

CITY COUNCIL OF EDGEWATER
REGULAR MEETING
OCTOBER 6, 2008
7:00 P.M.
COMMUNITY CENTER

MINUTES

1. CALL TO ORDER

Mayor Thomas called the Regular Meeting to order at 7:00 p.m. in the Community Center.

ROLL CALL

Mayor Michael Thomas	Present
Councilwoman Debra Rogers	Present
Councilwoman Gigi Bennington	Excused
Councilwoman Harriet Rhodes	Present
Councilman Ted Cooper	Present
Acting City Manager Tracey Barlow	Present
City Clerk Bonnie Wenzel	Present
Assistant City Attorney Michael Ciocchetti	Present

INVOCATION, PLEDGE OF ALLEGIANCE

There was a silent invocation and pledge of allegiance to the Flag.

Mayor Thomas asked everyone to remember Dot Carlson who passed away today. She spent a lot of time in the Community Center.

2. APPROVAL OF MINUTES

A. Regular Meeting of August 18, 2008

Councilman Cooper moved to approve the August 18, 2008 minutes, second by Councilwoman Rhodes.

The MOTION CARRIED 4-0.

3. PRESENTATIONS/PROCLAMATIONS/PLAQUES/CERTIFICATES/DONATIONS

A. Presentation by Randall Brown of the Florida Department of Financial Services, regarding

services provided by the Department to consumers after a natural disaster

Randall Brown was not present to make his presentation.

4. CITIZEN COMMENTS

The following citizens spoke:

Carol Ann Stoughton, 2740 Evergreen Drive, spoke about Dot Carlson. She stated Dot Carlson was a woman who lived in this town for many years. Others said she moved from town to town. Ms. Carlson lived here for a long time. She was the most honest crusader of the public, the people and letting the people know what was going on in this town. What the developers had proposed. What was going on wherever it was going on for the benefit of our environment, animals, water conservation, and just in general for the ecology of our City. She was a woman no one could have ever filled her shoes. She was castrated, called names, everything was done but she spit out the truth. Many developers and City officials didn't like it. There will never be the Joan of Ark she felt Ms. Carlson was but there will be others out there to expose and promote what has been going on in this town. She felt we didn't need the development west of I-95 or the development on the Miami Tract Corporation. She came to one of the meeting whereby Mr. Thomas was all for green when he had already applied for water rights out there so they really see what was going on. She last saw her Saturday. She was the most beautiful, wonderful person. She got cancer just like that and died. She will continue her crusade along with others. Never could anyone ever have stood for what she stood for. She just bought a house recently in New Smyrna Beach where she feeds the tortoises and the deer. She cares about our environment and she cares about the people in this City. It is a shame all they went and fought for is trying to be overturned by the developers and certain members of the Council. It is a shame. There may be one person on Council that could stand in her shoes and that is Councilwoman Rogers. She commended Councilwoman Rogers and Ms. Carlson for standing for what is right for the people. She went to a Council meeting in New Smyrna Beach and there was not one cop there and they could speak as long as they wanted. God bless Dot Carlson and what she stood for. The Council should have appreciated that for their children.

Gary Conroy, Edgewater Police Department, stated the members of the Police Department had a meeting and he was elected their spokesperson. They talked about the Chief of Police and every member, it was a unanimous vote, would like to have Bill Bennett as their Chief. He took over a department that was in disrepair. It was a mass exodus whether those guys that left chasing a buck or because of the mismanagement but he turned it around. They have full confidence in his abilities. They would like the Council to work with him and make him their permanent Chief.

Dave Morley, 312 Shangri La Circle, stated he was representing the Shangri La Village Homeowners Association. There are at least six other members of the association. They have asked him to give Council a resolution, which he had copies of for the Council as well as a list of documents that they have been trying to get circulated around the City getting help with public safety issues they have in their neighborhood that have been punted back and forth by the City and adjacent property owners for over twenty years now. Enough is enough. He acknowledged Councilwoman Rogers coming out and meeting with them and witnessed for herself part of the public safety issue today. He thanked her. She took pictures of one of the major issues they were here to address today. They have two. The primary one as of this moment was from the little storm last night. They have severe flooding in their neighborhood from G & W Roofing property adjacent to them off the Marion Avenue commercial strip. For twenty some years their water has drained unnecessarily into their neighborhood. The City keeps telling them they will fix it later. Right now they are doing a remodel, which they have chosen intentionally to only expand up because they knew if they stepped one foot out the City would make them fix it. In the preceding years ever since 2004 they have been making the situation significantly worse, exacerbating the situation. Since Councilwoman Rogers was there this afternoon apparently they have shown up with pumps. They know they are culpable but the City is also culpable. They have been punting this back and forth. The City allowed the adjacent neighbors, Boyce Industrial Properties on Marion to block off the natural drainage from G & W forcing it into their neighborhood. Boyce raised their elevation. All of G & W, which has a tiny retention pond that is overflowed and everything else is pushed into Shangri La Village and ruining all the properties on Village Court and

overloading their retention pond. There are six other people that would like to speak on this issue and the adjacent issues on Marion or the six people would like to ask to yield their time to him to give him ten minutes instead of stretching this out over a half hour. He asked if that was acceptable in this City rather than have a parade come up? Mayor Thomas stated they would give them three minutes per person.

Mr. Morley stated there is another issue they would address later about City staff is now pushing them off and they have been trying to get the City and G & W to work with them and G & W has written them a letter saying no and City staff has said tough luck, it's your own problem. They have all been telling them to drain G & W's property. They know there is limit to what the City can do. All they are asking them to do is to get the City staff to pay attention to this and to meet with them, which is all they have been asking and have this resolved once and for all before the lawsuits start flying and they will.

