

CITY COUNCIL OF EDGEWATER
REGULAR MEETING
NOVEMBER 17, 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	Present
Councilwoman Harriet Rhodes	Present
Councilman Ted Cooper	Present
Acting City Manager Tracey Barlow	Present
City Clerk Bonnie Wenzel	Present
City Attorney Carolyn Ansay	Present

INVOCATION, PLEDGE OF ALLEGIANCE

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

2. APPROVAL OF MINUTES

A. Regular Meeting of September 22, 2008

Councilwoman Bennington moved to approve the September 22, 2008 minutes, second by Councilwoman Rhodes.

The MOTION CARRIED 5-0.

B. Regular Meeting of October 6, 2008

Councilwoman Rhodes moved to approve the October 6, 2008 minutes, second by Councilman Cooper.

The MOTION CARRIED 5-0.

C. Special Meeting of November 5, 2008

Councilman Cooper moved to approve the November 5, 2008 minutes, second by Councilwoman Rogers.

The MOTION CARRIED 5-0.

3. PRESENTATIONS/PROCLAMATIONS/PLAQUES/CERTIFICATES/DONATIONS

A. Fran Davis, Hospice of Volusia/Flagler, providing an update on the Southeast Volusia Care Center

Alby Korkran, representing Fran Davis who had surgery, made a presentation on the Southeast Volusia Care Center. They expect to take their first patient on January 12th and will have the grand opening during the week of January 8th during various times.

Ms. Korkran went through a Powerpoint presentation regarding the 12-bed care center being built by Hospice of Volusia/Flagler at 4140 South Ridgewood Avenue, across the street from Boston Whaler.

Councilman Cooper asked about preparing the room for terminally ill children being fairly new. Ms. Korkran commented on taking care of most people at home. Last year at the West Volusia Care Center they had two rooms dedicated to children. So far they haven't had any children but they do have two rooms for them there.

Ms. Korkran thanked the Council and informed them she hoped to see them at the grand opening.

4. CITIZEN COMMENTS

There were no Citizen Comments at this time.

5. CITY COUNCIL REPORTS

Councilwoman Rogers had nothing at this time.

Councilwoman Bennington had nothing at this time.

Councilwoman Rhodes had nothing at this time.

Councilman Cooper reported on the YMCA meeting he attended this past month. The new CEO attended and has a lot of

great ideas. He commented on the Y being consolidated for the whole County and this being very helpful for Edgewater.

Councilman Cooper mentioned the MPO meeting being canceled because of a two-hour work seminar they had for long range planning. They might want to begin focusing on light rails and different corridors that are being proposed and where the money will go even though there is no money available.

Councilman Cooper stated the RCC actually did so well this past month they were able to waive October's fee to the City.

Councilman Cooper reported on the meeting held last Wednesday with New Smyrna Beach to talk about the proposed project west of I-95, Restoration. He commented on discussing concerns that New Smyrna had as well as the concerns Edgewater had with New Smyrna's concerns. It was an excellent give and take. He felt it opened the doors and no longer seemed confrontational. It was more let's talk about it and let's communicate. As a representative of Edgewater they sometimes get the idea of why they should talk to a sister City when they did a lot of things throughout the years and didn't talk to us. If they are going to move forward in Southeast Volusia County they have to begin the dialogue. This was an excellent example of opening the doors for that dialogue.

Mayor Thomas reported on the Volusia Smart Growth Committee meeting he attended. He commented on the resolution Edgewater passed as well as 15 other cities adopting the ECHO Map. They are finalizing the rules with regard to setting up the density bonuses and TDR's. The County has provided some excellent leadership in that with their people. They want to make sure all of the cities are on board. They were talking about having one large meeting so they wouldn't have to have 16 different workshops since there are 16 different cities in the County. He wasn't sure how that was going to work. He presented some history in Smart Growth. He asked where this County ranked with the 67 other counties in the State of Florida on our look into the future on protecting ecological core and setting some of these lands aside in permanent green. Mr. Henderson reported there is only like two other counties, Sarasota and Alachua that are on the same wavelength as us. We sort of got anatta boy from DCA, which they don't give

atta boys, for our work in the prolonged future of Volusia County. He is really proud of how good they are doing.

Mayor Thomas reported that he would be attending the WAV meeting on Wednesday.

6. CONSENT AGENDA

- A. Vehicle Lease for 2009 Ford Vehicles purchased from Duval Ford

Acting City Manager Barlow made a staff presentation.

Councilwoman Rogers asked if this lease cost was currently budgeted in the department budget for FY08/09. Acting City Manager Barlow informed her it was.

Councilwoman Rhodes moved to authorize the Acting City Manager to enter into a lease agreement for the attached vehicles with SunTrust Equipment Finance and Leasing Corp., second by Councilman Cooper.

The MOTION CARRIED 5-0.

