mayor opened and closed the Public Hearing with no public input.

Motion by Commissioner Fellows and seconded by Commissioner Lynch to approve the funding of \$73,534.56 to repave the City's portion of North Boulevard.

Brief discussion ensued with the Vice-Mayor stating that it seemed like it should be longer than 1,470LF.

There being no further discussion, the Mayor called for the vote. Motion carried unanimously.

2. REQUEST TO APPROVE TASK AUTHORIZATION WITH PENNONI FOR ADDITIONAL SERVICES TO DESIGN THE OPERATIONS BUILDING AT THE WASTEWATER TREATMENT PLANT

Utilities Director Mike Stripling advised that this project would expand on the original design of the operations room in phase two of the wastewater treatment plant expansion to include a place for both the wastewater and water operators to control and inspect both the wastewater plant and the water plants including the new AWS facility. In addition, he advised that this would likely result in a reduction in the required hours for operators on site requirements that came with larger capacity wastewater and water plants. Staff was recommending approval of the Task Authorization with Pennoni in the amount of \$55,000.

The Mayor opened and closed the Public Hearing with no public input.

Motion by Commissioner Fellows and seconded by Vice-Mayor Summerlin to approve the Task Authorization with Pennoni.

Discussion ensued with the Vice-Mayor clarifying that it was going to be one building taking care of three (3) operations. Mike responded that this was correct. The Task Authorization was to

design the building and that it would be in the Phase II design of the WWTP. This money was coming from that funding source and the construction of it would be in the bid for the Phase II Wastewater Treatment Plant.

In answer to Commissioner Clark's question, Mike responded that the \$55,000 would be coming from this funding also.

The Mayor asked if they were hiring another secretary. Mike responded no.

Commissioner Clark asked how long before they had to add to it as the city grew. Mike responded that this was the only operations building they would have to have.

The City Manager also added that this was something that they absolutely had to have.

There being no further discussion, the Mayor called for the vote. Motion carried unanimously.

3. REQUEST TO APPROVE RAFETELLIS LETTER AGREEMENT TO PROVIDE A RATE SUFFICIENCY STUDY FOR THE CITY OF DAVENPORT

Mike explained that this study would provide an update to the rate study done by Raftelis in 2019 and determine the appropriate increase for the City's Alternative Water supply and the other capital expenditures for future funding. They were getting to the point where they would have to charge for alternative water and are looking at Rafetellis to look into this study. Staff was recommending approval of the Rafetellis letter agreement to provide this study in the amount of \$34,250.

The Attorney inserted that in reviewing the agreement further, it detailed the City piggybacking on a service agreement and normally under State law they weren't permitted to piggy-back off service agreements. Therefore, he preferred them approving this subject to him and Rafetellis working out terms that are not incorporating the Polk County Consulting contract into their contract.

The Mayor opened and closed the Public Hearing with no public input.

Motion by Vice-Mayor Summerlin and seconded by Commissioner Clark to approve the agreement for the rate sufficiency study based on a contractual change removing the reference to the County piggyback. Motion carried unanimously with no discussion.

The Vice-Mayor asked if the request for the AWS increase for the interim rate going to be monies they would be able to use to pay for the AWS process as it got here. Mike responded that this was correct however this would also blend with their current rate once they got the AWS water. Mike further added that this would be more operational then capital costs, which those would come from impact fees.

4. REQUEST TO APPROVE RESOLUTION NO. 467-21 ADOPTING THE ASSET MANAGEMENT PLAN FOR THE WATER INFRASTRUCTURE IN THE CITY OF DAVENPORT PROVIDED BY THE FLORIDA RURAL WATER ASSOCIATION (FRWA)

Mike explained that with assistance from the Florida Rural Water Association (FRWA), the City had developed an asset management plan designed to meet the criteria of the FDEP State Revolving Fund and provide Data for a City GIS system. As part of the loan agreement with the Florida Department of Environmental Protection State Revolving Fund the City was required to

put an asset management plan in place. The purpose of this plan was to provide a process of maintaining the critical assets of the City. He further informed them that their current rate study had built-in increases in the water and sewer rates until 2024. At that point and time, their current ordinance had a CPI that could raise the rates based on what the CPI was and whether they wanted to or not.