Mr. Morley gave City Clerk Wenzel copies of documents he had as well as pictures.

Acting City Manager Barlow believed Shangri La flooding along with Eastern Shores was a problem long before G & W Roofing. He knows there is and has been for numerous years some flooding issues in that area. One of the recent grants we have received where we have purchased the pond off of Eaton and have been in front of Council of some stormwater improvements in that general vicinity which will help alleviate. Those should be taking place. Some of that construction work they had to get the easement to run the drainage pipe through Eastern Shores. Some of those improvements should start to occur the first part of the year. The stormwater crew did go out and meet with them and they did find where one of the neighbors on the back part had altered the stormwater conveyance system and had it blocked up with some decorative blocks or some other stuff that had prevented some appropriate correction of some of the flooding and the conveyance of the stormwater there. They asked when that neighbor returned to town to undo that. He thought most of that was corrected. It was news to him that it was still significant. The recent improvements to G & W, he is correct. They went up. They did not add any more impervious, they just raised the roofline. That addition could not have created additional

stormwater issues there. He asked Council to give him time and he would look into it. He was under the impression most of it was a result of one of the neighbors altering the back yard. He agreed to check on that and make sure that is done and if that was an issue today, he was not aware of that.

Councilwoman Rhodes asked Acting City Manager Barlow to give Mr. Morley his phone number so he can keep in contact with him if he isn't able to get meetings and things that need to happen. Acting City Manager Barlow asked Mr. Morley for his phone number. He asked Mr. Morley if it was fair that he personally calls and meets with him and walk through. He asked Mr. Morley if he was contacted when they were onsite and talked to him about one of those areas that were blocked. Mr. Morley stated they went behind his back and so the information that was fed to him was absolutely untrue. They tried to go to City staff first and they tried to work with G & W directly. They know they are culpable.

Councilwoman Rhodes informed Mr. Morley that Acting City Manager Barlow would be sure that he gets meetings with City staff if he needs it.

Loretta Wells, 141 Shangri La Circle, stated she would like to relinquish her time because Mr. Morley was more familiar with this due to being an engineer.

Mayor Thomas informed her they would give him three minutes at the end.

Mr. Morley stated this was a separate issue and then they will be done.

Mr. Morley stated Regions Bank, the new development and EW Business Park are working with them and are being wonderful. They anticipate that being an improvement in their drainage. The City approved the plans there and let them build a new retention pond, which they are currently construction off Marion but there is no place for the outflow to flow yet. Marion does not have the infrastructure it is supposed to have to carry away the stormwater. Staff tells them work should start any day and should be in by next hurricane season. They would like to have a meeting on that too to cover that to make sure it is there by next hurricane season or the new retention pond

that is being built on Marion now, which is an improvement and they are in favor of but in a Fay incident it would overflow and come into their neighborhood too. They need to make sure the infrastructure is built for the stormwater for all of Marion and that that connection is made in a timely manner. He believed it has been pushed back for five years now for budget cut reasons. It is a slightly separate issue but it ties into G & W. G & W will say they can't drain it and there is no underground stormwater to take it to the 16th Street canal. They need to tie those strings together.

Acting City Manager Barlow assured him that all of the new development including the new bank in that area is all that stormwater and the calculations associated with it are reviewed by our consultant, Quentin Hampton, as it relates to that. It is his understanding that Edgewater has one of the most stringent and aggressive stormwater codes on the books. Shangri La has been an issue for multiple years. He assured him he would definitely look into it.

Councilwoman Rhodes stated let's get it fixed. If it has been multiple years, they should not have had to wait that long. Acting City Manager Barlow informed her it is part of the grant and he has only been here since January but he is working on it. Councilwoman Rhodes stated Tracey has been here nine months and he has addressed many issues and she had every confidence that he would address Mr. Morley's issues.

Councilman Cooper wanted to get input about the property at 404 where there was a blockage of the normal runoff. He asked if they have done anything. Acting City Manager Barlow informed him the last report he had was when the Stormwater crew went there and determined some of those conveyance systems had been altered by the residents there and they asked those residents to move their private property from their property that was interfering with the conveyance system. He wasn't sure without consulting with Brenda if they have gone back and inspected to make sure that has been done.

Councilman Cooper commented on the resident being away for the summer and has not returned yet. Acting City Manager Barlow stated he didn't know. He could only take it from what was presented tonight. Mr. Morley informed him they were snowbirds. But that isn't the problem. That is the

explanation that has been given to him. Acting City Manager Barlow stated if they give him an opportunity he can get into this and before the next Council meeting have a better report. Prior to this tonight he thought most of those issues were resolved.

Councilwoman Rhodes informed Mr. Morley they would have an update at the next Council meeting.

Mr. Morley asked if he could communicate with Acting City Manager Barlow directly by e-mail. Acting City Manager Barlow informed him that is the most convenient way. Mr. Morley stated all they are asking tonight is that they direct staff to deal with them and try to resolve this amicably.