7. PUBLIC HEARINGS, ORDINANCES AND RESOLUTIONS

- A. 2nd Reading, Ordinance No. 2008-O-05, J.C. Carder requesting an amendment to the Comprehensive Plan Future Land Use Map to include property located north of Godfrey Road and east of US Highway 1 as Commercial with Conservation Overlay and Low Density Residential with Conservation Overlay.
This item is to be continued to a later date.

City Attorney Ansay stated this didn't need to be read into the record because they were going to readvertise it. Mayor Thomas asked if they needed a motion. City Attorney Ansay informed him they did not.

Acting City Manager Barlow explained Items 7A & 7B were postponed to a date certain and they are still waiting on some comments back from DCA and the Volusia Growth Management consistency so they are going to have to readvertise this when all of that is ready.

- B. 2nd Reading, Ordinance No. 2008-O-09, J.C. Carder requesting an amendment to the Official Zoning

Map to include property located north of Godfrey Road and east of US Highway 1 as B-3 and R-1.
This item is to be continued to a later date.

Acting City Manager Barlow earlier explained that Items 7A & 7B were postponed to a date certain and they are still waiting on some comments back from DCA and the Volusia Growth Management consistency so they are going to have to readvertise this when all of that is ready.

C. 1st Reading, Ordinance No. 2008-O-13, A.S.D.
Properties Management LLC requesting an amendment to the Official Zoning Map to include 110.66+ acres of land located east of Old Mission Road, north of Mission Oaks Condominiums and south of Josephine Street as RPUD (Residential Planned Unit Development) and approval of the associated RPUD Agreement

City Attorney Ansay read Ord. 2008-O-13 into the record.

Acting City Manager Barlow made a staff presentation.

Development Services Director Darren Lear explained this was approved by the Planning & Zoning Board on October 8th with four revisions to the PUD Agreement, which the applicant was agreeable to: the 6.5 acres of the northern parcel be zoned commercial only; language shall be added for the conservation easements to be dedicated to St. Johns River Water Management District and the City of Edgewater; a 960 square foot minimum unit size and the applicant shall install a berm within the 15' buffer on the south side of the property for stormwater purposes.

Rodney Jones, 5809 Antigua Road, Port Orange, introduced himself as one of the owners of the project.

Mayor Thomas asked him if he went on the property to see how deep the water was during Tropical Storm Faye. Mr. Jones informed him he had not.

A lady in the audience stated she lives in that area and it was flooded.

Mr. Jones stated the reason he came up was to ask for rather than 24 months for their PUD Agreement is try to get a motion into that for 48 months rather than 24 months

because of the economic turndown that was in the PUD Agreement. He has been working with the City on that and they said they should come before Council to ask them for the 48 months rather than the 24 months on the PUD. He brought his engineer with him to answer any of the flooding questions.

Mayor Thomas asked Mr. Burkett if he had been on the property.

Curtis Burkett, Project Manager, Zev Cohen & Associates, 300 Interchange Blvd, Ormond Beach, introduced himself and informed Mayor Thomas he had been on the property.

Mayor Thomas asked him what his plans were to assure the other residents adjoining his property that they aren't going to be flooded.

Mr. Burkett stated they have already obtained for this particular project at the request of the client before moving forward with the formal approvals through the City was to obtain a stormwater permit through the Water Management District at the State level. As part of that review not only did the State but also at the time the City's engineers requested they do a flood study and a compensating storage which is to offset any impacts in the floodplain. A large majority of the site is within the floodplain. A large majority of the site is also being placed in conservation for that same reason. Most of the impacts they see that this development has to the north and to the west are in the higher upland areas of the site. They are in the areas of the site that are up into elevations that are up into 7, 8 even up into 10 and 12 feet in some little pockets. The flood elevation established for this area is 6.2 based on the FEMA maps. The development is taking place in the areas that are at or slightly above that elevation. For the areas they are impacting they have created very large compensating storage that the developer had set aside to accommodate a flooding condition out there or a condition where they are compensating for the impact. They basically call it the CUP to CUP method. They are basically accommodating for every cubic foot they impact with fill they replace that with another cubic foot of volume of area where water can be stored. They are meeting all of the Local and State guidelines to mitigate for any impact they would have as it relates to that flooding issue. They also, mandated by the

rules of the State, have to meet their discharge rates, which means the amount of water this project would generate in a flow or discharge after it is developed, they have to meet the precondition rate, the rate it would be right now with no development on the site. That takes into account the tree canopies and the wetlands and everything out there. The wetland is a higher runoff number. They are actually reducing in a 100-year storm event; they reduce the flow by almost 4 cubic feet per second. In a 25-year event, they reduce that by about 3 ½ cubic feet per second. Not only did they stay under what was required by the State but they stayed under fairly significantly. He pointed out the natural area that is remaining within the conservation easement and the property boundary line. The wetland significantly goes beyond that boundary line as far as the property boundaries go. He then referred to the County topographic map. The elevation based on the County survey is showing the elevation in the wetland is an elevation of between three and four. He referred to a pocket, which is an existing area that is not developed being at two or below. He understands and can very clearly see why they are experiencing flooding even without all of this proposed development ongoing. It's unfortunate but a lot of the activities that have taken place along this road didn't appear as it was being developed in this area that they obviously at the time probably didn't have a lot of the knowledge they currently possess today about flood elevations and flooding. It is very clear that a lot of these properties are probably two or three feet below what a 100-year flood elevation would be. They are exceeding those elevations to try to control that impact on any kind of future area. The one thing that can't be done, because this is conservation and has been turned over to the State as a protected corridor. The same type of drainage issues existed to the south too because the wetlands continue even though development was allowed to occur. They can't control those boundary lines to try to keep the water from running over there. It is naturally going to go that way. Maintenance of the ditches in that area could help facilitate that. Whenever the 100-year does occur or even a 25-year, he was sure that area experiences some inundation.