At this time Mike introduced Chris Bailey with the Florida Rural Water Association who provided DEP's desire for cities to have a Plan in place to protect their assets. Mr. Bailey provided that grant recipients were encouraged to implement an asset management plan to promote utility system long-term sustainability, such as the City has done. Mr. Bailey added that fortunately, the City was in real good condition. The City had a very forward thinking Utility Department with a lot of good workers. The projects the City was doing throughout the City should set the City up for future success. In terms of finances, the City would need the rate increase, but they really didn't see the need for any additional rate increase. However with the AWS in the Rafetellis rate sufficiency study they would be able to tell them if any future rate increases were needed.

In closing, Mike thanked the FRWA and Mr. Bailey.

The Mayor opened and closed the Public Hearing with no public input.

Motion by Commissioner Fellows and seconded by Commissioner Lynch to approve Resolution No. 467-21.

The Vice-Mayor asked if by the City approving the diamond map software last year for the Department had it helped. Both Mr. Bailey and Mike responded that it had helped tremendously.

There being no further discussion, the Mayor called for the vote. Motion carried unanimously.

5. REQUEST TO APPROVE RESOLUTION NO. 468-21 APPROVING THE ANNUAL STORMWATER UTILITY ASSESSMENT ROLL AND RATE

Mike announced that the total calculated billing amount for the year totaled \$242,309.96. He further announced that this was the same rate of \$60 as last year.

The Mayor opened and closed the Public Hearing with no public input.

Motion by Commissioner Clark and seconded by Commissioner Fellows to approve Resolution No. 468-21.

Discussion ensued with Commissioner Fellows questioning what the money was earmarked for. Mike responded that it was earmarked for the Stormwater maintenance and would help pay for some of the infrastructure repairs.

Unrelated to the item, Commissioner Lynch asked if they had drilled any today. Mike responded that they hadn't, but so far they had done 21½' of 8" casing.

There being no further discussion, the Mayor called for the vote. Motion carried unanimously.

6. DISCUSS ECONOMIC DEVELOPMENT COUNCIL

The City Manager informed them that last March they had approved the contract with the EDC and based on the contract, they were to come to them on a quarterly basis and provide updates on their activities and the reporting of funds and how the money was being spent. He further advised that the City had made several attempts to place the discussion of the EDC on the Agenda but something always came up and they couldn't attend.

On May 17th they had received an email from Ms. Pierson dissolving the EDC. The City Manager noted that the Contract had expired in March and on May 17th they should have received all the records and anything that was purchased under the contract.

The City Manager further stated that there had been many attempts to try to get these items. He was able to finally make contact with the EDC and they had dropped off about 8 months of statements. Seeing that it was not all of the items, he continued to try to make contact with the EDC to provide the receipts. When this failed, he contacted Center State Bank and they advised him that they couldn't provide him with any information unless it was the two people on the account, who were Barbara Pierson and Joyce Hunter. He had called Ms. Hunter and she had accompanied him to the Bank. They were able to get the statements and staff was able to retrieve some receipts through the transactions. In reviewing the receipts that they were able to get, it was found that they were not items that should have been purchased with EDC monies.

Chief Holden and himself had then gone to Ms. Pierson's house to try and sit down and go over the receipts and better understand it. When they had gotten there, she basically understood and knew that some things probably should not have been purchased and agreed that she would give an amount back to cover that. He had informed her then that he wasn't sure how much this would be and asked her to bring all the receipts she had and come to City Hall and sit down with him and the Finance Director and go over them.

She had finally shown up but did not bring any receipts with her. Donald and him had gone over the charges with her and she informed them that some of the charges were personal. She excused herself, informing them that she had a doctor's appointment and would call him later if she could come back that afternoon or the next day. The next afternoon he had received a call from her advising him that her attorney had advised her not to give the City anything. He then had asked the City Clerk, as the Records Custodian to send her a Chapter 119 records request of all the items.

Subsequently, the City received an email from an Attorney in Orlando advising the City that they were getting the requested documents and would advise us when they were ready and as a courtesy, would not be charging the City but staff would have to go pick them up in Orlando.

Seeing that they are not getting anywhere with this, he had spoken to both the City Attorney and Chief Holden and the Attorney would be glad to give them his advice on the matter.