Dominic Capria, 606 Topside Circle, wanted to speak on the building heights. This community voices Edgewater residents to rally to protect integrity of the City Charter. Sounds like we are not doing that but we certainly are. He was at the last meeting of the City Charter Review committee about the building heights. What is put in the paper is false. Definitely false. The consensus of that meeting at one point was not to delete the entire 35-foot heights until the President spoke on it. Everybody then changed their minds but him. He couldn't vote but he was asked his opinion and he gave it. What bothers him is to say that because the change in the City Charter we are not getting the taxes that we should. We have an Economic Development Board who has been there for years before that Charter amendment was put in. Years and nothing happened. Now all of a sudden they are to blame because of the 35-foot heights. Bologna. A lot of bologna. The Economic Development Board had years to do something about it. They say the Charter amendment was 1951 but he thought it was 1954 because the City of Edgewater was not annexed until 1954. He could be wrong but he doubted it. He is very seldom wrong. The end result was all of this hullabaloo about changing it and it should not be changed. It aggravates him because they say they are losing tax dollars yet they have a President of the City Charter who lives in Edgewater and has a business in New Smyrna Beach. Why doesn't he move it here and pay taxes to Edgewater? Think about that. This has been going on for years but it isn't going to change anything.

Bill Glaser, 1703 Needle Palm Drive, stated on September 25th there was a meeting held in the Brannon Center in New Smyrna. He heard it fourth hand and fifth hand but couldn't find any thing in the newspaper or anything any place about what the meeting was about so he went up. He didn't know what time it started but he figured it would be around 7:00 p.m. He went up at 6:30 p.m. and they had a young lady at the door that wouldn't let him in. He was curious because he saw some City folks in there, a couple of Councilmembers and City Staff. He was trying to find out what was going on. He asked what was going on. She informed him they were in working groups. He asked her what they were working on and she said land use and he said he was interested in land use and would like to learn a little bit about. She informed him it was a private meeting and the public wasn't permitted in. As he was leaving he noticed there were some TV folks at the side of the building. He asked them if they knew what was going on in the building and they informed him they weren't privy to it either. He asked if they would hear anything anytime about the purpose of the meeting and what went on and how it affects the City of Edgewater or does it affect the City of Edgewater.

Councilwoman Rhodes didn't know what he was talking about so once again she was out of the loop.

Acting City Manager Barlow stated Carol and Dominic were both in there. It was a private meeting held by Miami Corp that owns 60,000 acres outside of Edgewater, southwest of our town. Channel 9 was inside filming it and it was even on the news from what he understands. It was a private meeting invited by those landowners, which is no different than TRC's or pre-apps that meet with staff here when they do their due diligence when they own a piece of property what they want to do. It was deemed a stakeholders meeting. He listed some of the people that were in attendance. It was a meeting discussing what the possible uses of that land are going forward. It was more of a visioning session.

Councilwoman Rogers stated Mr. Glaser mentioned two Councilmembers. She asked who they were. Acting City Manager Barlow didn't know. Mayor Thomas stated he was incorrect. Acting City Manager Barlow stated the Mayor was there. Mayor Thomas asked Councilwoman Rogers to read the heading on who was invited. She read Mike Thomas, Miami

Tract Hunt Club. Mayor Thomas stated he was representing the Miami Tract Hunt Club, not the City of Edgewater.

Acting City Manager Barlow stated he was there and Carol was there taking pictures and unless she had pictures of someone he didn't see there. Ms. Stoughton stated she had pictures of Mr. Lear, Mr. Barlow, the Mayor and everybody else but she wasn't invited. They crashed it.

Councilman Cooper asked if it was a public meeting or not. Acting City Manager Barlow informed him no, it wasn't required to be a public meeting.

Mike Visconti, 316 Pine Breeze Drive, stated Carol shocked him tonight about Dot Carlson. He and Dot Carlson were on opposite sides of the fence. He had a lot of respect for her. She did what she thought was right for Edgewater and she worked her butt off for Edgewater. He on the opposite side of the fence was trying to do what he felt was right for Edgewater. Dot was a beautiful woman. He respected her. He respected her comments. He respected what she had done. He is very sorry about what happened. She is going to be missed at the Council meeting and she is going to be missed in Edgewater.

Councilwoman Rhodes agreed.

5. CITY COUNCIL REPORTS

Councilwoman Rhodes stated she was at a function on Saturday in Daytona and it was held by the Police Foundation. Concerned citizens have made a foundation to help the police with things they need but can't put it in their budget because it is too expensive or too cumbersome. They raise funds. While she was there they had a speaker and they were talking about what the foundation did to raise money for them and what they were using it for. In their speech they mentioned that all the other cities in Volusia County they would welcome use of whatever they get. If they purchase a sophisticated piece of equipment, all the cities in Volusia County are invited and encouraged to make use of that. She wanted the Police Department to know that. It may save us some money at some point in the future.

Councilman Cooper read his report into the record.
(Attached)

Herman Mitchell commented on the First Annual Membership Appreciation Dinner. They wanted to let their members know how they collaborate with the City and how the City collaborates with the YMCA. They had a nice presentation to show them everything the City does for them. He read a plaque that was presented to Mayor Thomas on behalf of the City. He further expressed his appreciation to the City.

Councilwoman Rogers had four items she wanted to discuss. She asked the Finance Director and Acting City Manager to start planning for next year's budget. She knows Mr. McKinney is dealing with audits right now, which he would be doing through March. Her concern is the state of the economy, where we are at right now. Number one on that list would be the Defined Benefit Plan and the fact that the stock market is doing what it is doing, they can already pretty well guess that next year they are going to be behind the eight ball. They are probably going to have a one-point millage jump. History repeats itself. She believes this is what happened between 2002 and 2003. Due to the pension shortfall the City would be asked to increase the millage rate to accommodate that. That one point wasn't just for the pension, it was for a few other items but it was mostly for the pension shortfall. They need to start thinking about things now. Our City did not lay off personnel. She isn't promoting that. She always thinks in her mind five to ten years down the road. The City needs to think about this stuff now. Next year when they are doing budgets they will probably have to increase the millage rate two points because of further budget cuts, because of the pension shortfall and other unforeseen things that are going to start happening. If they start doing things now, the budget they have currently, her thoughts would be that they should try not to spend all those funds that we already have in the budget so next year they would have surplus so it would cushion them for next year when they start doing the budgets. They need to start being proactive and doing some things now and some changes and perhaps revisit zero based budgeting. They need to get down to the bare bones and that is where they need to start. Homeowners and retirees, everyone is having to do that so the City needs to start doing it.