Mayor Thomas stated he was very familiar with that area. He asked Mr. Burkett where he was from. Mr. Burkett informed him Zev Cohen and Associates. Mayor Thomas asked him where he lived. Mr. Burkett informed him Ormond Beach.

Mayor Thomas asked Mr. Burkett if he was familiar with that system and where it drains to. Mr. Burkett informed him with the whole maps they have had, yes. As far as traveling with the culverts under Old Mission Road and everything else, yes. Mayor Thomas asked him which way the water goes. Mr. Burkett pointed out on a map how the water flows.

Mayor Thomas explained originally that was part of the Turnbull Hammock system, which eventually drains into the Indian River, but it has been fragmented by development and canals. He was surprised the water was draining north. He asked how it was going out from the north, which Mr. Burkett explained.

Mayor Thomas asked staff if the neighbors to the east were in the County or Edgewater. Mr. Lear informed him the County. Mayor Thomas asked what the County said about this development. Acting City Manager Barlow informed him the County wouldn't have jurisdiction because they are in the City of Edgewater. Mr. Lear informed him the only time they would see it would be for the future land use amendment and they had no objections.

Councilman Cooper stated understanding to the west of Mission Road they are going to be sending water there regardless. He asked Mr. Burkett what he would foresee in the lower portion of the land he is talking about would need to be done to alleviate some of that water from flooding where there still are some homes and he knows there are property owners trying to sell their land at this stage of the game. Mr. Burkett stated that is a very difficult situation or area to try to alleviate. They have based on the topographic map that was there the elevations are very flat and they don't have a lot of gradient change through the area. The maintenance of the ditches becomes very critical in allowing that system to function in any feasible manner. He commented on solutions that have been proposed in the past such as trying to take vacant land that might exist within the community and creating more a central retention or also a compensating storage similar to what they are doing. They aren't reducing the amount of water in the area but they are attenuating it a little bit longer so the ditch systems that overflow or backup it then pushes it onto people's driveways and into people's yards that water is able to be held back a little bit longer so that the ditch system can handle the capacity it needs to

handle and it slowly releases back into the system and lets it go. He spoke of experiencing downstream systems being at capacity or above and they can't handle the flow that is coming to them either. It pushes all that water back on private property to hold it until the downstream systems can handle it.

Councilman Cooper stated so basically he was saying increase the retention area and let more evaporation process take effect and slowly let the water go out. Mr. Burkett stated it is not so much retaining it because they aren't retaining it to not ever release it downstream. They're really detaining it or attenuating it so that the downstream systems can recover and then that water gets slowly released back into the process.

Councilman Cooper stated the area they are talking about is County now. Mr. Burkett stated he was assuming it was County. The land to that side is County property. Councilman Cooper stated it would behoove the City and the citizens that are saying their area gets flooded because in years past the floodplain has now changed and now it is lower where they are so they end up forcing water towards them that normally would not be there. It might behoove them to make some kind of congenial agreement with the County and expand the retention in that area is what he was recommending to him. Mr. Burkett stated that would be the first step in trying to alleviate some of the situations in that area.

Councilman Cooper stated when this was approved for vested rights and they talked about it, he was under the understanding that they talked about working up these lots to go along with the new floodplain number, which he thought was nine. He asked Mr. Lear if there was conversation referenced along those lines. Mr. Burkett believed the 6 2 number was the final number that was agreed upon. He thought that had to do with several other studies that were going on at the time. PEC was the one that had been doing the review for the City at the time that directed them to do a formal study. They ended up revising the plan to increase the amount of compensating storage areas. Another gentleman pointed out that the larger compensating pond didn't exist until after that. There were going to be manufactured homes in there and they took them out and put the compensating pond in there. Mr. Burkett explained the development decreased by that amount

of lots and then that became a depressional area to help with some of the runoff. Mayor Thomas asked if that was where they were going to dig a borrow pit. Mr. Burkett stated that would become pretty much like an open pond. It will establish its normal water level of the ground but will have the berming around it so it gives them a volumetric capacity in there to accept more of the water as it rises up. Mayor Thomas asked about those three areas not being dug out and a berm being put around them. Mr. Burkett informed him they would be dug out. They still can use the material out of there but the water table will settle back down to its natural water table, whatever the natural water elevation within the wetland under the ground would be, they will see it visibly because it will be more of an open pond. It has the volume capacity because it can be bermed and they can store a large amount of water in there that is not associated with the development. It's clean water that is just the water table. If the wetland rises up it can overflow and go into the pond area.