Taking the floor, the Attorney advised that they needed to contact the State Attorney. Based on the statements he had received, public monies had been used for private purpose and this was not legal. He further stated that chasing down a civil action on something like this, they would be spending more money than was lost and they would be better off having it prosecuted.

Commissioner Clark questioned if they had exhausted all avenues. The Attorney responded that they could send her a demand letter asking them to return the money or they were going to the

State Attorney. The City Manager added that he felt that the city had exhausted all avenues and sending out a letter wouldn't result in anything. In addition, they couldn't even contact Ms. Pierson anymore and everything had to go through her attorney. He shared that he had called the Attorney to no avail or response. He wanted to question them whether it was Barbara Pierson's decision or the EDC's decision not to give them any receipts.

Coming up to the podium, Ms. Joyce Hunter informed the Commission that she wanted them to know that she was not aware of what Barbara was doing. She had informed her that she no longer wanted to be on the EDC and would be bringing her everything that she had. The reason she no longer wanted to be associated with the EDC was because she knew Ms. Pierson was spending money but could never get a receipt from her.

Commissioner Clark asked if the other members of the EDC would be held liable for this. The Attorney responded that it would be whoever had taken the money.

Ms. Hunter further provided that a member on the Council did a lot of graphic work and Barbara had told her that she had paid the member for it and the gentleman had told her that he had never received any money from her.

Commissioner Fellows voiced that Ms. Pierson had given them no choice but to go to the State Attorney. He had hoped that she would have worked out something with them. The Attorney provided that making them go through a criminal defense attorney to get the records was a good indication that it was going to be a while before they got anything.

Commissioner Fellows further stated that the position she had taken, he saw no other choice but to take the Attorney's recommendation.

Commissioner Lynch concurred with Mr. Fellows and further added that Staff had bent over backwards. At this point, he didn't think that she wanted to comply with their requests and they had no other choice. As much as he hated this, she was still responsible for the money and someone had to account for it.

Vice-Mayor Summerlin again voiced that he had been the biggest proponent of establishing an EDC in the City. He was extremely disappointed and borderline mad because he felt like they were not treated well and they had not gotten value for the dollars they had put forth. He was certain that there were a few expenditures that were EDC related and should be deducted from the \$10,000 they had gotten from the City. Proper documentation and receipts would back this up. Regardless of how much, they needed it back and if criminal prosecution was the only way then that's how they would pursue it. They had tried to be nice and had asked for proper documentation but they weren't getting anywhere. He was 100% behind what the Attorney was recommending and they needed to proceed with his recommendation.

The Mayor concurred with this colleagues and further provided that it was the consensus of the Commission to take the advice of their Attorney. The City Manager expressed that he would turn over everything to the Chief of Police to conduct his investigation.

The Vice-Mayor concluded by voicing the embarrassment to the City that this would create.

Commissioner Fellows also concluded by saying that they knew that she had a little history but hoped that given a second chance they might not have done this again. Unfortunately it had not worked out this way.

The Mayor further expressed that she had let everyone down.

CITY MANAGER REPORT

The City Manager drew their attention to the Quarterly Newsletter at their places along with the Monthly Departmental Reports. He noted the record number of single-family homes in June of 125 and record number of new meter installations in June of 96.

He also thanked all of the City staff for all of their efforts and hard work at the 4th of July Celebration.

He informed them that the City had started drilling the test well and concluded by reminding them of the 5:30 pm. Budget Workshop on Thursday.

CITY ATTORNEY REPORT – Nothing to report.

CITY CLERK REPORT

The City Clerk announced that Commissioner Clark had received a certificate from the Florida League of Cities for his completion of the Institute for Elected Municipal Officials in Palm Beach Gardens in June.

CITY COMMISSION COMMENTS

The City Commission praised the City's staff for all of their hard work and phenomenal job at the 4th of July event. The fireworks had been outstanding and everything was well organized. They couldn't emphasize or say it enough on how great of a job staff had done and what an honor it was and how proud they were to be part of the City.

They also thanked Mike and Lana for providing the food to all the employees.

There being no further business, a motion to adjourn was made by Vice-Mayor Summerlin and seconded by Commissioner Lynch.

Meeting adjourned at 8:18 p.m.

I HEREBY CERTIFY that the foregoing Minutes are true and correct.

Raquel Castillo, City Clerk