Councilwoman Rogers commented on getting off her third year on the wrong foot because of everything going on in the press with herself, the horrible things that were said and

done in the press. She doesn't think this will happen this fourth year and if it does she doesn't care. She is going to stay on the budget until the very end. Something needs to be done. She still lives here and doesn't want to have to pay any more taxes than she currently pays. Her taxes went up this year even with the double homestead and the tax assessed value going down.

Councilwoman Rogers asked City Clerk Wenzel to put up one picture at a time on the screen with regard to the flooding from G & W that were taken today. As they went through the pictures, Councilwoman Rogers explained where the pictures were taken.

Councilwoman Rogers expressed concern with the size of the retention pond being so small and this being allowed and it not working properly. She asked why such a small retention pond? She thought maybe City staff needed to go back and look to see if there has been over the twenty plus years, any additional non-pervious property being put on this property. Has more pavement occurred? That retention pond is awful small for such a large area.

Councilwoman Rogers commented on the new Regions Bank having a stormwater retention pond but there being no outflow. Mr. Morley has been told that Marion Avenue will have a stormwater pipe put there in the next few months. She asked if anyone knew the status of that. Acting City Manager Barlow informed her that was the grant he was referring to. He believed they were going through the permitting through St. Johns at this time. They secured all of the right-of-way issues with Eastern Shores, which is privately owned.

Councilwoman Rogers commented on Ms. Carlson being a friend and being remembered as a friend. She had a lot of compassion. She showed true leadership qualities. A leader isn't out there trying to get people to like him or her. A leader is out there trying to do the right thing no matter what. If that means adversity then that means adversity. She thinks in the end everybody will always respect a good leader whether they like that person during the course of the race or not. She did things, not for her own personal gain. She did things not because of her own personal motive. She did things because she felt it was right. She lived in Sanford for most of her life and did a lot of traveling with her husband in the military and has

had a lot of experience in wetlands and environmental things unlike what a lot of people want to think. They want to think she only came on the scene because of the Hotel from Hell that is located on U.S. #1. She was there. She thinks that was the icing on the cake that got her to start doing what she was doing. With the State of Florida going through the growth changes that the State is going through, even though we have negative growth according to statistics, when she looks around and sees all the issues we have in the State environmentally, she was just one of many people that are trying to do the right thing. More of the population needs to stand up and take notice and perhaps participate instead of griping, bitching and complaining. If they aren't going to get out and do something then don't sit at home and gripe, bitch and complain. She is going to miss Dot.

Councilwoman Rogers commented on the Police Chief. Tonight she was going to make mention to Mr. Barlow that she believes they need to start dealing with the Interims and Actings. She wants Tracey to stay right where he is at. We have interims and acting individuals in various positions within the City. They need to try to get those positions finalized. The one of the Chief is very important. As a matter of fact, the one of the Chief he should be a leader. He should not be concerned or worried about being liked by people and should always be strong and have integrity and do the right thing. He should never be a passive Chief. The Chief of Police we need for this City needs to be very proactive and he definitely doesn't need to be passive. She feels it is wonderful the Police Department brought a representative this evening and they spoke their opinions but the opinions of the five of the Council she thinks really are the final determining factor as well as Acting City Manager Barlow, who will be the one to make the decision. The Council will express their views. She didn't know if the Charter had any mention in it that Police personnel could express their view. Acting City Manager Barlow informed her the City Manager has the sole responsibility to hire.

Mayor Thomas had nothing at this time.

6. CONSENT AGENDA

A. Approval of the Victim of Crime Act (VOCA) Grant Agreement

Acting City Manager Barlow made a staff presentation.

Councilwoman Rogers stated she spoke with Finance Director McKinney. She asked him various questions about our grants and if we have anyone in the City that is responsible for our grants and she understands we do not. The grants are handled within the various departments by those responsible parties. Once an expenditure is to be made then Mr. McKinney receives a copy of the grant. At that point is when he starts to do the accounting for it. In light of everything going on with budgets, the economy, liabilities, her number one hope is they need to do something proactive so they can go after more of these grants. She believes the competition is going to become tougher as governments are competing more and more for these moneys. At the same time, they cannot afford to be out of compliance with anything. She was kind of shocked because Mr. McKinney explained to her that with the grants, being that they are under \$500,000, there really isn't much of an accountability. She was made aware and she went back and looked at the last two fiscal year VOCA grants and she knows there were mistakes in those grant applications as well as the quarterly reports that were submitted. Some of those mistakes were brought out to various persons. There was not much that they did do. She hopes whoever is going to be the responsible party that they will, if something is incorrect or something needs to be corrected that they go to the responsible party and get it corrected. She doesn't know how they can govern that or hold somebody accountable when it is so spread out. Maybe they need to have some kind of a procedure in the future on every grant so they don't miss out on an opportunity in the future if somebody says they were out of compliance on a particular grant.

Councilwoman Rogers stated as far as the 20% in-kindness, was that just for the use of a vehicle? Finance Director McKinney informed her he had not seen the application.

Councilwoman Rogers expressed concern with approving this and the Finance Director not seeing the grant application.

Administrative Sergeant David Arcieri explained the in-kind is volunteers. They get credit for paying them \$12.50 an hour for every hour they work.