Mayor Thomas stated it looked to him like it would go toward the development before it would go over the berm. Mr. Burkett stated no, it basically becomes a holding pond in there because the overflow elevations are not the same as the retention elevations. Mayor Thomas asked if they would have pipes going to it. Mr. Burkett explained it's elevated around it that is above what the flood is but it is not elevated high enough that if the flood elevation is 6.2 and they have a normal water elevation that is about 3 ½ or four then the berms aren't any higher than the flood elevation so when the water rises up it is able to get in there and the water table is still going to be down to where they have the capacity up to that elevation.

Councilwoman Rogers commented on having no piping going into it to help direct the water into it. They are planning it is going to flow north and go into that and she asked if they have studies to provide that it does in fact do that. Mr. Burkett commented on the requirement of the regulations through St. Johns who designates these that in order to get your compensating storage and have it be an offset to an impact to a flood area they have to be able to construct these within an actual flood zone. He then referred to the flood map. He spoke of putting depressional areas in there because they can capture between the normal water which is a couple feet below the

actual ground elevation and that flood elevation of 6.2, that extra capacity.

Councilwoman Rogers was concerned that they haven't provided them any evidence that would show clear modeling that the water is really going to go where he says it is going to go. Her other concern has to do with PEC doing a presentation before Council. He wasn't indicating that what they have given the Council really includes what was presented to them by PEC showing the drainage and water issues on that property. Mr. Jones informed her PEC had approved these set of plans.

Councilwoman Rogers mentioned when Ken Hooper came and presented to Council studies. Councilman Cooper stated the new floodplain study. Councilwoman Rogers stated exactly. She doesn't see proof that this does incorporate what was provided to them and it showed more recent updated numbers. This is serious because when they look at this and see the amount of water that did occur on that property and yes she did go by it during the storm, her concern is something more severe than that storm. We have properties south of this that have some severe issues during these rains.

Mayor Thomas stated the reason he asked about Faye was they said Faye was a 500-year flood event, not a 100-year flood event. If he would have been the owner of that property he would have been out there to see how much water was there and which way it was going.

Mr. Burkett explained even if it is a 500-year storm event, they could still have a 500-year storm event, twice a year. It is the percentage of that occurring. It doesn't mean they won't see another one for 500 years. It is the amount of rainfall that did fall was that significant that it was such a very high percentage that that would actually occur again. They take the drainage seriously. That is the biggest thing they have to deal with on every project.

Mr. Burkett then addressed the issues that related to PEC. For the rezoning and the ordinance before Council, they went through based on the guidance from City staff, when they first submitted this to go through the approval process, there were concerns about the elevations and the potential for flooding. They had the choice of going through and preparing full construction documents all the way through and at the same time they were trying to get

the City's approval for a full subdivision plan, they could also be dealing with St. Johns and all of the flooding issues and PEC at the time or they could address all of the flood issues as far as compensating storage and the concerns the City's Engineer at that time expressed to them and get that permitted and then when they knew the plan was solid they could make a submittal to the City and follow the rest of the City's regulations as it related to streets and roads and everything else. The client at the time took that approach because they felt the drainage could be a critical issue. If the issue got to be where it ended up they had to put out of the 40 acres they had left for uplands, they had to use 20 of that for ponds, the project really wasn't going to be feasible so they needed to know that up front. They went through the cost and the time to do three or four transmittals to St. Johns who also looked at compensating storage. Based on their regulations and what they have to do to follow their criteria for locating compensating storage ponds, sizing those ponds, doing the geo-technical evaluation of the water table and everything around it, they gave them approval for a permit near the end of 2005. At the same time PEC did an evaluation. At that time there was an adjustment in the flood elevation and it went up to 6.2. They had to come back into the City with updated and revised calculations. At that time that revision removed lots from the plan they previously submitted. They increased and added a four or five acre compensating storage pond to the plan set and sent it back through the City's process for PEC to evaluate to make sure they were meeting the City's Land Development Code as it related to compensating storage. PEC approved that but then came back and said the plans had already been approved by St. Johns so they must seek a modification to their St. Johns permit based on the revised information. They then went through that process and got a modification that approved the set of plans that have currently been within the files of the City that shows the additional compensating storage and removal of a lot of those lots. He feels what they would normally do in the course of gaining approval is they have met the City's criteria in the Land Development Code for compensating storage, they have been able to obtain a stormwater permit for the compensating storage and treatment of the runoff from the lots and the roads from a pollution standpoint with the State in meeting their criteria.