Councilwoman Rogers commented on having a CAP volunteer that was pulled and use for this but it turned out her hours weren't validated for this particular grant. She wants to make sure they make sure any hours that are placed for that volunteer time, that it is validated and the time sheets reflect the time was truly valid and not later changed. Administrative Sergeant Arcieri commented on collecting time cards from the volunteers. Councilwoman Rogers asked Administrative Sergeant Arcieri if he would be responsible. He informed her who was responsible for what.

Acting City Manager Barlow informed Council at the end of the day they would hold him accountable.

Councilwoman Rogers stated from what she understands the Detective Sergeant previously went to the Chief and told the Chief they were out of compliance and he didn't do anything. If he doesn't do anything how would our Finance Director know? She doesn't want that to be a problem again.

Acting City Manager Barlow commented on taking her concerns regarding this position to heart and they have addressed those clear down to accepting donations, etc. Those are addressed.

- B. Approval of lease agreement with Dex Imaging for lease purchase of copier equipment and maintenance throughout the City

Acting City Manager Barlow made a staff presentation.

Councilwoman Rhodes moved to approve the Consent Agenda, second by Councilwoman Rogers.

The MOTION CARRIED 4-0.

7. PUBLIC HEARINGS, ORDINANCES AND RESOLUTIONS

- A. 2nd Reading, Ord. 2008-0-05, James C. Carder requesting an amendment to the Comprehensive Plan Future Land Use Map to include property located east of US Highway 1 and north of Godfrey Road as Low Density Residential with Conservation Overlay and Commercial with Conservation Overlay

Mayor Thomas asked about having to read this into the record. Acting City Manager Barlow informed him staff was going to recommend they continue this to the November 17, 2008 meeting.

Assistant City Attorney Ciocchetti read Ord. 2008-0-05 into the record.

Mayor Thomas entertained for a motion to continue this to the November 17, 2008 meeting upon request of staff.

Councilwoman Rhodes moved to continue Ordinance 2008-0-05 to the November 17,-2008 meeting, second by Councilwoman Rogers.

The MOTION CARRIED 4-0.

B. 2nd Reading, Ord. 2008-0-09, James C. Carder requesting an amendment to the Official Zoning Map to include 7.18+ acres of land as B-3 (Highway Commercial) and 22.49+ acres of land as R-1 (Single Family Residential), property is located east of US Highway 1 and north of Godfrey Road

Assistant City Attorney Ciocchetti read Ord. 2008-0-09 into the record.

Mayor Thomas entertained a motion to continue this to the November 17, 2008 meeting upon request of staff.

Councilwoman Rogers moved to continue Ordinance 2008-0-09 to the November 17,-2008 meeting, second by Councilwoman Rhodes.

The MOTION CARRIED 4-0.

8. BOARD APPOINTMENTS

A. Planning & Zoning Board - Councilwoman Rogers' appointment due to the expired term of John Weiss, who seeks reappointment

Councilwoman Rogers stated she has looked at all of the Planning & Zoning Board applications and there was an individual she really wanted to appoint to this board and she believed she would be appointed in the near future and

that is Agnes Witter. Mr. Weiss has done a very good job and he is seeking reappointment and due to that fact she recommended Mr. Weiss continue on the Planning & Zoning Board.

Councilwoman Rhodes moved to accept Councilwoman Rogers' nomination of John Weiss to the Planning & Zoning Board, second by Councilman Cooper.

The MOTION CARRIED 4-0.

B. Police Pension Board - Councilwoman Rhodes' appointment due to the expired term of Jeanne DelNigro, who seeks reappointment

Councilwoman Rhodes stated she thinks in the next couple of years these pension boards are going to be so very important with what is going on. She thinks experience is going to be key. She would like to reappoint Jeanne DelNigro to the Police Pension Board.

Councilwoman Rogers moved to accept Councilwoman Rhodes' recommendation to reappoint Jeanne DelNigro to the Police Pension Board, second by Councilman Cooper.

The MOTION CARRIED 4-0.

9. OTHER BUSINESS

There was no Other Business to be discussed at this time.

10. OFFICER REPORTS

A. City Clerk

City Clerk Wenzel stated she was hoping on Friday to get the Code of Ordinances out to MuniCode but other things got in the way and she wasn't able to do that. When she gets back from St. Augustine next week she would get that out and they will get the Code recodified and put on the MuniCode website. She didn't know how long it would take for them to get it there but once she gets it out to them she will have a time frame and will be able to tell them that so the public will be able to access our Code online. She also reported she would be in St. Augustine at a Clerks Conference.

B. City Attorney

Assistant City Attorney Ciocchetti presented an update on the ballot measure. He stated ECARD has filed an appeal and Restoration has also filed an appeal on that matter. There was a motion to expedite consideration of the appeal filed by Restoration and the court denied that. They would expect to hear something and briefs will be filed they anticipate April or May but these things are always unpredictable but to give them some sort of time frame they would expect a ruling by April or May with the understanding it is unpredictable.

Councilwoman Rhodes stated if this amendment passes and Restoration takes it to court because it is illegal or they think it is illegal, are we going to be involved in that in the City in anyway? Does that really have anything to do with the City?

Assistant City Attorney Ciocchetti asked her as far as being a party to the appeal? Councilwoman Rhodes stated if this passes, Restorations is going to take this to court. She asked if they are going to take the City to court? Are they going to be mounting up legal fees for this or would they be out of it at that point? Assistant City Attorney Ciocchetti explained the City is already part of the appeal process. Councilwoman Rhodes stated but isn't the appeal to put it on the ballot? Assistant City Attorney Ciocchetti stated Restoration's appeal was to not place it on the ballot. The court ruled it should be placed on the ballot. ECARD's appeal is as to the language itself, which the court has already ruled is not valid language. Councilwoman Rhodes stated she thought the judge said the language was fine. Assistant City Attorney Ciocchetti stated that was his understanding. Councilwoman Rhodes thought that was the one thing he did say was okay. She didn't understand what language he was talking about. Assistant City Attorney Ciocchetti stated the ballot language itself. Councilwoman Rhodes stated the wording of the petition the judge said that was okay and he didn't think it caused an undue hardship on anybody and that anybody could understand it. Assistant City Attorney Ciocchetti stated his understanding is the judge ruled the ballot measure was vague. That is his understanding. He would defer to Carolyn who has been the primary attorney on this. His understanding is the court ruled that the ballot

measure language was vague and should still be placed on the ballot.

Councilwoman Rhodes asked if all of this that is going on now is about it being on the ballot. Assistant City Attorney Ciocchetti stated no, not necessarily. ECARD has appealed the court's ruling as to the language. Restoration has appealed the court's ruling that it be placed on the ballot. The motion to expedite was filed by Restoration necessarily to remove it from the ballot. The motion to expedite has been denied which would leave us on the normal time track for appellate review. If her question is directed to what happens when or if. Councilwoman Rhodes asked what happens in April if the judge says yes it was proper. It should have been on the ballot. The appeals judge says it is proper and the language was fine. Assistant City Attorney Ciocchetti stated it is on the ballot. The court has ordered that.

Councilwoman Rhodes stated that all has to do with it being on the ballot. What if the judge says the language is fine and it is proper that it's on the ballot even though they know it is going to be on the ballot because there is no way to get it off the ballot now and the appeals judge determine all of that is correct, they still have the issues of the five landowners and another issue that Judge Rouse thought was illegal. Say it is proper that is on the ballot. It is proper that everybody voted on it and it gets voted in. They know Restoration is going to sue somebody for those illegalities that the judge has already said exists. Who are they going to sue? Are they going to sue the City? Assistant City Attorney Ciocchetti informed her he would defer her to Carolyn. He further explained generally speaking, the City whether it wants to be a party to litigation or otherwise, when it comes to land use matters as a general proposition yes they will be involved in litigation whether they want to or not. Councilwoman Rhodes stated that answered her question because her position is they don't want to. Councilwoman Rogers stated the judge put them in that position. Councilwoman Rhodes stated that was nice of him.

Acting City Manager Barlow commented on some of the conversations he has had with Carolyn. It is his understanding is the clarity of the language has been ruled that a reasonable sound person should be able to comprehend and understand. The second was the judge ruled that the

initiative is in violation of State Statutes but go ahead and put that on the ballot so the next bridge they cross is it is on the ballot. If it is voted down, then there it would be null and void. If it is voted in favor, then the next step would be it kind of puts us in an awkward situation because now we have a ballot question that the judge has ruled is statutorily illegal to put in the Charter and what we do with it from there? He thinks that is the next bridge they haven't built yet. He didn't know that they build that bridge until they get the results from the election. At the same time, the last report City Attorney Ansay gave him prior to that is we are waiting on the judge's ruling. They did the PO and tried to have it removed from the ballot and/or not counted if it was on the ballot. Councilwoman Rhodes asked if the appeal becomes moot once it is on the ballot and done. Acting City Manager Barlow stated there was an opportunity that even once it was on the ballot the judge could have ruled and that is why they were trying to expedite the appeal, the judge could have ruled and overturned it and said they couldn't take it off the ballot because the ballot is printed but they couldn't count it and that has happened. The judge has not overruled that they are not going to expedite this so they are going to go through the motions. Councilwoman Rhodes asked what the point was of an appeal at this point in time. If the judge can't do it before Election Day then there is no point in doing it afterwards. Councilman Cooper stated the appeal was denied. Acting City Manager Barlow stated they are still doing the appeal to show they are proven as landowners that this is illegal and they are appealing it to the end he was assuming. Assistant City Attorney Ciocchetti stated there are other issues. Acting City Manager Barlow by chance it passes, what do they do with it now? Do they change the Charter knowing the judge said it's statutorily illegal to change to recognize this but we have the vote so that is going to be the next bridge they are going to have to build. Will it create more legal fees? Without a doubt. Unfortunately this is just the beginning. If they change the Charter based on the judge's ruling that is illegal are they going to get sued by the five landowners it affects or any future landowners? He would assume so. If they don't put it on are they going to get sued by ECARD? He would assume so. The judge has put them in a very awkward situation.

Assistant City Attorney Ciocchetti explained the way to look at it is ultimately it is the City's Charter and the

City's Code of Ordinances that are an issue and also those are what is being litigated and challenged so the City is a party to it.

C. City Manager

Acting City Manager Barlow also commented on MuniCode and the City's Codes being available online. This is a remarkable step forward. It will empower anybody that can get to the web to be able to access the City's Code of Ordinances online. Councilwoman Rhodes commented on being able to go online at the Library. She feels it will be very nice to have easy access to it. Acting City Manager Barlow stated what is really important is it puts more information out to the citizens we work for.

Acting City Manager Barlow stated he had to effect an emergency contract purchase to change our fuel vendor for our Public Works as they had to terminate the other based on various service issues and price issues. He authorized them to piggyback Orange city bid which is XM Oil Company and he will be bringing the contract back to Council within the next couple of meetings. He had to have that emergency purchase done so they could continue to get fuel for the vehicles.