Councilman Cooper commented on getting rain and the water table rising. He questioned without the piping as the water table rises that Mr. Burkett was saying the pond ends up working like a holding tank and will rise up to the berms. It won't run over top of the berms. It will come from the water table underneath. They have done the studies and the math that they feel they have compensated enough that that will take enough water to keep them out of a flood problem. Mr. Burkett informed him yes, for the impact they are placing and the fill in that area. They aren't taking away any capacity from that property. They actually exceed that criteria and have added a small amount of volume based on the compensating storage.

Councilman Cooper stated Mr. Jones asked to extend the 24 months to 48 months. He asked him to explain his request. Mr. Jones explained it was funding for the project. He further commented on investing money in ParkTowne. Now they have to get funding for this project and they can't even get the bank to talk to them right now. Councilman Cooper could understand because no bank will talk to anybody but felt 24 months was quite a time frame. Mr. Jones informed him the City doesn't consider them starting the project until they are actually laying pipe in the ground. Normally it would be when you start clearing the property. It could take six months worth of getting ready to lay pipe in the ground because of the land to be cleared and the fill dirt to be hauled. It is quite a time before you start putting the first piece of pipe or manhole in the ground. Councilman Cooper stated by the time they were putting pipe in the ground they would have acquired financing. Mr. Jones stated before this project would start even being cleared it would have to have a financing. Councilman Cooper stated the two don't really associate with each other. He stated to be a good steward to the citizens of Edgewater he wants them to start the project tomorrow. He would like to bring in the taxes because the City can use the money. He feels in two years the economy is going to be in a whole different place than it is today. He thinks that is enough time but even if it weren't wouldn't it behoove them to ask for the 24 months at that time. Mr. Jones informed him if they have some amendment on there that they would have 24 months and then they would get an automatic 24 months if they needed it would work also. Councilman Cooper stated not automatic but at least come back to the Council and request it. Councilwoman Rhodes commented on extending PUD's before. They could

have their 24 months and at the end of that come back and ask for an extension. Mr. Jones would feel a lot better to have something a little more than that right now honestly with the way the economy is.

Acting City Manager Barlow stated they have worked this agreement back and forth in many different areas and come to an agreement on everything but the time period. His recommendation to Mr. Jones was to share his concerns with the Council but the agreement clearly states that the City can extend it prior to the conclusion of the 24-month period. He could come back before Council and request that extension. Based on hardship of the economy and still where it is today or where the economy has just turned and we are in the process of obtaining our finances now. The reason staff didn't land on the 24 months was because every other PUD is 24 months or a majority of them less than 24 months. That is why they landed here but with the agreement saying he can come back to council and ask for that due to extraordinary circumstances or the economy. If he comes back to Council before the conclusion of the 24-month period it wouldn't have any affect on his vesting. City Attorney Ansay stated if the Council was to agree to an amendment extending the 24 months to 48 months or whatever the case may be, as long as the amendment was made before this agreement terminated for lack of commencing construction before the 24 months are up, yes. The way the agreement is drafted right now and staff has recommended to Council it says 24 months and it says if construction has not commenced in 24 months then the agreement essentially terminates and his vesting status would go away. However the agreement also provides he can come back to Council for amendments to the agreement and one of those amendments could be extending that time period. They have done that before in other developments. She commented on a similar type deal with Edgewater Harbor. As it stands now, there is the possibility for Council to give more time at any point in the process as long as it is done before the agreement actually terminates because construction did not commence within the original period. Councilwoman Rhodes stated she would have to go in that direction. We have been burned on a couple of occasions. If after 24 months things are still the way they are with the economy then there will be no problem getting an extension.

Councilman Cooper asked City Attorney Ansay if she thought language could be provided in this request that can satisfy

Mr. Jones and also be more specific on reasons to allow the automatic 24 months or 12 months where they could be specific. His complaint today is the economy is in the tank and no banks are loaning money. If that is his only real concern it seems like they could come up with language that would address that one specific issue and maybe offer the opportunity to work with him now if that is agreeable. Councilwoman Rhodes didn't like that. City Attorney Ansay felt they either needed to give him the time now or have it in there as it stands now that it can be granted later. This is a PUD agreement and she felt when they start getting into terms that deal with whether or not he is able to get financing or the state of the economy, what they are doing is putting a future Council in a position where they have to debate with him over whether or not he really can get financing. He probably can get it, it just depends on what rate he would get it. She feels it is probably cleanest from a legal perspective to set the time period with a recognition that that is what it is for now but could always extend. Typically PUD agreements are agreements to do something in a relatively short order. They are also relatively new in Florida. She is dealing with cities in multiple places that are trying to sort out how they deal with this unprecedented economic crisis we find ourselves in and developers find themselves in and reconcile that with this notion that this is really an agreement that this Council is agreeing to allow him to do something today and at what point do you stop extrapolating it outwards. She spoke of binding future Councils and this being problematic. We are in very different times so Council has to make that difficult decision. Councilwoman Rhodes felt the City is also binded. Mr. Jones stated the City has lost nothing if he hasn't done the project but they have everything to gain if he can do the project. Councilwoman Rhodes felt he had no incentive to do it quickly, which is something they value on the Council. Mr. Jones doesn't know of any builder that is real quick to do a project right now because there is nobody to buy the houses. Councilwoman Rhodes stated and that is probably true but six months from now that could be different. She hesitates to allow him four years to hold them in limbo. She doesn't like that. Mr. Jones didn't understand how it is holding the City in limbo. The impact fees on this project are \$750,000. Councilwoman Rogers stated they don't have it and they have incurred some costs. They have staff that has spent time on this and they aren't getting anywhere as far as with this project that is going to be

put off 48 months. Mr. Jones stated the Cit has held him up over three years on this project and he has wasted a lot of money on this and he does pay quite a bit of money to Carolyn Ansay's firm. He gets a bill from her once a month now. City Attorney Ansay stated like all of the projects the developers are refunding any of the engineering, legal fees and fees for recording.

Councilwoman Rogers stated the PEC study was done in 2006 or 2007. She asked how frequently they needed to have that study done because it needs to be done periodically for updates. Mr. Lear explained generally those aren't done that often. Councilwoman Rogers stated when it was done it was very surprising because it showed a lot of land that was in the floodplain and it showed a lot of problems. With developments coming up in the City they don't know what the impacts are of those developments until the developments have been completed. She has to go along with what the fellow Councilpeople were saying. An additional 24 months. She can't do that especially knowing that she hasn't been answered with the proof or evidence she is looking for to see that what they presented to them tonight even includes what PEC has already done as far as those studies. That was pretty eye opening. They have homeowners in Florida Shores right now that will end up having to get flood insurance that previously didn't need to get flood insurance. As their engineer would say he said in his opinion that the plan has dealt with the compensating storage issue of the City but he said it was in his opinion. She also had concerns with wording in the ordinance, which says the proposed changing zoning classification will not have an adverse effect on the environment but yet this land is clearly in the floodplain. It indicates that natural preservation areas and/or conservation easement areas shall be dedicated. Has any of that been dedicated yet to St. Johns? Mr. Jones informed her it had. Councilwoman Rogers stated then this should have indicated it has and that it has been completed but it is saying shall be dedicated. Mr. Jones stated it has been to St. Johns. Councilwoman Rogers feels it is really not complete yet for the Council to approve it based upon some of this. She is not convinced with the PEC. She would almost feel like having PEC come back or Mr. Hooper assuring them that their plan does comply with what he has presented to the City. They are going to have to look at the engineering studies. They are going to be getting an opinion from another engineer but they don't have any true

hard evidence. Mr. Jones commented on paying over \$12,000 to PEC to review the plans and approve them as well as Quentin Hampton so they have two other opinions that have already said they approve the plans. Councilwoman Rogers has to see evidence in front of her. She has to believe that it is as he is saying.

City Attorney Ansay stated she thinks the concerns and the issues being discussed are important for purposes of talking about the project but what is before Council tonight is the rezoning and RPUD Agreement. They aren't approving everything in its final form tonight. There is language in the agreement where it specifically talks about the site plan they saw originally and final approval subject to the environmental and engineering controls. There is also language that talks about the fact that the agreement has to comply with the City's ordinance and floodplain management program. Merely by granting the rezoning and approving the PUD agreement they aren't saying they are blessing everything as it exists today. This is going to be an ongoing process with the developer as time goes on. What they are doing tonight is somewhat limited. This isn't the end of the road.

Councilwoman Rhodes stated this is their agreement between them and the City. All of the other permitting agencies they have to go through they have to deal with that. This is between them and the City. The only problem she has is the 24 months. Mr. Jones asked if they would compromise and go for 36 months. Councilwoman Rhodes stated she thought of that earlier to herself. As a rule she is absolutely in favor of compromise but not now. Mr. Jones stated it makes him feel like they are trying to limit the City for what they can do. Councilwoman Rhodes stated in these uncertain times she would rather wait and see two years from now and be happy to give them two more years. Mr. Jones informed her unfortunately it may not be her sitting on the Council. Councilwoman Rhodes stated hopefully whoever is sitting there will like what they are doing as well. As long as they do it well, they shouldn't have a problem.

Mayor Thomas asked for comments from the public.

The following citizens spoke:

Christine Hanson, 1470 Elizabeth Street, stated she and her neighbors aren't quite sure what is going on. There are different things as to how much land they are going to take. She asked if it would put them out of their homes. She just bought her home last year. It is her first home and it is a manufactured home. If they are going to buy it up she doesn't have a problem with it but she would rather know sooner than later. Councilwoman Rhodes informed Ms. Hanson if she owns her home and the property it sits on. Mr. Hanson informed her yes. Councilwoman Rhodes informed her they couldn't do anything unless she lets them.

Councilwoman Bennington informed them they already own the property. Mr. Jones assured them they wouldn't be buying any other property. They own seven lots on Elizabeth Street.