Acting City Manager Barlow wanted to do an Executive Session possibly this Thursday at 10:00 a.m. to discuss the General Employees PEA contract. They are doing their vote on Wednesday but all indications are they should be able to ratify that agreement. He wanted to share with them where they are on that agreement in an Executive Session and talk to them about the negotiations of the Teamsters which is the Police Union and where they are and get direction from Council. At the same time they might be able to up David Young, who is negotiating on the Fire side, if he is present or they may conference call in with David and have him bring them up to speed where they are on the Fire side too. He definitely wanted to talk about Teamsters and the PEA in an Executive Session.

It was the consensus of Council to hold an Executive Session Thursday at 10:00 a.m. in the Conference Room at City Hall to discuss the PEA and Teamsters contracts.

Councilwoman Rogers asked when they would be visiting the animal ordinances again. Acting City Manager Barlow stated

he knew the Animal Control Board had been working on them for quite some time. That is another goal he would like to have finished up by January. He knew they were looking at various areas. He asked her if there was a particular area she would like to see addressed. Councilwoman Rogers informed him just to see if they would pull the ordinance in the City of New Smyrna Beach that allows owners of animals to walk the parks within the City. In particular at Riverside Park, they have these neat little dispensers to pick up animal waste and they have garbage cans in various places so when residents are walking their animals they can dispose of it immediately so that encourages dog owners to do things. She asked if they could please look at that because she feels they need to revisit that.

Acting City Manager Barlow asked the feeling of the rest of the Council before he gives them direction. He needs a consensus from Council whether those are particular parts or all parts they are interested in. Once the shelter is up and going, down the road they would like to make a specific dog park in that general vicinity but that may be a little while before they get there.

Councilwoman Rogers stated off of Riverside she sees a lot of people walking up and down with their dogs and she also does the same thing and it is kind of a pain to have to drive down to Riverside Park so she can walk the park with her animal. Riverside Park is in New Smyrna Beach and is four miles away. Why should she have to go four miles to walk a dog along the water? What is different between New Smyrna Beach's parks and our parks? There shouldn't be any difference as long as there are signs posted to pick up waste and dog owners/pet owners are doing so and if they were to go to Manatee Park, which is Riverside Park, they would see that is a very pet friendly environment. They have these neat little decanters for the dog poopy bags.

Mayor Thomas asked if the dog park was still on at Mango Tree and was still in the plans. Acting City Manager Barlow stated that was a goal but they didn't have any timelines attached to that. Councilwoman Rogers stated that would also serve the Edgewater Florida Shores citizens, not the citizens that do not live in Florida Shores. Councilwoman Rhodes stated they don't care about anybody else. Mayor Thomas stated they aren't like those rich folks. Councilwoman Rhodes stated that was bad. Mayor Thomas said sorry. Councilwoman Rogers asked what

his point was. Mayor Thomas stated he would like a park near him. Councilwoman Rogers stated but there are parks here and they aren't allowed to walk their animals. They have to go clear to New Smyrna Beach to do so and that is ridiculous.

Councilwoman Rhodes stated the only problem she has is it is okay if everybody picks up the dog waste but what about the people that don't. Councilwoman Rogers stated that is always the case. Councilwoman Rhodes stated New Smyrna Beach has a higher budget and they have more people that they can send employees out there to pick up what the residents aren't doing. As long as they are going to pick it up and it isn't going to cost us any more money as far as personnel goes to man the poop she doesn't have a problem with it. She doesn't want to take her kids to a park and have them stepping in dog poop. Councilwoman Rogers asked Councilwoman Rhodes if she takes her kids to any of the parks on Riverside. Councilwoman Rhodes stated she takes her grandkids. But Councilwoman Rogers is saying all parks. Mostly she takes them to Whistle Stop Park because that is near her. Councilwoman Rogers stated and the parks near her are Menard May Park, Kennedy Park and Veterans Park. Councilwoman Rhodes stated she takes them to Menard May all the time. Councilwoman Rogers stated and there are people that have been going in there with animals and herself in particular has been single handedly singled out where a certain member of a board went anonomously to our City Manager to report her for having her dog. Councilwoman Rhodes asked her if she was allowed to have her dog in there. Councilwoman Rogers stated no but she owns property south of the park and they weren't aware that she owns the property south of the park. She could see there isn't consensus on this so they were probably already made aware of the complaint on herself. Councilwoman Rhodes stated she knows nothing of what she is talking about. She is expressing her own concerns as far as going to parks and walking in dog poo. Councilwoman Rogers stated she doesn't understand why they have it in New Smyrna Beach and we don't have it here. Councilwoman Rhodes stated New Smyrna Beach can afford it and we can't. That might be one reason. Maybe it's not, she doesn't know. She doesn't have a problem with it if she can assure her that dog pet owners are going to have to pick up after their animals. Councilwoman Rogers stated there is no way she can assure. They are doing it on the sidewalks and on the streets. She walks around it all the time.

Councilwoman Rhodes stated she doesn't like it there either.

Acting City Manager Barlow suggested he could have staff reach out to the Parks & Recreation Director Liz Yancey in New Smyrna Beach and consult with her. He thought this was something new for New Smyrna Beach as well. Councilwoman Rhodes stated if people are responsible for their pets she has no problem with it.

Councilwoman Rogers commented on the real reason Menard May Park was donated to the City. It wasn't to create laws on top of the park to say this isn't allowed or that isn't allowed. Initially the park was allowed for people to swim in and the City runs the effluent line through it so now people aren't supposed to be swimming in it but people do.

Acting City Manager Barlow agreed to get in contact with New Smyrna Beach and research the original history of Menard May Park.