Acting City Manager Barlow asked Mr. Jones if the lots they own on Elizabeth Street have dwellings on them today. Mr. Jones informed him no. Two lots they have permits to raise the elevation up to what Volusia County has recommended for a building lot. They have one completed and filled that they would like to sell. Mr. Jones also added there was no water on that filled lot after Faye.

Mayor Thomas asked Mr. Jones if he walked the property during Faye. Mr. Jones informed him it was wet.

Brad Jones, 1815 Maytown Road, Oak Hill, explained their road elevation is going to be approximately at 9 in that division and because they are manufactured homes, the final floor will be at 11. Councilman Cooper commented on adding an extra row as far as raising the modular homes up. It's way above the 6.2 and that is what he was trying to get out. He knew they discussed that in great detail. That community when it is finished will not flood.

Mr. Jones commented on their elevation at ParkTowne being 9 at finished floor, the road is at a 7.5.

Mr. Jones referred back to the early 1990's when Florida Shores had a flood and the City hired engineers and they came up with a plan to take out all the side streets and put all these little berms in and they called that compensating storage. He commented on Florida Shores not having one house flooded after Faye. It was a good thing for the City because it stopped flooding elsewhere because

they were able to compensate and hold the water in Florida Shores. Councilwoman Rhodes commented on there being a huge disagreement over what method to use to make that happen. Mr. Jones stated but they had to rely on the information from an engineer. The information they are giving them, even though "of his opinion", his opinion is licensed by the State of Florida. He is a professional engineer just like Mr. Hooper was. This project was brought to Mr. Hooper when he was City Manager. He was the one that said they would very much like to have them in the City and he felt it was a good project. He would hope to think if Mr. Hooper came back in front of Council he would say he was the one that brought these gentlemen into the City. He would hate to see him say he felt it was going to flood because he felt he would be perjuring himself and it would look bad for the City.

Donna Hemingson, Mission Road, thanked Councilwoman Rogers for her concerns. She visualizes that property on a regular basis and it does have water concerns, drainage problems and the ditches are not maintained now. That property is the City of Edgewater. It adjoins County property on the east and west side. The 110-acre strip is the City of Edgewater whereas on either side it is County property. She doesn't think she would have a problem on the west side of Mission but a lot of the citizens on Elizabeth Street were here on the zoning had concerns with the flooding. It is an issue and she hopes the studies come forward and say this isn't going to happen because it very well could. If they start the project there is no stopping it. It is a high-density area where they are going to put in a lot of homes.

Mayor Thomas stated the reason they are doing this is because they want to make sure they don't flood their neighbors. They are good stewards and good neighbors. This concerns him and he has to go to bed tonight thinking that he made the right decision.

Mr. Jones stated they aren't building this and giving this to the City. This is theirs. This is a mobile home community that they will continue to own. Why would they build something that would flood and not work right or be good for the City of Edgewater?

Acting City Manager Barlow stated staff hears Council loud and clear to keep this project under the microscope. As

addressed in the PUD Agreement the developer shall meet all requirements pertaining to floodplain development standards as defined in the Land Development Code. Currently we use Quentin Hampton that does a lot of our floodplain review. He commented on having one of the most stringent floodplain policies in the County going forward.

Councilman Cooper mentioned getting the FEMA report in 2010. They have another complete floodplain done by the government in a year and a half. Councilwoman Rogers felt that was why the 24 months needed to stick so they can compare it and look at it again.

Mayor Thomas closed the public hearing and entertained a motion.

Councilwoman Rhodes moved to approve the RPUD with the amendments that the Planning & Zoning Board have recommended, the 6.5 acres zoned commercial, the language, the 960 square foot minimum and the berm, second by Councilman Cooper.

The MOTION CARRIED 4-1. Councilwoman Rogers voted NO.

D. 1st Reading, Ordinance No. 2008-0-14, Amendment to the Comprehensive Plan to update the Capital Improvements Element (CIE) and the accompanying Capital Improvement Program (CIP)

City Attorney Ansay read Ordinance 2008-0-14 into the record.

Acting City Manager Barlow made a staff presentation and complimented Development Services Director Darren Lear and his staff as well as Finance Director John McKinney and his staff for this being done in-house.

Councilman Cooper felt the job staff did and it being done in-house causing them not to have to pay for another survey should be commended.

Mr. Lear pointed out some adjustments they are going to have to make to that and they will see it at a second reading on some figures.

Due to there being no public comments, Mayor Thomas opened and closed the public hearing and entertained a motion.

Councilwoman Bennington moved to adopt Ordinance 2008-0-14, Amendment to the Comprehensive Plan to update the Capital Improvements Element (CIE) and the accompanying Capital Improvement Program (CIP), second by Councilwoman Rhodes.

The MOTION CARRIED 5-0.

8. BOARD APPOINTMENTS

There were no Board Appointments at this time.

9. OTHER BUSINESS

- A. Replacement of four deteriorated roofs located at Fire Headquarters and Police Headquarters

Acting City Manager Barlow made a staff presentation.