Councilman Cooper asked if Councilwoman Rogers was asking that all of the parks be open for the people to walk their dogs at will. The assumption is that people go to parks to walk their dog. In his area, they still walk them up and down the street even though there are two parks nearby. He thinks they have an ordinance that they are supposed to pick up after your animal. If they blanketly were to make a resolution or consensus that she is asking for that they open their parks for all people to take their dogs to the park, he thinks the issue would be, he doesn't want to see everybody drive their dogs to the parks and now the children are going to have to walk through where they have people that don't pick it up. Councilwoman Rogers suggested perhaps in the smaller parks. She knows Whistle Stop is large. The parks along Riverside are not very large and there are a few smaller parks in the Florida Shores area. If they need to look at parks and then decide to make some dog friendly and some not, that would be fine too. A majority of the people walk up and down Riverside.

Councilwoman Rhodes asked Acting City Manager Barlow to check to see if there is any City liability for New Smyrna with regards to mixing dogs with kids and a kid gets hurt and the City gets sued. They need to know what that issue is too. Councilman Cooper thought that was part of the reason why they designate it in certain areas.

11. CITIZEN COMMENTS

The following citizens spoke:

Bill Glaser, 1703 Needle Palm Drive, apologized as he misspoke on the meeting at the Brannon Center. There was a gentleman there that from the rear looked like Mr. Cooper so he jumped to the conclusion that Mr. Cooper was also present there. As he was trading conversation with Big Bertha that was guarding the odor, it was becoming increasingly evident that she didn't appreciate his sense of humor so he was afraid she was going to punch him out so he left without verifying it was Mr. Cooper. Councilman Cooper confirmed he was not there.

Ty Anderson, 1404 Needle Palm Drive, stated he goes to work before 6 a.m. and goes past Public Works and on several occasions over the last couple of weeks he has noticed there is a Middleton Pest truck in a Public Works facility filling up his truck with reclaimed water. He asked if he is being charged for this water because he doesn't see a meter on it and he has a key to our Public Works facility. He is there before hours. There is no one else around by the gate. There might be somebody in the Waste Plant. There is always somebody there. Where is the security as far as letting commercial businesses in there off hours? Is he being charged correctly and if not, why not? They get charged for the reuse water. If the water is free, he knows a lot of people that would love to have free water. He will bring in a tanker truck in and they will haul it out day and night. He asked if they could look into it and find out what is going on.

Mayor Thomas stated he has seen that too. Acting City Manager Barlow didn't know if he was charged. He agreed to look into it. He knew it has been practice ever since we had reclaimed water to try to reduce our discharge into the Indian River. Some of those arrangements were made quite some time ago. He wasn't sure if they were charged or not. Regarding the security, the only access he had would be into that yard itself, which is where the Animal Control facility is getting ready to get moved to. It was secured and he couldn't get into Public Works from there. He agreed to look into if he is being charged. Councilwoman Rhodes stated Acting City Manager Barlow needed to find out if he is being charged. If they are giving away free water it ought to be available to every citizen in this City.

Acting City Manager Barlow stated it may be a wholesale rate. He believed the arrangement was originally negotiated with some of those that would use that product in an effort to conserve potable water and to reduce our discharge into the Indian River. Councilwoman Rhodes stated that is absolutely fine but if they are going to do that for a select few, they need to open it up to everybody. If they have a problem that they don't want to discharge it into the river and she knows they do and people want to get some of it they should be able to do that. Acting City Manager Barlow stated it is a policy that has been in effect for years and he agreed to look into it.

Councilman Cooper stated the discussion he brings up is correct. He had a sheet for Acting City Manager Barlow and Brenda in reference to asking how many, are any under contract and how difficult would it be to meter it. He knows in Port Orange it is allowed for pest control companies for the same reason that they don't use potable water because it costs more money than recycled water but they metered theirs and they do charge in Port Orange to use it. There is never free access. There is always somebody there.

Acting City Manager Barlow explained they are working with the consultant from Quentin Hampton on some other opportunities that they can use for the reclaimed water. One of the areas he has asked them to look into is the ability to use it and diversify it's use into maybe some manufacturing opportunities such as Coronado Paint which uses a lot of potable water and some of the block manufacturing and if so what it would cost to get the infrastructure there. What that would do is allow us to diversify our customer base if permitted because it is highly regulated but if it is permitted that would diversify our customer base and we have those rainy seasons where no residents are consuming that they are still using in our production.

Councilman Cooper stated the problem he had with that is they don't have the infrastructure in there. They are trading money and they aren't trading it immediately. They are trading a huge amount of money to do the infrastructure before they start to collect. They readily have the piping available throughout Florida Shores and if they gave them a break to go ahead and connect they could make the money

instantly and they don't have to lay out huge amounts of money for infrastructure and they could realize some revenue instantly. He feels they should give the residents a chance to use the water first before they spend a few hundreds thousand dollars to put pipes in for Coronado Point. Acting City Manager Barlow stated that is the other part the consultant is going to look at as well. Even if they hook up every Florida Shores resident on reclaimed water and it's pouring down rain and they don't use it he still wants an opportunity to diversify the customer base. They are going to balance and he will have all of that back before Council. Anything they can do to reduce our consumption of potable water as well. That is what he is trying to change and pick up some of those big customers as well. They will look at all of it and balance it out, the pros and cons of each issue.

Mayor Thomas asked Mr. Glaser if he understood he was representing the Miami Tract Hunt Club at that meeting. Mayor Thomas informed Mr. Glaser he had his copy of the letter that spells out the purpose of the meeting if he would like to look at it after the meeting.

12. ADJOURNMENT

There being no further business to discuss, the meeting adjourned at 8:34 p.m.

Minutes submitted by:

Lisa Bloomer