Councilwoman Rhodes asked how they were going to pay for it. Finance Director McKinney stated the Fire was completely budgeted. The Police Department roofs that came into effect after the budget process had already gone forth. In order to pay for it through the Police Department, they have already been released to hire some of the unfilled positions in the Police Department so they are going to utilize some of the savings from them starting employment with the City to pay for it. He then further commented on the issues at the Police Department and CID buildings. Councilwoman Rhodes asked about this being exactly the kind of thing that they have reserve funds for. Finance Director McKinney informed her if she would like him to use the 45-day reserve he could but they have savings within the Police Department at the present time to pay for it.

Councilwoman Rhodes commented on having reserve funds just for emergencies. She knows they are able to do it within budget but what if they weren't. Acting City Manager Barlow stated they could but he would like that to be a very last resort before he reaches into those funds based on hurricane season.

Councilman Cooper mentioned the \$40,000 difference in the bids from top to bottom. He asked Mr. Lear if he felt comfortable with AWS's quote and they are going to get he full job the way they want it. Mr. Lear informed him

absolutely. Acting City Manager Barlow mentioned work that AWS has done for the City in the past.

Councilman Cooper moved to approve that Acting City Manager enter into a contract with AWS Roofing for Bid #09-B-001 and all addendums and authorization for the Acting City Manager to amend the budget, second by Councilwoman Rhodes.

The MOTION CARRIED 5-0.

10. OFFICER REPORTS

A. City Clerk

City Clerk Wenzel informed the Council on October 23rd she sent the Code of Ordinance to Municode for recodification and publication on the Municode website. All ordinances that have been adopted up to October 23rd have been sent to them, which included all of the Charter changes and the changes that were made during the November election. The election results with the Charter changes were also sent to the Department of State as required.

B. City Attorney

City Attorney Ansay had nothing at this time.

C. City Manager

Acting City Manager Barlow thought Wednesday was a very successful workshop with the City of New Smyrna Beach. He would like to coordinate another one in January or February and do a Southeast Volusia workshop. He asked for permission from Council to start to coordinate and bring back some dates before Council in December and they can lock in. They will pick three or four major topics that is important for the entire region and talk about some of those.

Acting City Manager Barlow commented on the latest rendition of the City seal. His goal is to narrow down and maybe bring a final one back to Council in December.

There was a discussion regarding which ribbon the Council wanted to see on the City seal. It was the consensus of Council to go with the ribbon on City seal #4 including the font that was used.

There was then a discussion regarding the shape. It was the consensus of Council to go with the oval.

There was then a discussion regarding the inside graphics. It was the consensus of Council to go with City seal #1 with a sailboat and to work on the colors.

Councilman Cooper asked for an update on the Shangri La situation as far as the traffic signal. Acting City Manager Barlow stated there has been conversation back and forth with Mr. Morley. He thought the County had agreed to relook at that at a later date but no commitment yet. The State was pretty firm and said they looked at the study and Turgot Avenue. They don't put up traffic lights to slow traffic down. They only put up traffic lights to help people get out onto U.S. #1.

Acting City Manager Barlow suggested looking at Marion Avenue once the new bank is up and running, the old bank opens as the doctor's office as well as some and some development down Industrial and Marion which he feels may be a good time to see how long people are waiting to get out onto U.S. #1.

Mayor Thomas asked about the drainage issue. Acting City Manager Barlow informed him the Stormwater Superintendent has gone in and worked with G & W and they have made the improvements that they were told needed to be made there. Mr. Morley seems to be extremely pleased with that whole process and they are moving on to new issues as it relates to drainage with the bank project. Tom Smith, our Stormwater Superintendent, is going to meet with some of the residents there and the project manager to come up with dates to run pumps to dewater the ground and finish the project.

11. CITIZEN COMMENTS

The following citizens spoke:

Mike Visconti, 316 Pine Breeze Drive, stated on the logo for Edgewater, he suggested they use what they have and put number four across the reflection. Acting City Manager Barlow informed him that was part of the packet a while back but they looked at the logo and it was the consensus of Council to update the City seal.

Mr. Visconti stated on behalf of the Veterans for Veterans Day, he thanked Ted Cooper for his speaking. He understood Acting City Manager Barlow was there also and he thanked him for being there. He hopes in the near future more Councilpeople will be there to celebrate Veterans Day or Memorial Day. He feels they need more participation. They had a record turnout this year with 300 people attending. He thanked the citizens that attended.

Dominic Capria, 606 Topside Circle, wanted to talk about the traffic light. Year ago they applied for traffic lights and having speed limits reduced. He has letters from the City of reasons why they couldn't do it. The State has to check speed limits and the amount of cars and all of that before they are allowed to do it. Based on that he didn't feel they would get a traffic light. But if they get Restoration out by I-95 they will have traffic lights on every block.

12. ADJOURNMENT

There being no further business to discuss, Councilwoman Rogers moved to adjourn. The meeting adjourned at 8:42 p.m.

Minutes submitted by:

Lisa Bloomer